

JOURNAL of MODERN SLAVERY

A Multidisciplinary Exploration of Human Trafficking Solutions

Volume 8, Issue 2, 2023

Special Supplemental Edition

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Abstract

The Delta 8.7 Markets Policy Guide is a novel assemblage of evidence on ‘what works’ to achieve SDG Target 8.7, the eradication of modern slavery, in the context of markets. The United Nations Guiding Principles on Business and Human Rights (UNGPs) has recommended a combination of measures for businesses and States to ensure labour protections and access to remedy throughout global supply chains. In this article, we present a case study of using the Policy Guide’s hypotheses alongside the UNGPs to evaluate the mechanisms that supported the International Transport Workers’ Federation’s (ITF) successful efforts to ensure decent work for seafarers.

Keywords: realist evaluation, UNGP, Target 8.7, markets

1 Introduction

In 2011, after six years of multi-stakeholder consultation, the United Nations (UN) released a new global normative framework called the UN Guiding Principles on Business and Human Rights (UNGPs).¹ This landmark set of recommendations, containing both foundational and operational principles, acknowledged that business activities may negatively impact human rights and it further delineated the duties and responsibilities of States and businesses to identify and provide redress for such harms. The Late Professor John Ruggie was entrusted with the mandate of UN Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises and developed the three-pillared ‘Protect, Respect, and Remedy’ framework that subsequently became the backbone of the UNGPs, now widely referred to as the ‘Ruggie Framework’. The first pillar outlined that the State has the duty to protect workers against abuse by third parties (including business) through appropriate policies and regulation. The second pillar states that businesses have the responsibility to respect human rights, addressing their direct

¹ Beyond CSR: The Story of the UN Guiding Principles on Business and Human Rights. https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/CRI_AWP_71.pdf

impact as well as any impact incurred because of their business relationships with other parties. Lastly, the third pillar was based on the premise that victims need to be provided with greater access to effective remedy for the abuses they have faced.

The UNGPs clarified that although States and businesses have different roles to play in terms of their human rights obligations, they should drive practical, effective implementation of the foundational principles through distinct yet complementary operational approaches. To address this discrepancy between the duties of stakeholders and to comprehensively account for variations between specific contexts, Ruggie suggested a “smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights”.² This suggestion has since been widely endorsed and echoed to leverage the responsibilities and roles of various social and institutional actors to prevent businesses from engaging in or causing human rights violations in the first place and to remediate them if/when they do occur. A truly ‘smart mix’ integrates all four of these aspects and necessarily involves legislative and regulatory actions alongside businesses proactively integrating human rights due diligence into their operations (Figure 1).

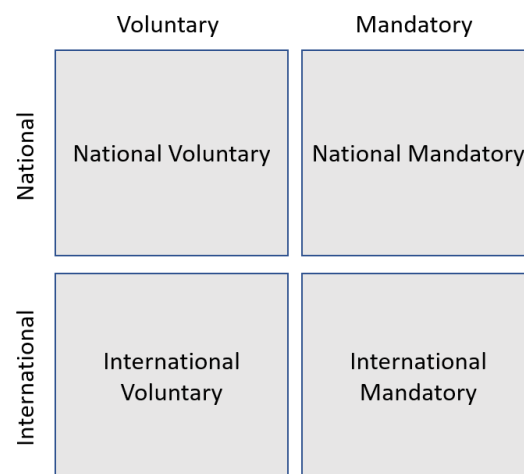


Figure 1. A Smart Mix of Measures

Following the unanimous adoption of the UNGPs by the UN Commission on Human Rights, broad cross sections of stakeholders such as governments, trade unions, and leading firms have since been exploring what this ‘smart mix of measures’ looks like in practice. Some examples include creating national action plans to tailor measures to a specific State’s context; drafting and passing new human rights due diligence and transparency legislation to fill gaps in existing regulations; creating joint action platforms between business and civil society stakeholders; worker organizations signing legally binding agreements directly with corporations, and developing technical guidelines and quantitative tools towards assessing progress through monitoring and accountability such as benchmarks, databases, and indexes. However, despite the flurry of activity and interest surrounding the intersection of business and human rights over the past decade, the identification and dissemination of evidence-based best

² OHCHR, “UN Guiding Principles on Business and Human Rights,” 2011, 5, https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf.

practices related to the UNGPs is limited. This hinders the ability of policymakers to extrapolate findings and objectively assess whether to fund specific programs or pass legislation that has worked in other contexts.

