UNACCEPTABLE FORMS OF WORK

Global dialogue / local innovation

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

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Introduction

LEGAL REGULATION OF UNACCEPTABLE FORMS OF WORK
Unacceptable work: a development challenge

Sustaining productive and protected working lives is among the most pressing challenges of the twenty-first century. The urgency of this objective has been confirmed by the inclusion of Decent Work among the UN Sustainable Development Goals (SDG8).

Nearly 2.2 billion people across the globe live below the poverty line. As the UN has recognised, poverty eradication is feasible only by generating stable and well-paid jobs. Yet only one-quarter of workers worldwide has a stable employment relationship.¹

Effective labour regulation in development policy

Effective labour regulation is a crucial conduit to decent work. It is a vital component of development policies, capable of supporting inclusive growth, sustainable prosperity, and the wellbeing of workers and their families. Labour regulation frameworks are urgently needed that can improve conditions of work, enhance productivity, reduce poverty, eradicate forced labour, encourage formalization, prevent environmental degradation, and advance equality. As an element of these broader objectives, effective regulatory frameworks are essential to eliminating UFW.

Yet the regulatory strategies that can effectively eliminate unacceptable work – most crucially in Low and Middle Income Countries (LMICs) – have yet to be designed. Conventional regulatory mechanisms are often ineffective or ill-suited to the economies, development strategies, cultures, and legal traditions of the global South. Informal work endures despite efforts towards formalization, and precarious employment is growing across the world. Despite extensive statutory labour codes, labour rights are ‘paper tigers’ when they are not effectively implemented. Profound resource constraints on LMIC governments inhibit conventional enforcement mechanisms such as labour inspectorates.

The UN International Labour Organization (ILO) has recently called for workers 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.”² The UFW agenda recognises that an expanding segment of the global workforce is in insecure, unsafe and low-paid labour.

². ILO Towards the ILO centenary: realities, renewal and tripartite commitment (2013); www.ilo.org/global/topics/dw4sd/theme-by-policy-outcomes.
Effective regulatory frameworks on UFW are a novel challenge. It is therefore essential that policy-makers and researchers from across the world share ideas, experiments, and successful strategies.

In 2017, the ESRC/GCRF Strategic Network on Legal Regulation of Unacceptable Forms of Work was formed to support a global dialogue on UFW. The Network was funded by the UK Economic and Social Research Council (ESRC) through the Global Challenges Research Fund. It was led by Professor Deirdre McCann (University of Durham) together with Professor Judy Fudge (University of Kent) and Dr. Sangheon Lee (International Labour Organization).

Research by Deirdre McCann and Judy Fudge has generated a Multidimensional Model of unacceptable work. The Multidimensional Model of UFW (1) outlines the substantive dimensions of UFW (2) empowers local actors to determine priorities for intervention and (3) calls for strategic regulatory responses that have substantial and systems-wide effects. A central finding of this research was the need for novel legal frameworks – and related social and economic policies – that can target UFW.

The UFW Network has brought together an interdisciplinary team of researchers and policy-makers from across the world to identify these solutions. Network members are global leaders on research and policy on labour regulation. They include Manuela Tomei (Director of the ILO Conditions of Work and Equality Department), Professor Kamala Sankaran (University of Delhi), Professor Simon Deakin (University of Cambridge), Mamohale Matsoso (Labour Commissioner of Lesotho), Professor Martha Chen (Harvard Kennedy School/Women in Informal Employment: Globalizing and Organizing (WIEGO)), Chea Sophal (Better Factories Cambodia), Professor Jill Rubery (University of Manchester) and Professor Oscar Vilhena Vieira Fundação Getulio Vargas (Sao Paulo).

The Network supports a dialogue that transcends national boundaries and circulates regulatory ideas and innovations across the world. This global dialogue is crucial to encourage meaningful reforms in the design and implementation of domestic and international laws that can reach the most disadvantaged in the global workforce.

Our policy partners

Domestic and transnational policy partners are at the heart of the UFW Network. The Network includes more than 50 policy partners. Global partners are the International Labour Organization, Geneva, the United Nations Research Institute for Social Development (UNRISD) and Women in Informal Employment: Globalizing and Organizing (WEIGO). Domestic partners encompass government Ministries, multi-national corporations, NGOs, trade unions and workers’ rights advocacy organisations. They include the Apparel Manufacturers of South Africa, Asia Inspection / SEDEX, the Brazilian Labour Inspectorate, Better Factories Cambodia/ Better Work (ILO/World Bank), the Cambodian Ministry of Labour, the Casual Workers Advice Office, Germiston, South Africa, the Ethical Trading Initiative, the ILO Country Offices for Argentina, Brazil and Viet Nam, the ILO Pretoria Office, Labour Education and Research Network (LEARN), Lesotho Clothing and Allied Workers Union, the Institute of Labour Science and Social Affairs (ILSSA), Hanoi, Viet Nam, and the South African Department of Labour.

Figure 1: Strategic Network research and policy partners.
The Global Regulatory Challenges

The Network has identified and responded to **Global Regulatory Challenges**. These are the most urgent and complex issues that face lower-income countries in upgrading or eliminating UFW. The Challenges include the rapid global growth in casual work, the urgent need for novel enforcement mechanisms, the evolution of new forms of collective representation of workers, and the interaction of informal work and labour regulation regimes.

**Network Teams** were assembled to address each Global Regulatory Challenge. The Teams paired researchers from a range of disciplines with national and international policy actors. The **academic disciplines** represented in the Network include law, economics, development studies, human resources, geography, sociology, industrial relations and social policy. The involvement of **local actors** is crucial to identifying UFW, selecting regulatory strategies, and crafting reforms. Network researchers and policy-makers are based in **20 countries** across all income levels and regions including Argentina, Brazil, Cambodia, China, India, Jordan, Korea, Lesotho, Mexico, South Africa, UK, USA and Viet Nam.

