

Regulating Unacceptable Forms of Work: A Strategic Approach

Upgrading **low-waged and insecure work** is crucial for worker protection and sustainable development, including to achieve the **UN Sustainable Development Goals**.

Effective regulation is essential. Yet the regulatory frameworks that can improve **Unacceptable Forms of Work (UFW)** are underdeveloped.

The **Multidimensional Model of UFW** proposes a new approach. This **strategic approach to UFW regulation** supports development objectives, acknowledges the limited resources of low-income countries, and aims at extensive and sustainable effects.



The Multidimensional Model of UFW

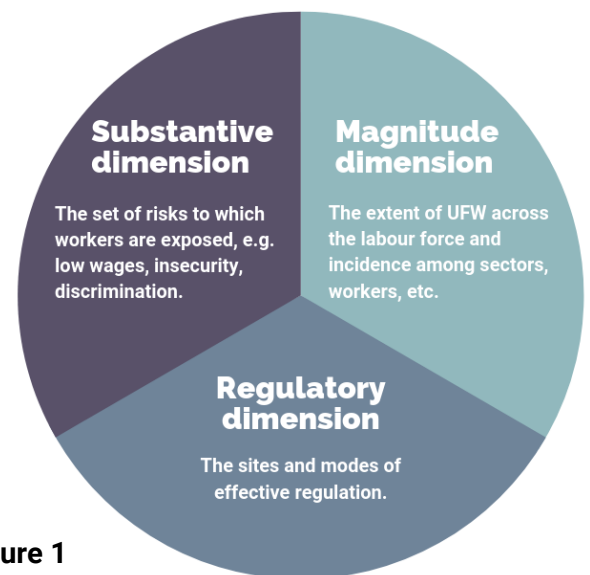


Figure 1

The Multidimensional Model of UFW

The Multidimensional Model is applicable to countries at **all levels of development** in both the global **North and South**. It has been designed for **local stakeholders** to identify and address UFW in local contexts (Figure 1).

This Research Briefing focuses on the **regulatory dimension**.

“ The goal of the strategic approach is to support the design and implementation of regulatory interventions that are tailored to development objectives, suited to lower-income countries, and have the broadest and most sustainable effects. ”

Deirdre McCann and Judy Fudge (2019)

The strategic approach to UFW regulation

The regulatory dimension of the Multidimensional Model outlines a **strategic approach** to UFW regulation.

This approach recognises the financial constraints on **lower-income countries**. It aims to achieve the most extensive impact from the available resources.

The strategic approach has a particular focus on the **sites and modes** of regulatory interventions. It emphasises the **design of legal frameworks, regimes, and tools**.

The **key principles** of this approach are outlined in Figure 2.

Key concepts

Two concepts are crucial to the strategic approach:

- **Points of leverage:** the sites at which legal interventions should be targeted to achieve the most extensive effects.
- **Institutional dynamism:** the capacity of regulatory frameworks to extend beyond their formal parameters and to interact with other laws and institutions. These dynamic effects can be used to strengthen and extend the effects of legal reforms.

Key principles of the strategic approach to UFW regulation	
Protective indeterminacy	The impacts of labour regulations cannot be assumed. The aim is to find the most effective – and protective – regulation in a particular setting.
Stakeholder dialogue	Extensive dialogue is needed among the range of stakeholders involved in labour market regulation on their priorities and the most effective modes of regulation. These include government Ministries, trade unions, employers’ associations, United Nations agencies, NGOs, industry associations etc.
Prioritization	It is crucial to target the most egregious manifestations of UFW and to be aware that a regulatory reform might have systems-wide effects.
Regulatory design	Stakeholders involved in designing legal frameworks on UFW should pay particular attention to the most effective sites and modes of regulation.

Figure 2

Strategic regulation in action: three illustrations

Domestic work in Uruguay: extending legislated rights

In 2006, the Uruguayan government extended all **labour and social security rights** to domestic workers (e.g. the minimum working age, hours limits, negotiation of wages).

Uruguay has also used **innovative enforcement** strategies including publicity campaigns to raise awareness of domestic workers' rights and **labour inspector visits** to educate employers on their legal obligations.



Mathadi workers: tripartite regulation of informal work

Mathadi workers are head-load carriers who work in ports, docks and markets in Maharashtra, India. In 1969, the Mathadi Act established **tripartite boards** - of government, workers and employers - to regulate Mathadi work.

Mathadi Boards set a **living wage** and provide **social protection, access to medical services, and educational assistance** to workers and their families. The Act has successfully formalized Mathadi work, increased wages, and lifted workers and their families out of poverty.

Minimum wages: law's dynamic effects

Minimum wage laws have been found to have dynamic effects. They can influence wages in the **informal economy** (e.g. Argentina, South Africa) (e.g. Lemos 2009). Strong industrial relations systems and effective trade union strategies can also trigger **wage increases above the minimum level** ('ripple effects') (e.g. Philippines, China, Viet Nam) (Grimshaw et al 2014).

This research suggests that minimum wages should be part of **formalization and poverty-alleviation strategies** and that **collective bargaining** should be strengthened.

Key lessons for labour regulation

- A **range of strategies** can be used to upgrade UFW, from extending existing rights to excluded groups, to establishing new regulatory regimes, to experimenting with labour law's effects.
- A **'ground-up' approach** is needed, which starts from the realities of working life and is sensitive to local political, economic, social and regulatory contexts.
- The involvement of **local stakeholders** is essential.
- Many workers in UFW are **not in traditional employment relationships** e.g. casual workers, the self-employed. Legal regulation must extend beyond conventional employment relationships.
- **Good practice illustrations** should be shared globally, including through learning lessons from the global South.

This Briefing draws on:

Deirdre McCann and Judy Fudge, 'A Strategic Approach to Regulating Unacceptable Forms of Work' (2019) *Journal of Law and Society*.

Deirdre McCann and Judy Fudge, 'Unacceptable Forms of Work: A Multidimensional Model' (2017) 156(2) *International Labour Review* 147.

References

Damian Grimshaw, 'The Pay Equity Effects of Minimum Wages: A Comparative Industrial Relations Approach', in Deirdre McCann et al (eds), *Creative Labour Regulation: Indeterminacy and Protection in an Uncertain World* (Palgrave Macmillan UK 2014).

Sara Lemos, 'Minimum Wage Effects in a Developing Country' (2009) 16 *Labour Economics* 224.

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