2 Markets Policy Guide Process and Main Findings

Between April 2020 and March 2021, Delta 8.7 convened a global working group of international experts to assemble a body of evidence and produce a guide targeting national and multilateral policymakers that provides a snapshot of global and national strategies that could work to achieve SDG Target 8.7³ in the context of ‘markets’. The working definition of markets was chosen to be deliberately broad and encompassed economic, trade, financial and development policies, as well as global supply chains. Evidence was assembled through two modalities; public submissions and a parallel systematic literature review conducted by the University of Nottingham Rights Lab.⁴ The evidence submitted to and reviewed by the expert working group included publications in both peer reviewed and non-peer reviewed settings that analyzed collaborative actions, policy interventions, and innovative programs that present emerging practices holding potential for replication and scale across contexts. Numerous hypotheses were then drafted and negotiated to decide on how to best interrogate streams of ‘what works’ in addressing modern slavery in the context of markets, before ultimately being narrowed down and finalized to fit the contours of this evidence base. Drawing from the experts’ collective insights, gaps that exist within the current state of knowledge in this relatively new field were identified as well. Table 1 presents the Markets Policy Guide’s ten hypotheses as well as their respective confidence score, which was determined by the evidentiary quality underpinning support for each individual claim’s validity.

³ SDG Target 8.7 - “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.”

⁴ The Delta 8.7 Policy Guide Process [Technical Note](#) provides a detailed description of the methodology used for submission and evidence evaluation.

Hypothesis	Confidence Score
Hypothesis 1: Collaboration amongst civil society organizations that work with the private sector to raise awareness and offer effective remedies can help to address forced labour and human trafficking in business operations	High Confidence
Hypothesis 2: Collaboration between brands, buyers and suppliers improves the effectiveness of efforts to reduce forced labour and human trafficking in supply chains	High Confidence
Hypothesis 3: Government legislation that enforces mandatory corporate reporting on modern slavery offers transparency that helps to reduce forced labour	High Confidence
Hypothesis 4: If forced labour, human trafficking and child labour are treated as an issue in silo there can be unintended socioeconomic consequences that prevent their eradication.	High Confidence
Hypothesis 5: In the formal economy, well-designed State regulation of the labour market would help mitigate forced labour and human trafficking.	High Confidence
Hypothesis 6: Firms that operate towards the consumption end of a supply chain taking responsibility for the recruitment practices within their produce/services/ supply chains would help to reduce risks of forced labour and human trafficking.	High Confidence
Hypothesis 7: Effective grievance mechanisms and remediation initiatives support holistic efforts to address forced labour and human trafficking in the workplace	High Confidence
Hypothesis 8: In the formal sector, increased focus on worker voice mechanisms, including union/worker associations, result in better identification and prevention of forced labour and human trafficking in the workplace.	Medium Confidence
Hypothesis 9: Mandatory corporate disclosure and supply chain management requirements increase private sector responses and engagement to tackling modern slavery, however their effectiveness is still yet to be tested.	Medium Confidence
Hypothesis 10: For private sector’s engagement in anti-slavery activity to be meaningful, increased corporate liability provisions and/or financial penalties or incentives are required.	Low to Medium Confidence

The evidence underpinning each hypothesis had varying degrees of diversity, size, and technical quality. Even though a majority (7/10) were given a ‘high confidence score’, the Markets Policy Guide notes that this was primarily based on theoretical discussions, proxy measures, and anecdotal evidence, while quantifiable evidence of direct impact was repeatedly found to be either limited or non-existent. This was a major gap that was identified, and the rigorous standards employed for determining research quality revealed that there is a dearth of studies which hold up to sufficient methodological scrutiny upon closer examination. Although presented as distinct lines of inquiry for the purpose of evidence mapping, many of the hypotheses in the Markets Policy Guide have significant overlap with one another, and a single study was often included as part of the evidence base across multiple hypotheses. The evidence gathering process compiled 53 distinctive pieces of evidence and of these, 26 were linked with one hypothesis, 17 were linked to two hypotheses, 5 were linked to 3 hypotheses, and 5 were linked to four hypotheses. This not only demonstrates the deep interconnections between the different angles through which to address modern slavery from a markets lens, but also points to

the potential of interventions which are able to cut across multiple dimensions as being particularly promising.

