



# ENFORCING LABOUR LAWS

*A global research agenda*

ESRC/GCRF STRATEGIC NETWORK ON LEGAL REGULATION OF UNACCEPTABLE FORMS OF WORK



## Unacceptable work: global dialogue / local innovation

The **UN International Labour Organization (ILO)** has called for workers around the world to be protected from **unacceptable forms of work (UFW)**: jobs that “deny fundamental principles and rights at work, put at risk the lives, health, freedom, human dignity and security of workers or keep households in conditions of extreme poverty”<sup>1</sup> This ILO policy agenda responds to the growth in insecure and low paid labour across the global work force. Sustaining productive and protected working lives is among the most pressing challenges of the early twenty-first century. The urgency of this objective was recently confirmed by the inclusion of the Decent Work objective among the **UN Sustainable Development Goals (SDG8)**.<sup>2</sup>



The Strategic Network identifies and responds to Global Regulatory Challenges: the most urgent and complex issues that face lower-income countries in upgrading or eliminating UFW.



Effective labour regulation is crucial to securing decent work. Yet the regulatory strategies that can eliminate unacceptable work – most urgently in lower-income countries - have yet to be identified.<sup>3</sup> **The ESRC/GCRF Strategic Network on Legal Regulation of Unacceptable Forms of Work** responds to this urgent need by supporting a dialogue on UFW regulation.

The Network has brought together a **team of researchers and policy-makers from a range of disciplines and from the global North and South**. Network Teams were assembled that are focused on identifying and responding to Global Regulatory Challenges: the most urgent and complex issues that face lower-income countries in upgrading or eliminating UFW. A set of Challenges have been identified and **Research Agendas** developed to investigate each Challenge through cross-regional comparisons of countries of different income levels.

## The global regulatory challenge: effective enforcement of labour standards

**Enforcement systems** are a crucial component of effective labour regulation regimes. Traditionally, enforcement of labour rights has been the responsibility of the state. Yet **state enforcement** is often ineffective. In **developing countries**, outsourcing of production through global value chains has highlighted the weakness of government inspectorates. The national-focus of state enforcement also excludes lead firms.

**Private regulation** has been tested, most commonly in **corporate social responsibility (CSR)** codes and auditing/certification mechanisms. CSR has made lead firms at least partly responsible for compliance with labour rights in their supply chains. Yet often the focus of compliance is shifted to suppliers in developing countries.

In response to these challenges, there is a growing consensus that the integration of non-state actors – e.g. unions NGOs - into state enforcement can strengthen compliance with labour standards.<sup>4</sup> The best known of these **hybrid models** is the ILO/ World Bank **Better Work programme**, which is monitors working conditions and legal compliance in the garment sector through collaborations between buyers, governments, unions, and factories.<sup>5</sup> Yet hybrid models have yet to be rigorously investigated from the perspective of those they are intended to benefit: **workers**.

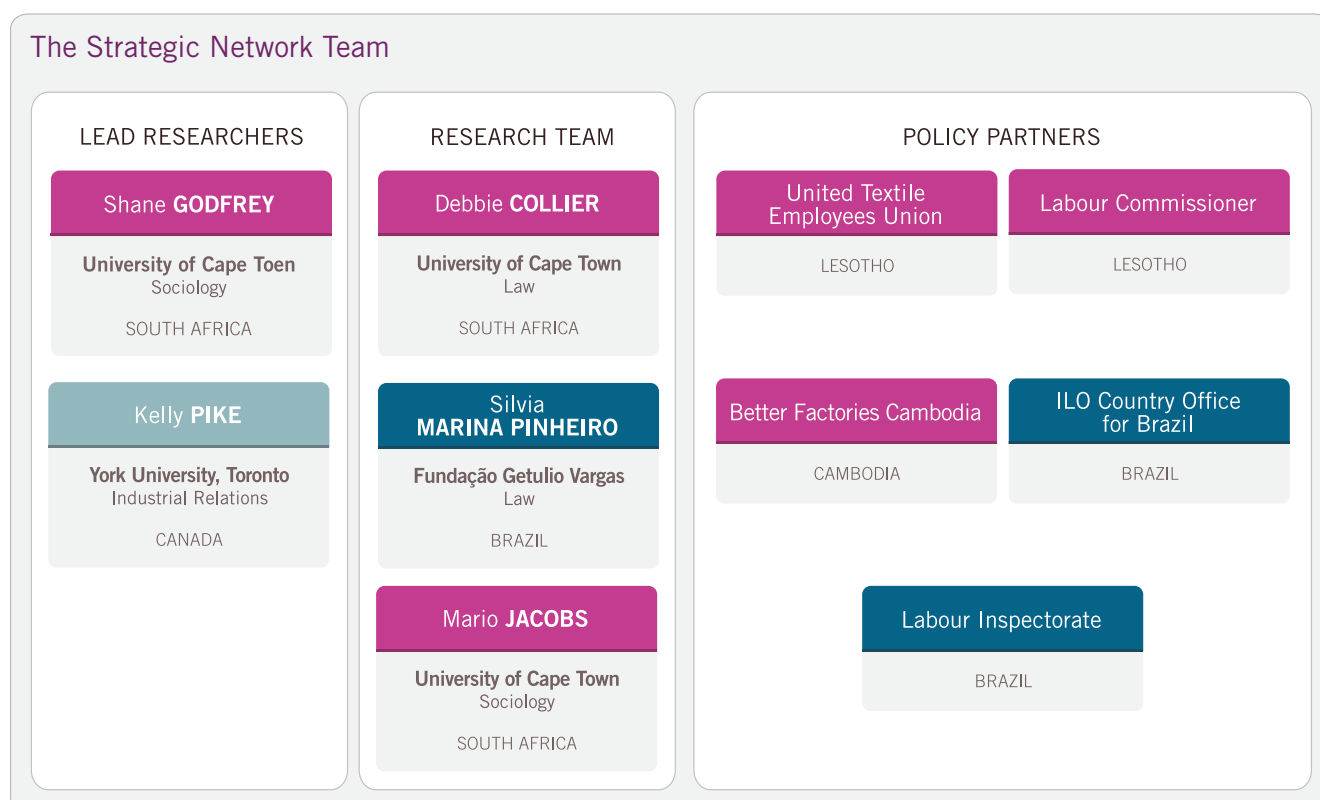
1. ILO Towards the ILO Centenary: Realities, Renewal and Tripartite Commitment (2013); <http://www.ilo.org/global/topics/dw4sd/theme-by-policy-outcomes/>.
2. <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>
3. See further Judy Fudge and Deirdre McCann Unacceptable forms of work: a global and comparative study (ILO 2015); Deirdre McCann and Judy Fudge 'Unacceptable forms of work: a multidimensional model' (2017) 156(2) *International Labour Review* 147-184.
4. David Weil, D. and Carlos Mallo 'Regulating labour standards via supply chains: combining public/private interventions to improve workplace compliance' (2007) 45(4) *British Journal of Industrial Relations* 791-814.
5. <https://betterwork.org/>.