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**Casual work**: empowering workers’ rights organizations to secure decent jobs

| Botswana • El Salvador • Guatemala • Namibia • South Africa |
| Derik Biauw • North-West U |
| Catherine Schenck • U of the Western Cape |
| Nik Theodore • U of Illinois |

**Forced labour initiatives**: a gateway to unacceptable work regulation?

| Brazil • UK |
| Flavia Scabin • Fundação Getulio Vargas |
| Judy Fudge • U of Kent |

**Recruitment in Global Value Chains**: strengthening corporate codes

| Cambodia • Jordan |
| Chea Sophal • Better Factories Cambodia |
| Shelley Marshall • Royal Melbourne Inst. of Tech. |

**Enforcing labour laws**: firms, NGOs, and local actors in public/private enforcement

| Brazil • Cambodia • Lesotho • South Africa |
| Shane Godfrey • U of Cape Town |
| Kelly Pike • York U |

**Labour rights in ‘the precarious economy’**: legislation in highly fragmented settings

| India • Korea |
| Babu Ramesh • Ambedkar U Delhi |
| Aelim Yun • Seoul National U |

**Law’s dynamic effects**: extending working conditions rights

| Argentina • New Zealand • Vietnam |
| Damian Grimshaw • U of Manchester |
| Deirdre McCann • Durham U |

**Innovative collective representation**: social dialogue in low-income settings

| Argentina • China Malaysia |
| Bernd Brandl • Durham U |
| Barbara Bechter • Durham U |

**Violence and harassment in the care economy**: the role of trade unions

| Argentina • Australia • Mexico • UK |
| Maria Elena Valezuela |
| Lydia Hayes • Cardiff U |

**Informal work and labour regulation**: measuring labour laws in the global South

| Global Comparison |
| Simon Deakin • U of Cambridge |

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Figure 2. The Global Regulatory Challenges
Research Agendas on Innovative UFW Regulation

The Network has generated a set of Research Agendas on Innovative UFW Regulation. These agendas – set out in the following chapters – outline interlinked research and policy strategies to understand and respond to each of the Global Regulatory Challenges.

The Research Agendas (1) map the existing ‘state of the art’ on the Global Regulatory Challenges and (2) outline research strategies that can identify the most effective regulatory and policy approaches to address each. The Agendas focus on regulatory frameworks at all levels (global, national, sectoral, firm-level) and on the range of regulatory mechanisms (legislation, collective bargaining, Corporate Social Responsibility regimes etc.). The Research Agendas also centre on sectors and occupations that are at the heart of the global economy including the garment sector, construction, domestic work and agriculture.

Innovative interdisciplinary research methodologies have been designed that are specifically tailored to each Global Regulatory Challenge. These methodologies are diverse, build on the strengths of the Network Teams, transcend disciplinary boundaries, and embrace a range of qualitative and quantitative techniques.

To investigate each Global Regulatory Challenge, a cross-regional comparative approach has been adopted. Each Research Agenda proposes an illustrative comparison of labour market/regulatory phenomena in two or more countries drawn from different regions and income-levels. The aims is to generate a dialogue that transcends national boundaries and to circulate regulatory ideas and innovations across the world.
Chapter 1

CASUAL WORK
The global regulatory challenge: decent jobs for casual workers

Over the past two decades, there has been a proliferation of “nonstandard” forms of employment. Nonstandard employment is often defined by what it lacks: (a) the absence of effective regulation of working time and pay, either through legislation or collective agreements between workers and employers; (b) a shift from stable full-time employment to insecure, temporary jobs; and (c) rising economic insecurity for workers who do not have the benefit of a range of crucial protections, including unemployment insurance, effective enforcement of labour standards, and the right to organize.

Among the various nonstandard employment relations that are on the rise, casual forms of work — such as day labor, ‘gig work,’ on-call employment, and zero-hours contracts — have been especially problematic for workers. These jobs tend to be concentrated in the least secure and lowest-paying occupations, and involve disadvantaged workers (such as recent migrants, racial minorities, and the long-term unemployed).

The spread of casual work is associated with a set of changes that are underway on the demand side of labour markets. As an illustration, over the last two decades the construction sector has witnessed a growing reliance on subcontracting in countries across the world. Heightened competition has led many firms to abandon stable employment relationships to reduce labor costs. Within this context, employing day labourers has become a key competitive strategy for certain firms.

In the retail sector too, employers have been experimenting with staffing models that rely on zero-hours contracts, where employees are not guaranteed a minimum number of work hours. They are paid only for the actual hours of work offered by the employer and carried out by the employee. This form of employment transfers risks and uncertainty to the workforce.

In most countries, legal frameworks have failed to keep pace with such rapid changes in employment systems. This has created a legal void within which experimentation with employment arrangements has flourished.

Yet although it is clear that there has been a spread of casual work, changes in employment relations remain poorly documented and analyzed. This has contributed to a lag in regulatory responses and a lack of strong labour protections for the workforce.

Casual work as a global phenomenon: a research agenda

This Research Agenda on Casual Work has been designed by a Strategic Network Team that includes researchers and policy actors from across the world. It outlines a strategy to provide a global account of the rise of casual work that also illuminates divergences and similarities in employer- and worker-strategies and state and civil society responses.
The Strategic Network Team

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  - USA

**RESEARCH OBJECTIVES**

The Strategic Network Team identified key objectives for researching the regulation of casual work. These objectives are:

- to map types of disaggregated work and assess their prevalence;
- to examine the extent to which violations of labor standards occur within each form of casual work;
- to identify and evaluate the rules that govern casual work, including legislative instruments and collective agreements negotiated by trade unions and employers; and
- to document the most significant policy and civil-society responses.