The Markets Policy Guide concluded that “in the context of markets, most of the main focuses were private sector supply chains, corporate responsibility and corporate engagement in Target 8.7 of the SDGs”.⁵ This makes the UNGPs a suitable conceptual backdrop from which to assess the output of the Delta 8.7 Markets Policy Working Group. Ruggie’s ‘smart mix’ of policy instruments to foster business’ respect for human rights calls for measures that are national and international, mandatory and voluntary; and this diversity of approaches can be seen represented both individually and collectively across the Policy Guide’s 10 Hypotheses. Likewise, the three pillars of the UNGPs, the State’s Duty to Protect, Corporate Responsibility to Respect, and Access to Remedy can also be clearly seen. For example, voluntary collaboration by the private sector between civil society organizations (Hypothesis 1) and between brands, buyers, and suppliers (Hypothesis 2) were explored as ways to raise awareness and reduce forced labour and human trafficking within supply chains. The UNGPs called on States to go beyond simply enforcing laws that already exist, but also to periodically assess the adequacy of such laws and address any gaps considering changing circumstances. This responsibility of States was studied by examining evidence related to well-designed regulation of the labour market (Hypothesis 5) and mandatory corporate reporting on modern slavery (Hypothesis 3). Hypotheses 7 and 8 emphasized the effectiveness of grievance mechanisms and remediation, particularly that of worker voice tools, to address forced labour and human trafficking in the workplace, which are linked to Pillar 3 of the UNGPs – Access to Remedy. Additionally, June 2021 marked the 10-year anniversary of the adoption of the UNGPs and as such, accelerating efforts over the coming years firstly requires taking stock of the past decade’s implementation progress, gaps, challenges, obstacles, and opportunities to drive more effective changes going forward.

3 Analytical approach

The Markets Policy Guide provides an accessible, pragmatic snapshot of the current state of robust evidence on “what works” to achieve Target 8.7 in the context of markets. However, beyond the scope of this exercise was further discerning the context in which the positively assessed programs or interventions were embedded, and the extent to which these contextual factors would support or discourage replication and scaling. Therefore, when analyzing emerging best practices contained within Markets Policy Guide, it is crucial to assess not only what worked, but also the circumstances related to how and perhaps most importantly, why they worked. With this deeper level of understanding, policy actors will be equipped to make better decisions about which interventions or projects to undertake, how to refine existing policies to improve their effectiveness, and how to appropriately adapt successful programs to different contexts.

⁵ Delta 8.7, “Markets Policy Guide” (New York, USA: UNU CPR, 2021), 1, <https://delta87.org/resources/policy-guides/policy-guide-working-groups/markets/>.

One approach that has previously been used to assess anti-trafficking interventions is that of realist evaluations.⁶ Realist evaluations are premised on the central assumption that projects, programmes, and policy interventions work under a set of certain conditions and are heavily influenced by the way that different stakeholders respond to them.⁷ This means that no intervention will work the same way each time it is employed, but will have different effects on different populations, and in different contexts.⁸ Using a realist evaluation lens, the focus is on understanding how contextual factors (cultural norms, power, or political structures) shape and influence the outcome of programmes.⁹

Within realist evaluations, the core analytical building blocks are context-mechanism-outcome (CMO),¹⁰ or context-intervention-mechanism-outcome (CIMO)¹¹ configurations. A CMO building block can be understood as a hypothesis that “the programme works (O) because of the action of some underlying mechanisms (M), which only comes into operation in particular contexts (C)”.¹² CIMO extends this, by separating the intervention specific effects (I) from any other effects or results of the intervention.

The remainder of this article is centered around applying such a realist evaluation lens to a case study of the International Transport Workers’ Federation’s (ITF) efforts to ensure decent work for seafarers. By deliberately choosing a case study that was not captured within the Markets Policy Guide, we demonstrate an example of how the guide and the hypotheses it contains can support the evaluation of new evidence as it continuously emerges within this growing field of research. Furthermore, by linking the case study to Ruggie’s ‘smart mix of measures’, we provide support to the theory that the most successful interventions cut across different dimensions and use a combination of actions – national and international, mandatory and voluntary – to most effectively ensure the rights of workers and prevent exploitation.

⁶ Ligia Kiss et al., “The Use of Bayesian Networks for Realist Evaluation of Complex Interventions: Evidence for Prevention of Human Trafficking,” *Journal of Computational Social Science* 4, no. 1 (May 1, 2021): 25–48, <https://doi.org/10.1007/s42001-020-00067-8>.

⁷ Ray Pawson, *The Science of Evaluation: A Realist Manifesto* (SAGE Publications, 2013), <https://dx.doi.org/10.4135/9781473913820>.

⁸ Geoff Wong et al., “RAMESES II Reporting Standards for Realist Evaluations,” *BMC Medicine* 14, no. 1 (June 24, 2016): 96, <https://doi.org/10.1186/s12916-016-0643-1>.

⁹ Ray Pawson, “Evidence-Based Policy: A Realist Perspective,” in *Making Realism Work: Realist Social Theory and Empirical Research*, ed. Bob Carter and Caroline New (Oxford, UK: Routledge, 2004), 28, <https://us.sagepub.com/en-us/nam/evidence-based-policy/book227875>.

¹⁰ Ray Pawson and Ana Manzano-Santaella, “A Realist Diagnostic Workshop,” *Evaluation* 18, no. 2 (April 1, 2012): 176–91, <https://doi.org/10.1177/1356389012440912>.

