



INFORMAL WORK AND LABOUR REGULATION

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”¹ 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)**.²



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.³ **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 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: understanding informality and its implications for decent work

Sustainable Development Goal 8 (SDG8) calls for ‘inclusive and sustainable economic growth, employment and decent work for all.’ Many of the objectives set out in SDG8 cannot be effectively met in the context of the **informal economy and informal work**. For this reason, several of the sub-goals and targets of SDG8 refer to informal work. **Goal 8.3**, for example, calls on countries to ‘encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services.’

ILO Recommendation No. 204 Concerning the Transition from the Informal to the Formal Economy (2014), No. 204 states that the high incidence of the informal economy is a major challenge for workers’ rights, social outcomes such as social protection, decent working conditions and inclusive development. It also affects **the soundness of institutions** – the rule of law, fiscal stability and governmental effectiveness – and has **harmful economic effects** including on the development of sustainable enterprises and fair competition. The Recommendation advocates the **transition from the informal to the formal economy and the prevention of informalisation** of formal economy jobs.

As SDG8 and ILO Recommendation No. 204 highlight, informality poses a **Global Regulatory Challenge**. The prevalence of informal labour markets in many countries is an obstacle to the role of labour standards in development. To make labour laws effective in practice, policy makers need to address the factors which are **delaying the transition to a formal economy** and leading to the **informalisation** of previously stable and secure jobs.

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.

Informality is both a predominant feature of low income countries, and an ever present reality in more advanced economies. Yet there is no uniformity in **statistical categorisations** of the informal labour market. The ILO has moved over time to a broad definition of informal work which focuses on the **nature of jobs** and not only on the characteristics of an enterprise (No. 204). Yet there are calls to include **additional categories** within the scope of

informal employment. There are also **significant variations** in the way that different countries define informality.

The relationship between informal work and legal regulation has been explored by a Strategic Network team led by Professor Simon Deakin of the University of Cambridge.

An illustration: China and India

A useful illustration of differences in **definitions of informality** is provided by comparing **China and India**. A lower **informality** rate is reported for China as compared to India. Yet it is not clear how far it is the result of different **statistical constructs** or underlying **economic trends**⁴.

The **Chinese** statistical authorities adopt an **enterprise-based approach**. This definition excludes non-standard forms of work in formal sector firms, such as fixed-term and temporary agency work. In **India**, the official estimates are based on the **coverage of regulatory mechanisms and institutions and types of enterprise**.

Table: Rates of Persons in Informal Employment, China and India

	Persons in informal employment	Persons employed in the informal sector	Persons in informal employment outside the informal sector
China (2010)	32.6%	21.9%	12.5%
India (2009)	83.6%	67.5%	16.8%

Source: ILO, *Statistical Update on Employment in the Informal Economy* (Geneva, 2012). Informality rates are stated as the percentage of the non-agricultural working population.

The data from India also shows that informal work is concentrated among those in **disadvantaged groups** including so-called scheduled castes and Muslim workers. There is a gender divide too, with **women more likely than men** to be employed in low-income and insecure jobs in both the formal and informal sectors.

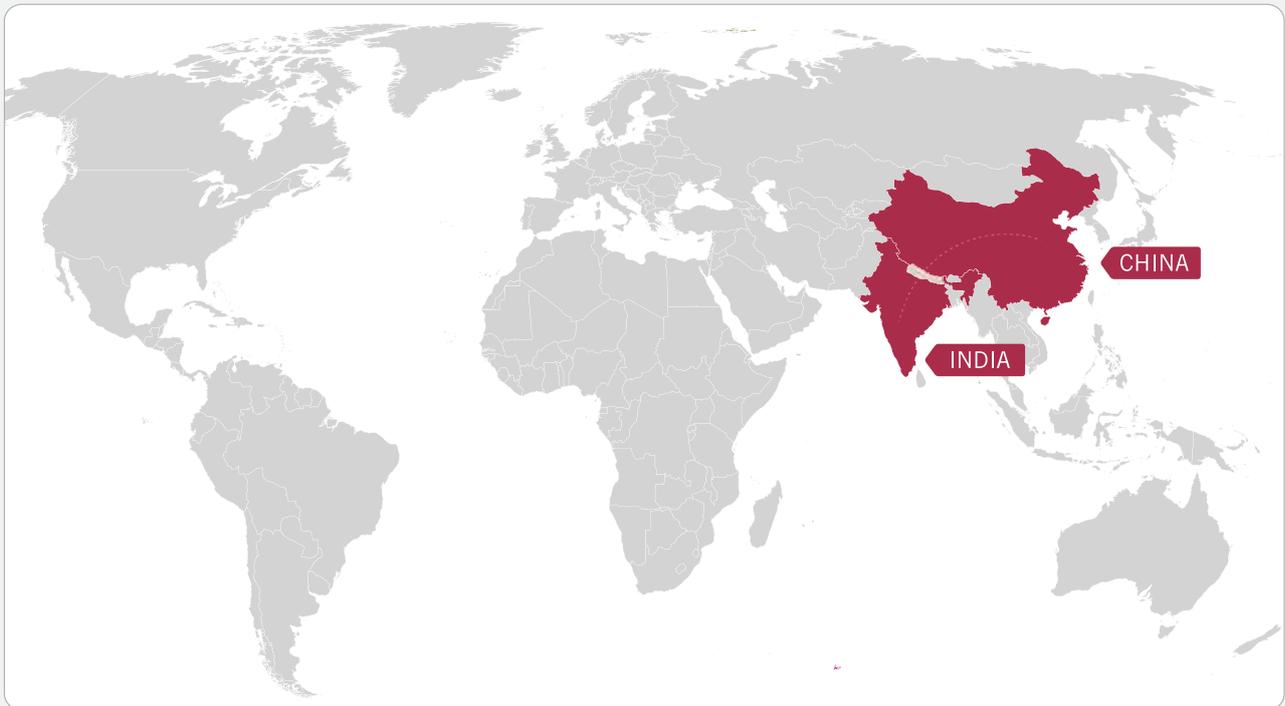
In both countries, **policy** is playing a role both in the changes in the extent of the informal economy over time. In **India**, economic policy has been focused since the early 1990s on opening up the economy to international trade and reducing regulations that previously protected indigenous industries. These developments have been