This research should focus on low-wage industries, where employment casualisation has been most intense and where informalisation of employment relations seems to have taken hold, to the detriment of workers holding poorly paid positions.

**METHODOLOGY**

Effectively analyzing changes in casual work requires a mixed-methods approach. This combines worker surveys, in-depth interviews with workers and employers, and assessments of the range of relevant legal regimes. Key elements include:

- **Mapping disaggregated work.** Employment data can be analyzed to develop a typology of casual working arrangements.
- **Employer strategies.** Interviews with employers are crucial to explaining experimentation with casual work, the restructuring of workforce systems, changing competitive dynamics, and the extent to which legal regimes permit or inhibit experimentation with a range of staffing arrangements.
- **Examining the extent of labour law violations.** In-depth interviews with workers can be used to document the extent to which casual work is associated with substandard employment. Surveys using respondent-driven sampling (RDS) have been used by members of the Strategic Network Team to measure the prevalence of labour law violations in casual work. In this approach, subjects are recruited through workers’ social networks, making it possible to access hidden populations that may be missed through other methods.

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• **Documenting policy and civil-society responses.** Interviews should be conducted with workers’ rights organizations, policy think tanks, labour unions, and government enforcement agencies. The objective is to assess the viability and potential effectiveness of policy reform proposals and of labor market interventions by NGOs.

The **policy dimensions** of this Research Agenda include:

• to provide a **framework for conceptualizing varieties of casual work** to support public policies and legal strategies that reduce labour law violations and poor quality employment; and

• to inform the development of **civil-society responses** to problems in low-wage, casualising industries, such as the development of workers’ rights organizations, strategies for collective bargaining where unionization does not appear to be feasible, and advocacy for a floor of minimum wages and working conditions.
CHAPTER 1: CASUAL WORK

An illustration: South Africa, US, El Salvador, Guatemala, Botswana and Namibia

As an illustration, an initial comparison on casual work could be conducted between South Africa (high unemployment, emerging economy) and the United States (low unemployment, advanced economy). Both countries have witnessed an expansion of casual work in the construction and retail sectors. Construction firms are able to access underemployed workers at informal hiring sites throughout both countries and employees in the retail sector are increasingly required to be ‘on call’ and available to work when required.

In both South Africa and the US, labour law regimes are ill-suited to the dynamics of casualisation. The result has been the spread of casual work, often causing economic hardships for underemployed workers, immigrants, and the other disadvantaged jobseekers who disproportionately occupy casualized segments of the labor market.

Yet both countries also have vibrant NGOs that are engaged in documenting the problems associated with casual work, organizing workers in the construction and retail sectors, and pressing for employment law and labour market reforms.

Building on this initial research, it would be possible to extend into countries and regions in which casual work has yet to be mapped and in which policy responses have so far been neglected. One possibility is to extend into other Southern African settings, such as Botswana or Namibia, in which a rise in casualised forms of work have been anecdotally noted. A cross-regional comparison with Latin America would also be illuminating, for example in El Salvador or Guatemala.
Chapter 2
EXTENDING FORCED LABOUR INITIATIVES
The global regulatory challenge: forced labour initiatives as an entry point for UFW regulation

Eradicating forced labour is among the central challenges of contemporary world of work. In recent decades, innovative legal frameworks have been designed that have had considerable success. This outcome suggests that legal regimes on forced labour might be extended or adapted to regulate other dimensions of UFW.

The potential to build on forced labour frameworks to tackle other dimensions of unacceptability has therefore been identified by the Strategic Network as a Global Regulatory Challenge.

Extending forced labour initiatives: a research agenda

This Research Agenda on Extending Forced Labour Initiatives has been designed by a Strategic Network Team that includes researchers and policy actors from across the world. It outlines a strategy for investigating how to extend or adapt forced labour frameworks to tackle other forms of UFW.

RESEARCH OBJECTIVES

The overall objective of the Research Agenda is to identify frameworks and mechanisms on forced labour that can be used as a gateway to broader enforcement of labour standards and social upgrading.

The key objectives are:

- to identify flagship legal initiatives on forced labour, with a particular focus on supply chain accountability mechanisms.
- to examine which elements of these frameworks are effective in prompting firms to develop and implement due diligence practices. These should ensure the eradication of forced labour but the promotion of decent work throughout the supply chain.
- to identify the kinds of labour enforcement activities that are needed.
- to establish a new paradigm of business responsibilities to prevent UFW in supply chains.

METHODOLOGY

To achieve the research objectives, the methodology must combine an analysis of regulatory frameworks on forced labour with an empirical investigation of their operation. This socio-legal methodology would map the regulatory regimes and mechanisms that promote supply chain accountability and strategic enforcement. It would also consider the application of the international regulatory frameworks that have been developed to promote the eradication of labour violations by business e.g. the Guiding Principles on Business and Human Rights (2011), Global Compact (2000), and ILO International Labour Standards.

The use of a range of research methods is essential, including semi-structured interviews with key stakeholders (ethical trade managers in lead firms, manufacturers, local authorities, trade unions, community representatives etc.), documentary and statistical analyses, and corporate/value chain mapping.

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CHAPTER 2: EXTENDING FORCED LABOUR INITIATIVES

EXTENDING FORCED LABOUR INITIATIVES: ACHIEVING LEGAL REFORM

A central objective of the Strategic Network on Legal Regulation of UFW is to support policy-actors in designing regulatory interventions that will improve workers’ lives.