¹¹ Wong, Geoff, Gill Westhorp, Ana Manzano, Joanne Greenhalgh, Justin Jagosh, and Trish Greenhalgh. “RAMESES II Reporting Standards for Realist Evaluations.” *BMC Medicine* 14, no. 1 (June 24, 2016): 96. <https://doi.org/10.1186/s12916-016-0643-1>.

¹² Pawson and Manzano-Santaella, “A Realist Diagnostic Workshop,” 184.

4 Case study

This case study used the CIMO analytical building block introduced in the previous section to first describe the context and two specific interventions and observed outcomes undertaken within the ITF case study. It then unpacks the underlying mechanisms that enabled the observed effects to occur.

4.1 Context

An estimated 90 per cent of global trade passes through maritime or river transport.¹³ From food and medical supplies to clothing and computers, over one million seafarers are essential to the smooth and continuing operation of global supply chains. Shipping is arguably the most globalized of all industries as well as the one which has benefited from the most global union strategy coordination.¹⁴ However, despite the value they add and the presence of global unions, all too often these workers are subject to the worst forms of labour exploitation including forced labour.

This case study outlines how the ITF and its 670 unions (including maritime affiliate unions) have worked together with shipping companies, employer federations and port authorities around the globe to provide an international safety net and decent work for seafarers. The ITF's maritime intervention is made up of "smart mix of measures" including international and national normative frameworks, strategic enforcement action and strong grievance mechanisms, supporting at least four of the ten hypotheses set out in the Delta 8.7 Markets Policy Guide, namely:

- *Hypothesis 1*: Collaboration amongst civil society organizations that work with the private sector to raise awareness and offer effective remedies can help to address forced labour and human trafficking in business operations.
- *Hypothesis 2*: Collaboration between brands, buyers and suppliers improves the effectiveness of efforts to reduce forced labour and human trafficking in supply chains.
- *Hypothesis 5*: In the formal economy, well-designed State regulation of the labour market would help mitigate forced labour and human trafficking.
- *Hypothesis 7*: Effective grievance mechanisms and remediation initiatives support holistic efforts to address forced labour and human trafficking in the workplace.

Furthermore, it seeks to identify why the ITF's framework is effective at identifying and preventing situations of forced labor along with any contextual factors that may influence its replicability.

¹³ ILO, "International Labour Standards on Seafarers," 2021, <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/seafarers/lang--en/index.htm>.

¹⁴ Nathan Lillie, "Union Networks and Global Unionism in Maritime Shipping", *Relations Industrielles / Industrial Relations*, Vol. 60, No. 1 (2005 WINTER), pp. 88-111

As outlined above, oceans, like global supply chains are the concern of every nation but with no clear line of responsibility. Consequently, the maritime sector is well known for its fragmentation of regulatory oversight and practical limitations on effective enforcement of labor rights and working conditions on board vessels.¹⁵ These structural and contextual factors make seafarers susceptible to a long line of abuses including deceptive and coercive recruitment practices, forced overtime, withholding of wages and identity documents and abandonment. COVID-19 and its resulting restrictions on crew changes have further exacerbated the sector's vulnerabilities with over 300,000 seafarers stranded at sea, some for two years or more.¹⁶

The regulatory lacuna and resulting forced labor risks are deeply tied to the Flag of Convenience (FoC) system, a rule that allows ships to fly the flag of a country other than its country of ownership. FOCs are attractive for shipowners because they offer lower running costs by keeping taxes, fees, and regulatory burdens light. The system opened the way for shipowners to recruit the lowest cost labor through "manning agents" and lowered the overall conditions in the sector. According to UNCTAD, almost 73% of the world fleet is flagged in a country other than that of the vessels' beneficial ownership.¹⁷ Bahamas, Liberia, Cyprus, and Malta are the most prevalent FOC countries although there are 42 currently classified as such by ITF's Fair Practices Committee.¹⁸ Recent literature on the "demand-side" of forced labour has highlighted the importance of concentrated corporate power and ownership, out-sourcing (along both product and labor supply chains), irresponsible sourcing practices, and governance gaps as key factors that create a stable and predictable business demand for forced labor across many supply chains, including shipping.¹⁹ These factors entrench exploitative practices into the very nature of certain business models, which rely on cost minimization through evading legal minimums in order to maintain profitability.