accompanied, in some sectors, by **informalisation and a deterioration of work quality**.

China's trajectory is very different. **Restructuring of state-owned enterprises** from the mid-1980s displaced tens of millions of workers from conditions of relative economic security. A weak regulatory regime had provided few formal legal protections for workers and few means of enforcement. The enactment of the **Labour Contracts Act** in 2007 introduced basic **labour standards** and strengthened **dispute resolution mechanisms**. There has been a reduction in the rate of informality since then, in which it appears that policy initiatives, including the 2007 Act, have played a role.

4. Simon Deakin, Shelley Marshall and Sanjay Pinto 'Labour laws, informality, and development: comparing India and China in Diamond Ashiagbor (ed) Re-imagining labour law for development (forthcoming 2018).

An illustration: China and India



Informal work and labour regulation: 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 combating 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 Informal Work and Labour Regulation** proposes a strategy for investigating the relationship between labour regulation and informality and the most effective legal frameworks.

RESEARCH OBJECTIVES

Current understandings of informality fall short of what is needed to inform policy-making. There is **no real consensus** among researchers on the nature of informal work and a lack of agreement

on how to measure it. Until these conceptual and methodological challenges are overcome, it will not be possible to identify the causes of informality, nor to develop robust policy responses.

Key research questions are:

- Is it helpful to use the **generic term ‘informal work’** or is some form of disaggregation needed to identify the different features of work relations currently characterised as informal?
- What is the **relationship of ‘informal work’ to ‘non-standard employment’ and ‘precarious work’**? How far is work which is ‘informal’ as opposed to ‘non-standard’ a feature of low- and middle-income countries, and how far it is a global phenomenon?
- Is labour informality **increasing or decreasing** worldwide? What are the main regional and country-level trends?

- Does **economic growth on its own lead to the reduction** in the extent or nature of informal work? If not, what **combination of policies** is most conducive to growth-led strategies for reducing informal work?
- What is the **relationship between labour regulation and informality**? Are particular types of labour regulation more or less conducive to the reduction of informality?
- What are the **costs and benefits** of formalisation? Are there losers as well as winners?

METHODOLOGY

To address these issues, the research would operate at a number of levels:

- At the **conceptual** level it would address the issue of nature of the informal economy in general and informal work in particular.
- At a **methodological** level it would answer the need for consistency in measuring and benchmarking the extent of informal work.
- At the **policy-application** level it would assess the successes and failures of regulatory strategies in assisting the transition to formal labour markets and in making labour laws effective in contexts where informality remains the norm.

The research would firstly undertake a detailed analysis of the ways in which **statistical categories relating to informality** have evolved, both at international level and within countries. The aim would be to arrive at a **consistent measure of informal work** which would permit effective comparisons across countries and regions and through time. In addition, the study would investigate the relationship between informality and **gender, ethnic origin and migrant status**.

Having mapped these different dimensions of informality, the research should then undertake a **statistical analysis** to establish how far trends in the **size and composition of the informal workforce** are affected by **developments in regulation**. This global analysis would be supplemented by **country-specific analyses** in countries in **Latin America, South East Asia and sub-Saharan Africa**.

By these means, the research would arrive at answers to the following questions:

- is there a connection between **labour regulation and rising informality** in some countries and regions?
- are some features of labour regulation more effective than others in facilitating the **transition from informal to formal work**?
- are certain regulatory systems better than others in avoiding **harmful trade-offs**, for example between protection for some workers at the expense of marginalisation and exclusion of others?