Research on the extension of forced labour initiatives should aim to generate impacts at the national and international levels by influencing regulatory policy and enforcement strategies. The aim should be:

- to influence public policy and labour standards enforcement
- to build the capacity of stakeholders to monitor and enforce compliance with labour and human rights standards in supply chains
- to help to develop prototype supply chain accountability mechanisms
- to help to develop proactive enforcement strategies

Policy actors should be included in all elements of the research. Key outcomes should be guidance for policy-makers on how to enhance supply chain accountability; capacity-building of firm representatives, to influence corporate practices on supply chain accountability and strengthen monitoring and enforcement in supply chains; training and capacity-building of the social partners and NGOs; and international-level awareness-raising activities of the potential for forced labour regimes to be harnessed to broader protective goals.
A comparison on Extending Forced Labour Initiatives should focus on the most globally-significant legal innovations on forced labour. Both Brazil and the United Kingdom, for example, have introduced innovative new mechanisms in recent decades.

Brazil’s experience in combating forced labour has been internationally recognised. It involves a multifaceted approach that has included the prohibition of slave labour in the Penal Code; the creation of the lista suja - or ‘dirty list’ – that publicly discloses the names of companies that use forced labour in their supply chains; a Constitutional Amendment in 2014 to allow confiscation of property from those who benefit from slave labour; the creation of a Special Mobile Inspection Group to identify and free victims of forced and slave labour; and the development of a National Pact for the Eradication of Slave Labour.

The UK has seen two landmark reforms. First, the Modern Slavery Act 2015 was introduced to tackle forced labour including through a supply chain transparency mechanism that requires large companies to produce annual ‘slavery and human trafficking statements’ indicating the steps they are taking to prevent forced labour in their supply chains. Second, in 2016 a statutory Director of Labour Market Enforcement was created and the Gangmasters and Labour Abuse Authority was reformed to investigate abuse – including forced labour – across the entire UK labour market.

Comparing data on the operation of these regulatory initiatives would be valuable to tackling UFW. The garment sector is a particularly promising focus. In Brazil – the world’s fourth-largest apparel producer – many irregular migrant workers have been found to work informally in small-scale workshops in the lower tiers of outsourced production, with slave-like conditions and other severe human rights violations.

The UK garment manufacturing is dominated by small firms, fragmented supply chains, a largely vulnerable workforce, the absence of enterprise-level industrial relations or worker representation, and poor conditions.

Brazil and the U.K are diverse in terms of socio-economic development, legal systems and regulatory techniques, institutional regimes, and economic and labour market strategies. Yet together they have potential to generate lessons on innovative legal techniques in UFW regulation from a high- and low-income country. In particular, there are affinities in the recent initiatives in both countries to require transparency in supply chains. It would therefore be revealing to examine the efficacy of these regulatory frameworks to determine which institutional features could be introduced in other settings; which civil society organisations should be involved (e.g. community organisations, trade unions, training/placement institutions); and the kinds of labour enforcement activities that are needed. The focus would be on the global lessons to be derived from the experience of both countries.


Chapter 3

RECRUITMENT IN GLOBAL VALUE CHAINS
The global regulatory challenge: recruitment as a gateway to UFW

Recruitment in Global Value Chains (GVCs) – in which production processes extend across multiple countries – has attracted attention in recent years. This is due in particular to the role of recruiters and agencies in people smuggling and modern slavery.9

Recruitment processes are a key conduit to UFW and have therefore been identified by the Strategic Network as a Global Regulatory Challenge.

Yet recruitment – as a legal process and as a trigger to UFW - demands more targeted investigation, including through a focus on the global South.

CHAPTER 3: RECRUITMENT IN GLOBAL VALUE CHAINS

RECRUITMENT IN GLOBAL VALUE CHAINS

The Strategic Network Team

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RESEARCH OBJECTIVES

This Research Agenda is driven by a crucial question: how can recruitment be regulated to promote decent work, rather than being a factor in generating UFW. The Agenda proposes a research programme to identify the regulatory strategies that can support and sustain decent work through recruitment to GVCs.

The research aims are:

• to better understand the various ways that recruitment impacts the likelihood and extent of UFW; and

• to design tools to assist regulators and other policy actors in ensuring that recruitment in GVCs does not contribute to UFW.

The Network Team has identified key dimensions of recruitment that are likely to impact the extent of UFW:

• Worker motivation to be recruited. When individuals are living in extreme poverty, their choice of work is limited. They are likely to be willing to conduct any form of paid work, regardless of how poor the conditions.

• Recruiters. Workers in GVCs are often engaged by intermediaries. Some are employed by the hiring firm. Others are independent agents.

9. ILO Strengthening action to end forced labour (ILO 2014).
Research should seek to ascertain (1) the impact of the nature of the recruiter on the likelihood of UFW and (2) how recruiters can be made transparent, legalised, and regulated.

• **Recruitment procedures and practices of the hiring firm.** The practices of the hiring firm are likely to be particularly important in reducing UFW e.g. checking identity documents to prevent child labour.  

• **Debt.** When workers pay a fee to recruiters that places them or their families in debt, this is likely to worsen their conditions of work. Research on recruitment in GVCs should aim to identify the most effective regulatory methods for ensuring that the payment of fees is minimised or eliminated and that it does not result in indentured labour.  

• **GVC dynamics.** Where GVC dynamics place downwards pressure on unit value costs, recruitment will be aimed at employing workers at the lowest possible cost. Recruitment will therefore focus on the poorest low-skilled and vulnerable workers.

### An illustration: Cambodia and Jordan

A comparison on *Recruitment in Global Value Chains* should focus on globally-significant regulatory innovations and a range of country experiences. As an illustration, **Cambodia and Jordan** provide contrasting experiences of regulating GVCs in the **garment sector** that would be revealing for the global debates.  