The case of the bulker vessel *Fortune Genius* (IMO 9221877) provides a powerful illustration of how the FoC system creates forced labor-related vulnerabilities and risks in the maritime sector. In 2019, the Panama-flagged and Chinese-owned *Fortune Genius* was chartered by South Korean company Five Ocean Corporation to transport coal from Gladstone, Australia, to Taean, South Korea. ITF inspected the *Fortune Genius* when it entered Australian waters because the operating company previously had been found to be in breach of the Maritime Labour Convention. During the inspection, the Burmese crew of the *Fortune Genius* reported that they had been "bullied and forced into working excessive hours for which they weren't paid." The crew told the ITF that they needed help to leave the vessel and go home to Myanmar. ITF undertook a joint inspection with the Australian Maritime Safety Authority (AMSA), which

¹⁵ ITF, "ITF Agreements," ITF Seafarers, 2021, <https://www.itfseafarers.org/en/your-rights/itf-agreements>.

¹⁶ ILO, OHCHR, and UNGC, "Maritime Transport and the COVID-19 Crew Change Crisis: A Tool to Support Human Rights Due Diligence" (UN Global Compact, 2021), <https://unglobalcompact.org/library/5886>.

¹⁷ NGO Shipbreaking Platform, "Flags of Convenience," NGO Shipbreaking Platform, 2021, <https://shipbreakingplatform.org/issues-of-interest/focs/>.

¹⁸ ITF, "Fair Practices Committee," 2021, <https://www.itfglobal.org/en/sector/seafarers/fair-practices-committee>.

¹⁹ LeBaron, G. The Role of Supply Chains in the Global Business of Forced Labour *Journal of Supply Chain Management* 57(2), January 2021

led to the ship being banned from Australian waters for 12 months. ITF also helped ensure the crew was paid their owed wages and repatriated back to Myanmar.²⁰

4.2 Intervention and Outcome – Hypotheses Two and Five

ITF counters the FOC system, which creates situations of exploitation like that which was found on the *Fortune Genius*, through a smart mix of measures of international and national law, strategic enforcement action (with port authorities, other affiliated unions, and international shipping companies) and effective grievance channels for seafarers. This system has detected thousands of cases of labour abuses and led to positive outcomes for hundreds of victims of forced labor across the globe. This section begins by describing the normative framework, which provides shared terms and conditions of employment and entitlements through international conventions, such as the Maritime Labor Convention and ITF Agreements and then explain its link with the ITF inspectorate system and specialized grievance channels.

Owing to its role as one of the first globalized sectors, international law has played a key role in promoting decent work within the Maritime Sector. The Maritime Labour Convention, 2006 (MLC, 2006) is an International Labour Convention adopted by the International Labour Organization (ILO). Widely known as the “seafarers’ bill of rights,” the MLC, 2006 provides minimum standards for a diverse range of risk areas, including accommodation, minimum age for seafarers, recruitment and placement services, repatriation, occupational safety, and social security.²¹ The MLC, 2006 also gave rise to stronger inspection powers by the Port State Control (PSC) – allowing them to inspect any ship in case they suspect sub-standard working and living conditions, or they receive a complaint from a seafarer. Where serious infringements are found, PSC inspectors may order the ship arrested until problems are solved. Before the adoption of the MLC, 2006, the PSC authorities were only allowed to check working conditions on board after they gave notice to the Flag State (and the ILO).²² The ability to undertake strategic and “unannounced” inspections is critical to the identification of forced labour cases as it encourages seafarers to report issues and helps prevent against the destruction of evidence and intimidation of potential victims. At last count, the Convention has been ratified by 101 countries, representing more than 91 per cent of the world merchant shipping fleet, making it a powerful instrument with significant coverage of the world’s seafarers.²³

²⁰ Jim Wilson, “Forcing Crew into ‘Slave’ Labor Gets Ships Banned from Australia - FreightWaves,” *Freight Waves*, September 16, 2019, <https://www.freightwaves.com/news/forcing-crew-into-slave-labor-gets-ships-banned-from-australia>.

²¹ ILO, “Maritime Labour Convention,” 2006, https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/normativeinstrument/wcms_090250.pdf.

²² Sanna Saksela-Bergholm, Juan Arasanz Diaz, and Barbara Surdykowska, “A Comparison of a Transnational Union Enforcement Action in Finland, Poland and Spain SPLIN Synthesis Report,” 2020, https://www.researchgate.net/publication/349686212_A_comparison_of_a_transnational_union_enforcement_action_in_Finland_Poland_and_Spain_SPLIN_Synthesis_Report.