## Effective enforcement through hybrid models: a research agenda

During 2017, the *Strategic Network on Legal Regulation of Unacceptable Forms of Work* was funded by the UK Economic and Social Research Council through the Global Challenges Research Fund to design **Research Agendas** on combatting unacceptable work. The purpose of the Research Agendas is to identify the **most effective research**

**strategies** that can (1) illuminate the Global Regulatory Challenges and (2) identify the most effective legal and policy responses.

This **Research Agenda on *Enforcing Labour Laws*** proposes a strategy for investigating the effectiveness of hybrid models of enforcement.



### The Strategic Network Team

The Research Agenda has been designed by a **Strategic Network Team** that includes researchers and policy actors from across the world.

To ensure the **interdisciplinary** mix of skills needed to address the complexity of UFW, the researchers were drawn from a range of academic disciplines.

Local **policy actors** were a core part of the Team, providing advice and guidance on how to achieve innovative regulatory interventions that can offer lessons to the global debates.

## RESEARCH OBJECTIVES

The Strategic Network Team identified key objectives for researching the enforcement of labour laws. The key objective is to understand the **strengths and limitations of hybrid mechanisms** in enforcing labour rights in developing countries.

Crucial questions include:

- What **role do local actors play** in ensuring labour standards enforcement (e.g. unions, governments, NGOs)?
- What is the role of **trade and the legal/regulatory framework**?
- What are the conditions **under which hybrid models approach can work**? Is another approach better?
- What is the most effective way of ensuring that **lead firms** are directly implicated in compliance with labour standards by their suppliers?

## METHODOLOGY

To explore the effectiveness of hybrid models of enforcement, the research methodology must combine a **socio-legal analysis of regulatory frameworks** with an **empirical investigation** of the operation of these programmes.

The **analysis of the legal/regulatory environment** would examine labour and employment laws governing the workplace, industrial relations, social dialogue etc.

The **empirical research** would generate new data collected through interviews with local actors (e.g. government officials, employers, unions, NGOs and other local initiatives). To understand **how hybrid models have affected public enforcement systems**, the research should investigate whether hybrid models have contributed to local capacity -development, the challenges that private and public actors face in improving labour standards enforcement, and how the combination of private and public enforcement can be optimised to achieve sustainable improvements.

## An illustration: Lesotho, South Africa, Brazil, Cambodia

**Comparative research** on the operation of regulatory frameworks is crucial to combat UFW and to derive global lessons from innovations at the country level. For this reason, the Strategic Network has concluded that future research should involve **comparisons** of countries at a range of income levels and in different regions.

As an illustration, **Cambodia, Lesotho, Brazil and South Africa** provide contrasting experiences of labour law enforcement.

This comparison includes **developing (upper middle income) countries** (South Africa, Brazil) and **least developed (low income) countries** (Lesotho, Cambodia). It also includes two countries that have participated in the **Better Work** programme (Cambodia, Lesotho) and two that rely much more on public enforcement by a government inspectorate (Brazil, South Africa).

In **Cambodia**, the Better Factories Cambodia (BFC) program, began in 2001 and was the forerunner of the ILO/World Bank's Better Work program. It is often held up as a successful model for enforcing labour standards. In Lesotho, in contrast, Better Work lasted for only 5-6 years and labour standards appear to have declined since.<sup>6</sup>

**South Africa and Brazil** provide examples of well-established public enforcements systems. Yet new approaches are emerging. A private initiative introduced by Sao Paulo City Council, for example, has focused on sub-contracting to small workshops and held buyers responsible for legal breaches by their suppliers.

6. Kelly Pike and Shane Godfrey Two sides to Better Work: a comparative analysis of worker and management perceptions of the impact of Better Work Better Work Discussion Paper, No.20 (International Labour Office 2015); Kelly Pike Better Work five years later: worker perspectives on labour standards compliance in the final year of Better Work (International Labour Office 2016).

Illustration: Lesotho, South Africa, Brazil, Cambodia