Cambodia has had **significant regulatory success in reducing UFW** in its garment sector, including poor practices associated with recruitment. In the mid-1990s, the low-skilled workers employed in the sector - chiefly young single women from rural villages - were often forced to pay bribes or a ‘finder’s fee’ to so-called ‘employment brokers.’
Conditions were characterised by UFW: low wages, forced overtime, being locked into the factories, no paid sick leave or holidays.

The ILO/World Bank Better Factories Cambodia programme has played an important role in improving recruitment practices. Better Factories checks labour compliance in the factories against Cambodian laws and ILO Conventions, including recruitment practices such as finder’s fees, discrimination based on union membership, pregnancy, or gender, and child labour.

Yet in recent years Cambodians are increasingly being recruited for work in neighbouring countries through new cross-border value chains (e.g. in construction, fishing, and domestic work). Whereas recruitment in the garment industry has improved, cross-border recruitment has become a particularly significant problem.

**Jordan** is a revealing contrast to Cambodia. Most significantly, labour recruitment to the Jordanian garment industry is transnational: 75% of workers in the Jordanian garment industry are migrants, nearly half from Bangladesh. In the mid-2000s, the Jordanian garment sector was exposed as having highly abusive working conditions e.g. extreme overtime, confiscated of passports, sexual harassment, and child labour.

These UFW are associated with the migrant labour system in operation in Jordan and the recruitment practices of the agencies that serve as recruiters.

Yet addressing these problems involves complex transnational legal questions that implicate governments, multiple recruitment agencies, lead firms and buyers.

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10. betterwork.org/where-we-work/cambodia.  
Chapter 4

ENFORCING LABOUR LAWS
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.14 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.15 Yet hybrid models have yet to be rigorously investigated from the perspective of those they are intended to benefit: workers.

Effective enforcement through hybrid models: a research agenda

This Research Agenda on Enforcing Labour Laws has been designed by a Strategic Network Team that includes researchers and policy actors from across the world. It proposes a strategy for investigating the effectiveness of hybrid models of enforcement.

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15. betterwork.org.
CHAPTER 4: ENFORCING LABOUR LAWS

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

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.16

South Africa and Brazil have 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.

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Chapter 5

LABOUR RIGHTS IN THE ‘PRECARIOUS ECONOMY’
The global regulatory challenge: effective regulation of precarious work

In the first half of the 20th century, permanent, full-time and binary employment - the ‘Standard Employment Relationship’ – was dominant in industrialized countries. So-called ‘non-standard’ or ‘precarious’ employment emerged across these countries after the 1970s, resulting in widespread concern. In contrast, precariousness had been a long-standing feature of labour markets in the economic South.

‘Precarious work’ is characterized by insecure employment, low wages, discriminatory working conditions and low union density. For the elimination of UFW, then, it is urgent to address these forms of work. Yet in many countries, the Standard Employment Relationship has been the model for labour laws and other protections. To date, most governments have failed to adopt effective approaches to reducing precariousness.

Some states, however, have developed specialist regulation to address specific facets or features of precariousness. Certain of these initiatives – adopting the equality approach – are based on a premise of discrimination. The legislation assumes that standard employment is the norm and precariousness is the exception. These tend towards correcting any deviation from ‘normal’ or ‘standard’ employment. Others – specific regulation – assume the opposite: that precarious work, or inferior quality of work, is the norm. The assumption is that, through effective regulation, there is scope for improving labour standards in selected sectors.

A key question, then, is which are the most effective regulatory strategies to address precarious work. This question is particularly urgent in countries in which ‘non-standard’ work is very extensive. For this reason, the regulation of ‘precarious economies’ has been identified by the Strategic Network as a Global Regulatory Challenge.

Precarious work regulation: a research agenda

This Research Agenda on Labour Rights in the Precarious Economy has been designed by a Strategic Network Team that includes researchers and policy actors from across the world. It sets out a strategy to comparatively investigate the effective regulation of precarious work.

The Strategic Network Team
CHAPTER 5: LABOUR RIGHTS IN THE ‘PRECARIOUS ECONOMY’

**RESEARCH OBJECTIVES**

A key research question that underpins this Research Agenda is: what are the most effective regulatory strategies to address precarious work?

The goal should be to investigate different patterns of precarious and informal work, including through a focus on gender, the role of labour market actors, industrial and workforce structure, innovative practices, and the potential for replication of successful initiatives in other settings.

A particular focus should be the capacity of regulatory interventions to challenge structural factors. These relate to the power relations that produce inequality and precariousness. The aim is to understand how unbalanced distributions of power among actors impact on the nature of regulations and policy interventions.

A central objective should be to investigate the benefits and limits of specialist regulation. A comparison and evaluation of the two main strategies – the equality-based approach and specific regulation – would produce global insights for research and policy.

Research should be tailored towards assisting policy makers in designing more effective interventions to address the employment insecurities and vulnerabilities of precarious work. To this end, particular focus should be placed on:

- strengthening voice mechanisms to improve the implementation of precarious work laws; and
- ensuring that laws to on precariousness address industrial and workforce structure.

**METHODOLOGY**

Research methodologies should combine a desk-based socio-legal analysis of regulatory frameworks with an empirical investigation of the impacts of regulatory interventions.

Secondary data would be drawn from national statistical agencies, government departments, trade unions and other community-based organisations. Primary data would be gathered through field work, including interviews with unions, employers, and government departments. Quantitative and qualitative research are blended in this approach. In particular, action-based research models would be used to explore the changing roles of these actors over time, and how their actions affect the success of initiatives to reduce precarious work.

**An illustration: India and Korea**

A comparison on Labour Rights in the Precarious Economy should focus on countries in which precarious work is widespread and in which globally-significant legal reforms have been introduced to improve precarious work.