²³ ILO, Ratifications of MLC, 2006 - Maritime Labour Convention, 2006 (MLC, 2006) https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO::P11300_INSTRUMENT_ID:312331

The ITF also negotiates agreements at the global, national, and individual level with key stakeholders including maritime employers and manning agencies, to secure minimum standards (in line with the MLC) for larger groups of seafarers. There are three main categories of ITF agreements: first, the ITF Total Crew Cost Agreements is most common type of ITF Agreement as its used by affiliated unions. The standards and conditions set out in the ITF Total Crew Cost Agreements are largely the same - with slight variations to adapt to national legislation; Second, the International Bargaining Forum (IBF) Agreement is available to ship owners that are members of one of the employer associations that participate in the Joint Negotiating Group (JNG). Members of the JNG sit with ITF in a formal framework set up to negotiate collective bargaining agreements (CBA). Third, the ITF Standard Agreement is normally signed because of industrial action or if a company is found to have broken a previous agreement. The Standard Agreement is the costliest agreement for the ship owners.²⁴

Each ITF agreement-type then includes three types of contracts, which create a link between ITF, the employer and seafarer with provisions set out in the CBA. The three types are (i) the Special Agreement approved by ITF legally enforcing the relationship between employer and the CBA (ii) the CBA itself including terms of working conditions; and (iii) the individual Employment Contracts that bind an individual crew member to the CBA and the ITF Special Agreement.²⁵

The shared terms and conditions of employment, which are enshrined in this tightly woven framework of international and national law, cross-border social dialogue, collective bargaining, and agreements and contracts include provisions which help protect workers against the risk of forced labor. These include (*inter alia*):

- Seafarers access to telephone and email, ensuring they can continue to communicate with friends and family
- Provision of social security covering the seafarer and their family
- Limitations on working time and standard rates of pay
- Recruitment Fees and Costs: Company must pay all fees and visa costs prior to employment.

Finally, ITF has also engaged with strategic multinational companies outside of the JNG. This has helped to extend coverage of the ITF Agreement to a much broader group of seafarers and creates further leverage to ensure adherence to its provisions. For example, as thousands of ITF transport workers are employed either directly or indirectly by Maersk (the parent company of Maersk Line, Safmarine and MCC Transport), ITF set up the Maersk network, a network of seafarer and docker unions, to identify priority areas of work and to give the ITF negotiating strength with the company. In April 2016 the network achieved one of its main objectives by

²⁴ ITF, "ITF Agreements." ITF Seafarers, 2021. <https://www.itfseafarers.org/en/your-rights/itf-agreements>.

²⁵ Saksela-Bergholm, Arasanz Díaz, and Surdykowska, "A Comparison of a Transnational Union Enforcement Action in Finland, Poland and Spain SPLIN Synthesis Report."

getting agreement from Maersk that it will ensure that any vessel it charters has an ITF or similar agreement covering it, which puts in place protections for crews on FOC ships.²⁶

To date, because of ITF's efforts and the engagement by global shipping lines, shipping owners and employer federations such as Maersk, International Maritime Employers' Council (IMEC), the International Mariners Management Association of Japan (IMMAJ) the Korean Shipowners' Association (KSA), there are a record number of agreements (12,818) covering more than 311,489 seafarers.²⁷ This supports the second hypothesis of the Delta 8.7 Markets paper that collaboration between different actors within the supply chain can fundamentally improve the effectiveness of efforts to reduce forced labour and human trafficking in supply chains. Further research is needed on the role the global trade unions could play in creating greater pressure points or incentives for business to facilitate this collaboration.

4.3 Intervention and Outcome – Hypotheses One and Seven

This section explores hypothesis one and seven to identify how collaboration amongst trade unions and the private sector can help to address forced labour and human trafficking in business operations and how effective grievance mechanisms can support holistic efforts to address forced labour and human trafficking. To ensure compliance with the MLC, 2006 and provisions set out in the ITF Agreements, a specialized network was set up by ITF and its affiliate unions to inspect ships. Each year ITF conducts more than 10,000 inspections as a routine procedure or at the request of the crew. At latest count, the system was comprised of 134 coordinators, inspectors, and contacts in 122 ports in 58 different countries. Inspections have a clearly defined priority list. Ships are prioritized for inspection if a seafarer lodges a complaint with ITF, which needs investigation. Second, inspectors aim to inspect each FOC-ship at least once per year. Ships covered by an ITF agreement have a lower priority for inspection because signing unions hold the main responsibility for the supervision and the enforcement of the agreement.

The inspections are very effective at identifying labour issues, including those such as forced labour cases, which may be “hidden” or difficult to spot without a trained inspector. In 2019, ITF undertook over 9700 inspections with serious issues found in around 7600 of them. 3001 issues related to non-compliances with the ITF Agreement, 1611 were breach of contract, 1296 owed wages, 1253 non-compliance with International Standards and 307 related to medical issues.²⁸ Problems related to non-compliance with international standards often overlap with the forced labour indicators including exceptionally low wages (below minimum standards), seafarers found without an employment contract and different incidences of substandard living and working conditions (such as the lack of food or water supply). In 2020, through its inspector network ITF recovered over \$44,613,880 USD of seafarers' owed wages across the world. It also helped countless abandoned seafarers return home to their families.

²⁶ ITF, “Maersk Network,” 2018, <https://www.itfglobal.org/en/sector/seafarers/maersk-network>.

²⁷ https://www.itfseafarers.org/sites/default/files/node/resources/files/SB2020%20English_1.pdf

²⁸ ITF, “Seafarers’ Bulletin 2020,” ITF Seafarers, May 28, 2020, <https://www.itfseafarers.org/en/resources/materials/seafarers-bulletin-2020>.

Grievance channels play a key role in helping ITF inspectors to identify the issues. Seafarers employed on ships covered by an ITF agreement can report complaints or issues through the ITF multilingual app (with an SMS and hotline number), Facebook page and Seafarer centers.²⁹ Incoming complaints are handled by a dedicated Seafarers Support Network. Seafarers and their affiliated unions are informed about the channels and encouraged to report non-compliances through regular ITF campaigns and awareness programs. Most recently ITF started a campaign targeting transnational work agencies, which can exploit individuals and communities in grey areas not covered by national and international law. It even developed a dedicated website called “ITFShipBeSure” to provide advice for seafarers on finding a manning agent, avoiding recruitment scams and ensuring they have the right contract. The website also provides seafarers with a secure avenue for reporting unscrupulous recruitment agencies.³⁰

4.4 Mechanism

This section delves deeper into why the ITF intervention has been so effective at identifying and preventing situations of forced labor.

Firstly, the case study suggests that effective partnerships to combat forced labor should be tied to a legally binding, normative framework that is harmonized and enforced at the international, national and individual level. This shows why the role of cross-border industrial relations, and the negotiation of global collective bargaining agreements that are tied (either directly or indirectly) to lead companies with large value chains are so critical to tackling forced labour. As stated in one report “the decision-making process for the realization of a co-enforcement action relies heavily on a “formal, consensus-oriented, and deliberative” partnership.³¹ The ITF collective bargaining system effectively set out a global industry-level bargaining framework, of sufficient coverage to influence global wage levels and expectations, including those on ships without ITF agreements.³² While not all employers want to participate voluntarily in ITF Agreements, the activities of ITF inspectors and the leverage from lead brands like Maersk help drive positive results.

²⁹ ITF, “Seafarers’ Bulletin 2020,” ITF Seafarers, May 28, 2020, <https://www.itfseafarers.org/en/resources/materials/seafarers-bulletin-2020>.

³⁰ ITF, “ITFShipBeSure - We Guide You through the Recruitment Process | ITF ShipBeSure,” 2021, <https://www.itfshipbesure.org/itfshipbesure-we-guide-you-through-recruitment-process>.

³¹ Janice Fine, “Enforcing Labor Standards in Partnership with Civil Society: Can Co-Enforcement Succeed Where the State Alone Has Failed?,” *Politics & Society* 45, no. 3 (September 1, 2017): 363, <https://doi.org/10.1177/0032329217702603>.

³² Nathan Lillie, “A Global Union for Global Workers: Collective Bargaining and Regulatory Politics in Maritime Shipping,” January 1, 2006, 1–209, <https://doi.org/10.4324/9780203960158>.

Second, the ITF's success can be linked to its ability to carry out strategic enforcement action³³³⁴ in cooperation with different public and private sector parties. The co-enforcement action for example between trade unions, governmental actors and employer signatories to the ITF Agreements has strengthened compliance of legal directives and guidelines within the sector.³⁵ The cooperation and collaboration between ITF and the PSC are important because they build on each party's strengths and balance out their limitations. ITF inspectors are for example, extremely strong at identifying labour issues and gaining the trust of seafarers as they have a clear priority to represent their member's needs and ensure seafarer wage levels and working standards are in line with collective agreements. Effective verification of workplace compliance with labor standards must be conducted inspectors who operate independently and include in-depth interviews that are carried out under conditions where workers can speak freely. This aspect of gaining trust to identify potential victims of forced labor should not be under-estimated, as retaliation and blacklisting is common, and many seafarers are hesitant to share their issues – even outside of the presence of the ship authorities.³⁶ Marginalisation of workers, who are most aware of how forced labours manifest on the ground, has been cited as one of the key shortcomings in normal enforcement actions.³⁷

PSC by contrast have their own slightly different priorities set out in national laws and international agreements and rarely “voluntarily” inspect FOC ships. Yet where problems cannot be solved through the ITF intervention or for cases involving serious infringements of the MLC, 2006 (including the cases of forced labour), the intervention of PSC officials is required to order an arrest of the vessel. PSC inspectors are also in charge of giving approval or disapproval for MLC certificates for FOC ships, an important lever to nudge shipowners into compliance.