Korea and India are two important examples. In both countries, non-standard working relations are particularly widespread. Both have adopted pioneering initiatives to regulate their ‘precarious economies.’ This comparison would illustrate the two key regulatory models that are being tested: the equality approach (Korea) and specific regulation (India). It would also highlight the differences and similarities between a rich, recently developed economy and a country from the global South.

In Korea, legislation has been enacted to protect fixed-term, part-time, and agency workers. The Acts on Protections for Fixed-term and Part-time Workers and Protections for Agency Workers were both enacted in 2006. These Acts are equality-oriented individual-complaint mechanisms. They prohibit discrimination against non-standard workers while allowing the free use of these types of contracts for up to two years. The Acts allow individual workers to claim that they have been discriminated against when compared with secure, standard workers.17

The **labour market in India is highly fragmented**. Workers in formal enterprises, are often formally protected by labour laws but lack **effective means of enforcing their rights**. The **large majority of workers** have never worked in formal enterprises or received a contract of employment. The net result has been the **continued growth of informal sector**, characterised by UFW, which employs more than 90 per cent of the workforce.

Yet India is also home to one of the most significant initiatives on precarious work. This applies to loading and unloading workers, or **‘head loaders’** (Mathadi workers). These workers traditionally worked under highly exploitative and physically gruelling conditions. The state of **Maharashtra** passed specific legislation for Mathadi workers in 1969.18

The **‘Mathadi Act’** set up tripartite Boards of representatives of the workers, employers and the government. These Mathadi Boards have built hospitals and schools for workers families, set up canteens, stipulated labour standards and extended social protection.

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Chapter 6

LAW’S DYNAMIC EFFECTS
The global regulatory challenge: extending law’s dynamic effects

Expanding the reach and influence of labour laws is among the central challenges of contemporary labour regulation. Formal legal standards do not reach all workers and may only influence a small percentage of the working population in countries with large informal economies. Recent research, however, has made a crucial contribution to ensuring that labour standards are effective and highlighted institutional dynamism: the capacity of labour regulations to

- extend beyond their formal parameters, including to informal settings (external dynamism); and
- interact with other institutions and regulations (internal dynamism).\(^{19}\)

Recent research on minimum wage laws suggests that institutional dynamism is a potential gateway to improved protective outcomes. Studies in lower-income countries have demonstrated that the minimum wage influences the informal economy.\(^{20}\) Research on Europe has revealed that strong collective bargaining frameworks can bolster the effects of minimum wage legislation.\(^{21}\)

Institutional dynamism has particular potential for the regulation of UFW in low-income settings. It has the potential to extend the reach of legislated standards without costly investments in labour inspection and enforcement. Yet the operation of law’s dynamic effects is not well-delineated nor firmly integrated into decent work policies.

Enhancing institutional dynamism: a research agenda

This Research Agenda on Law’s Dynamic Effects has been designed by a Strategic Network Team that includes researchers and policy actors from across the world. It has been designed to investigate how to incorporate institutional dynamism into decent work policy.

**RESEARCH OBJECTIVES**

Key research questions have been identified:

- What regulatory frameworks and mechanisms can trigger and enhance dynamic effects?
- Are dynamic effects supported by legal frameworks other than minimum wage laws?
- Can these dynamics be enhanced and harnessed for policy objectives through the design and implementation of regulatory frameworks or by actor strategies?

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\(^{20}\) Eg Tito Boeri, Pietro Garibaldi and Marta Ribeiro ‘The lighthouse effect and beyond’ (2011) 57 Review of Income and Wealth S54-S78.

A central focus is institutional dynamism in working conditions regulation. Decent working conditions are a crucial element of sustainable development. They are a foundation for inclusive and sustainable growth, including by ensuring the well-being of workers and their families. The SDG8 Targets highlight the significance of conditions of work, including the promotion of safe and secure working environments. Two legal fields are particularly important: minimum wages and working time. It is crucial to examine statutory rules, collective agreements, and government, employer and trade union policy and practice in these areas. The objectives should be (1) to identify examples of innovation in regulatory frameworks and (2) to explore the responses of social actors and make recommendations for improving protective outcomes.

CHAPTER 6: LAW’S DYNAMIC EFFECTS

METHODOLOGY

To explore the dynamic effects of labour standards, the research methodology must combine a socio-legal analysis of regulatory frameworks and an empirical investigation of the awareness, perception, and influence of formal legal norms.

Socio-legal analysis is needed to map the relevant regulatory regimes in all their dimensions (legislated standards, collective bargaining frameworks, corporate social responsibility initiatives etc.) Empirical methods can then be used to investigate the operation of institutional dynamism.

The examination of the external dimension of institutional dynamism would be centred on the influence of labour standards in informal work in e.g. the garment industry. This research should build on prior efforts to investigate working conditions in informal settings. The internal dimension would be investigated by gauging the strategies and activities of bargaining actors through semi-structured interviews with representatives of trade unions and employers' organizations and interrogation of collective agreements in key sectors.
CHAPTER 6: LAW’S DYNAMIC EFFECTS

An illustration: Argentina, New Zealand, Viet Nam

Comparisons on Law’s Dynamic Effects should focus on the most globally significant legal innovations to combat UFW. As an illustration, three key interventions have recently been introduced in Viet Nam, Argentina, and New Zealand.

These countries have adopted some of the most significant working conditions reforms of recent years: the construction of a minimum wage-setting framework in Viet Nam, the extension of minimum wage rights to the informal sector in Argentina, and legislation to curb ‘zero hours contracts’ in New Zealand. The minimum wage-setting regime in Viet Nam is part of a broader revival of the minimum wage in low-income settings; reforms in Argentina combine minimum wage uprating with the transition of workers from the informal to formal sector by extending labour rights and social security coverage; and in New Zealand, the ‘zero hours’ law is a global pioneer of casual work regulation in a ‘framed flexibility’ model.

These countries are diverse in socio-economic development, legal systems and economic development and labour market strategies. Yet they have potential to generate lessons on innovative legal techniques in UFW regulation in a low-, middle-, and high income country. They are illustrative of attempts to introduce legal regulation into arenas previously unregulated by formal norms. These novel frameworks seek to regulate via mechanisms that are innovative in each country context. To be considered effective, they would need to embed in working practices and extend across the economy, including in the most vulnerable sectors. It would therefore be valuable to test the strength, promise, and constituent strategies of institutional dynamism in these three settings.

Chapter 7

INNOVATIVE COLLECTIVE REPRESENTATION
The global regulatory challenge: effective collective representation in developing countries

Effective collective representation is fundamental to eliminating UFW. The implementation of labour laws depends to a substantial degree on employment relations structures, institutions, and the activities and strategies of trade unions and employers’ organisations.

Representative organisations play a crucial role in channelling worker voice and ensuring participation in decision-making. Representation and voice mechanisms are therefore crucial to tackling UFW. The Project on Legal Regulation of UFW has therefore identified innovative collective representation as a Global Regulatory Challenge.

In advanced industrialised countries, the role of the social partners (trade unions and employers’ organizations) is highly-developed. In many lower-income countries, industrial relations frameworks also have a substantial history.

Yet there are also innovations in collective representation strategies in these countries. These include efforts by local and national unions to recruit informal workers. There has also been a rise in worker organization and representation beyond traditional trade unions, such as workers’ associations and cooperative bodies. These include organisations established to represent informal workers such as the Self Employed Women’s Association (SEWA) in India.

Innovative collective representation: a research agenda

This Research Agenda on Innovative Collective Representation has been designed by a Strategic Network Team led from Durham University Business School. It proposes a linked research/policy project to investigate and respond to this Challenge. The focus is on innovations in collective representation regimes and strategies that are tailored towards improving low-quality jobs.

The Strategic Network Team

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27. Eg Barbara Bechter and Bernd Brandl ‘Recent developments in European industrial relations’ Industrial Relations in Europe 2014 (European Commission, 2014).


RESEARCH OBJECTIVES

There is limited knowledge of how collective representation is operating in lower-income settings, the current challenges and trends, and in particular the extent to which these frameworks are used to pursue the elimination of UFW. Data is limited and of variable quality. The available research, further, has tended to centre on the economic impact of collective bargaining rather than on social objectives.

The objective is to identify and investigate innovative structures and strategies of collective representation. The focus should be on bargaining strategies, innovative institutions, and the emergence of new models of collective representation, including engagement with informal workers.

A particular focus would be the gap between the working conditions of small/micro enterprises and those of larger employers. In many LMICs, labour relations are relatively formalized in large Multi-National Companies (MNCs). In smaller firms, informal regulation of conditions is widespread. The impetus to close this ‘formalization gap’ between small/micro and large employers is reflected in the international debates, most prominently in the ILO Recommendation concerning the Transition from the Informal to the Formal Economy, 2015 (No. 204).

A crucial research question is how decent work initiatives and policies can spill over to smaller firms in countries in which MNCs are a significant part of the economy. Extensive studies have analysed how decent work can be promoted in MNCs, with a focus on global supply chains. Further research is needed on small- and medium-sized firms, including on the link between decent work and productivity.

This analysis would be comparative. It would analyse the diffusion of decent work from MNCs in countries with different institutional systems and in which collective bargaining frameworks and/or union and employer strategies are rapidly evolving.

METHODOLOGY

A research methodology to investigate collective representation in low-income countries should make use of quantitative and qualitative methods and data. This mixed method strategy fosters a rich understanding of the findings and their implications for policy development.

Quantitative data would be generated by a survey of country experts. The analysis would then be deepened through qualitative in-depth studies of national industrial relations systems. This would involve semi-structured interviews with employers and unions that inquire about the actors’ goals and motives, to understand how these actors approach the objective of upgrading UFW.
A comparison on Innovative Collective Representation should focus on globally-significant innovations in collective working relations. Key illustrations, for example, are in three middle-income countries: Argentina, China, and Malaysia.

These countries are diverse in socio-economic development, industrial relations regimes, and labour and development strategies. Yet they provide a useful comparison of settings in which industrial relations frameworks are evolving, including through efforts to represent workers in informal working relations.

Argentina and Malaysia are examples of countries which are characterized by enduring collective institutions, yet which also have a large share of informal workers. In Argentina, collective agreements have traditionally been negotiated at industry level and there is relatively high coverage in the formal sector. Malaysia also has a long-established industrial relations framework, introduced by the Industrial Relations Act in 1967.

China, in contrast, illustrates the relatively recent introduction of an industrial relations framework, in which collective bargaining was widely unknown until the mid-1990s. Legislative reform of industrial relations through the revision of the Chinese Trade Union Law in 2001 established a legal framework for collective bargaining and formal mechanisms for dispute settlement. These reforms triggered an increase in trade union membership and stimulated new forms of collective bargaining at local and sectoral level.
Chapter 8
VIOLENCE AND HARASSMENT IN THE CARE ECONOMY
The global regulatory challenge: regulating violence and harassment in the care economy

For unacceptable forms of work to be eliminated, men and women must be free from the threat, fear or infliction of mental and physical harm. Violence that takes place in the context of work and is based on gender is known as gender-based violence, or GBV. It is a critical human rights violation that reflects and reinforces inequalities between women and men.

Understandings of GBV rightly highlight the problem of violence by men against women. Yet the term is increasingly used to embrace all forms of violence that are related to gendered social expectations, social positions based on gender, or non-conformity with a socially accepted gender role. In the context of work, perpetrators are typically clients/customers, employers, co-workers and strangers. Victims are typically either clients/customers or workers. Many higher-risk occupations are female-dominated: e.g. social care, healthcare and teaching. Additionally, workers are at particular risk of gender-based violence when they are also migrants, working within the informal economy, domestic workers or dependent family workers.

One of the most concerning settings for GBV is care work that is carried out in the private home. In advanced industrialised countries, GBV in the care economy is often associated with casualised employment in homecare. The context is a rapidly growing demand for care of an aging population and marketisation of state-funded care provision. In lower-income countries, domestic work is often a highly significant employer, especially of women, and subject to very high levels of informality.

The need for legal frameworks

States have obligations in international law to ensure that laws protect workers from gendered oppression and violence. International standards include the ILO Domestic Workers Convention, 2011 (No. 189), and the ILO is currently debating international standards on Violence against Women and Men in the World of Work. In most countries, however, there is a lack of effective regulatory frameworks, and inadequate attention to compliance and enforcement. Where formal labour standards and enforcement exist, further, there is strong evidence of de facto gender-bias or gender-normativity in regulatory frameworks.

The ineffective regulation of violence and harassment in the care economy is therefore a Global Regulatory Challenge that undermines the goal of equality between women and men.

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Preventing violence and harassment in care work: a research agenda

This Research Agenda on *Violence and Harassment in the Care Economy* has been designed by a Strategic Network Team that includes researchers and policy actors from across the world. It proposes a strategy for legal reform that can ensure decent working conditions and care standards.

### The Strategic Network Team

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<td>Cardiff University Law</td>
<td>UNITED KINGDOM</td>
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### RESEARCH OBJECTIVES

The overarching objective of this research agenda is to achieve **progressive change** in the regulation of the care economy that will ensure **better care and decent working conditions**.

Key questions include:

- How does the regulation of employment treat **workplaces that are also private homes**?

- How do employment laws continue to privilege notions of a **standard (and masculinised) employment relationship** to the detriment of care workers and care recipients?

- Can a focus on GBV promote a **broader understanding of the potential of regulatory tools** (including occupational health and safety measures, workplace equality laws, and the regulation of care quality)?

- To what extent can policies on **casualisation, low pay and insecurity at work** eliminate the threat or fear of GBV?

The aim should be to build **collaborative capacity** between academics, NGOs, representatives of homecare workers and recipients, and policy-makers/legislators. The outcome of this collaboration would be to identify and promote **innovative regulation and monitoring strategies** that can effectively ameliorate UFW.
**METHODOLOGY**

To achieve these objectives, the research methodology must involve a *socio-legal analysis of regulatory frameworks*. The analysis would encompass the legal entitlements of care workers, as well as problems of non-enforcement and ‘gaps’ in provisions that disadvantage homecare workers and contribute to UFW by facilitating casualisation and GBV. The *normative effect of legislation and questions of gender equality* must also be included in the analysis.

A particular focus is how *labour standards complaints* may be legally understood as *equality complaints*, how *employment rights issues* can be addressed through *occupational health & safety laws*, and whether initiatives to combat violence and harassment can be integrated into *formalisation policies*.

Collaborative action among researchers, stakeholders and policy makers should identify *innovative regulatory strategies*. The objective is to support the *trialling and evaluation* of practical strategic interventions.

Illustration: Australia, UK, Argentina, Mexico

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A comparison on Violence and Harassment in the Care Economy could usefully focus on (1) care work in advanced industrialised economies, in which legal interventions on GBV are more developed and (2) domestic work in the global South.

As an illustration, a comparison of home care regulation in the UK and Australia, would capture similar challenges. Both countries have responded to the growth in the elderly population by developing economic markets in long term care. In consequence, GBV in care-settings has emerged as a significant cause of concern. Complimentary initiatives are also being developed. In Australia, for example, the Victorian government has developed a Gender Equality Strategy that has a focus on workplace violence and the Australian government is developing a national aged care workforce strategy.34 In the UK, the Welsh government has consulted on proposals to support working practices and care quality and recently passed the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

In the global South, legal reforms in recent decades in Latin America have responded to aspects of the poor quality of domestic work. GBV has been frequently neglected. Yet countries in the region are increasingly ratifying the Domestic Workers Convention, 2011 (No. 189), which requires a regulatory response to GBV.

The experience of Argentina and Mexico, offers a useful comparison. Argentina was the first ILO member State to ratify Convention No. 189 (March 2014). An extensive labour law for domestic workers was adopted in 2013 (Law No. 26844) and a National Commission of Private Home Employment was established in 2015. In Mexico, the regulatory framework on domestic work is less developed, although the National Union of Domestic Workers (SINACTTRAHO) was established in 2016. The objective of this comparison would be to derive lessons from the Latin American experience that would enrich the global debates. A particular focus would be strategies to reduce informality, including through the involvement of unions and domestic workers’ representative bodies.
Chapter 9

INFORMAL WORK AND LABOUR REGULATION
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 (2015), 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.

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. 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.
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.

<table>
<thead>
<tr>
<th>Persons in informal employment</th>
<th>Persons employed in the informal sector</th>
<th>Persons in informal employment outside the informal sector</th>
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<tbody>
<tr>
<td>China (2010)</td>
<td>32.6%</td>
<td>21.9%</td>
</tr>
<tr>
<td>India (2009)</td>
<td>83.6%</td>
<td>67.5%</td>
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Table: Rates of Persons in Informal Employment, China and India

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.

Informal work and labour regulation: a research agenda

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?