In the case of Fortune Genius for instance, strategic enforcement action led to better identification of forced labour and positive outcomes for the affected seafarers. AMSA (the Australian PSC) was able to rely on the ITF's grievance channels and inspectorate system to be alerted to the case of forced labor. Given the reluctance of most PSCs to inspect FoC ships, it is highly unlikely that AMSA would have inspected the Fortune Genius without the tip off from ITF, let alone be able to gain the trust of the crew to speak out against the ship owner. ITF in turn was able to rely on AMSA's power to arrest the vessel and have it banned from entering Australian waters for a set period.

³³ David Weil, “Enforcing Labour Standards in Fissured Workplaces: The US Experience,” *The Economic and Labor Relations Review* 22, no. 2 (2011): 33–54.

³⁴ David Weil, “Creating a Strategic Enforcement Approach to Address Wage Theft: One Academic's Journey in Organizational Change,” *Journal of Industrial Relations* 60 (June 1, 2018): 437–60, <https://doi.org/10.1177/0022185618765551>.

³⁵ Matthew Amengual and Janice Fine, “Co-Enforcing Labor Standards: The Unique Contributions of State and Worker Organizations in Argentina and the United States,” *Regulation & Governance* 11, no. 2 (2017): 129–42, <https://doi.org/10.1111/rego.12122>.

³⁶ Saksela-Bergholm, Arasanz Díaz, and Surdykowska, “A Comparison of a Transnational Union Enforcement Action in Finland, Poland and Spain SPLIN Synthesis Report.”

³⁷ <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-caus-8/>

In terms of where the current mechanism could be improved, in many instances there is a low level of trust between ITF and PSC inspectors, leading to less joint inspections. As one ITF inspector in Finland noted “if you make a request by e-mail to the Port State Control, well, you cannot expect an answer from them! Yeah, they don’t reply to you! Once an officer called me after the working hours and said that it’s great when someone tries to make an effort, but formally, no! We don’t hear anything from them!”.³⁸ This suggests that the ITF enforcement mechanism could be made stronger with more cooperation and communication with state inspectors.

The ITF intervention also relies heavily on its other affiliated unions to support each other globally through co-enforcement action. For example, the ITF dockers’ section is made up of 221 affiliated unions, representing 350,000 port workers worldwide who help them deal with uncooperative actors. If for example a ship captain or owner is uncooperative with an ITF request, ITF can call in its affiliate dockers’ union to stop unloading the ship’s cargo.

The structure of the ITF inspector’s network has also played a key role in supporting the inspector’s day-to-day operations as well as ensuring transparency and accountability of outcomes.³⁹ The inspectors’ cooperation network is for example, usually run by various unions at the sectoral level that are connected to national cross-sectoral umbrella organizations. This mitigates against the risk of excessive fragmentation of trade unions by sharing the common goal of decent work for seafarers while also providing stronger accountability. Findings of inspections are also shared transparently in campaigns and in the ITF Bulletins, along with a review process through annual reporting to both regional and ITF headquarters. This kind of transparent top-down evaluation provides a consistent overview of the ITF enforcement action and types of activities.

National enforcement activities are also guided and supported by the ITF Headquarters in London. This includes the ability of inspectors to participate in international forums run by the ITF with concrete enforcement activities such as on-board inspection tours, negotiation of agreements, signing of agreements by the shipmaster or possible embargo in cooperation with other union members. ITF global campaigns, training courses, conferences, and exchange networks, help to improve co-enforcement.

5 Discussion

Even though the Policy Guide contains many supported hypotheses, and the case study above lends further evidence to support to a few specific hypotheses, we begin this discussion by pointing to the well-established issues inherent in evaluating human trafficking interventions that make generalizability and transferability difficult. Other evidence reviews of anti-trafficking interventions have noted that the “outcomes of reviewed studies alone cannot be used as

³⁸ Saksela-Bergholm, Arasanz Díaz, and Surdykowska, “A Comparison of a Transnational Union Enforcement Action in Finland, Poland and Spain SPLIN Synthesis Report,” 17.

³⁹ Saksela-Bergholm, Arasanz Díaz, and Surdykowska, “A Comparison of a Transnational Union Enforcement Action in Finland, Poland and Spain SPLIN Synthesis Report,” 16.

recommendations for policy and practice on anti-trafficking”.⁴⁰ Further still, Bryant and Landman note that “the ability to draw concrete conclusions regarding what works to combat human trafficking is hampered by the quality of evaluation of anti-trafficking programing and subsequent evaluation”.⁴¹ The hidden and complex nature of human trafficking makes it difficult to establish baseline data and therefore assess whether an outcome has demonstrated improvements over time.⁴² Moreover, the sampling frames for this specific population are almost nonexistent, as most data from survivors is captured through post-trafficking assistance and there is still no comprehensive understanding of the overall trafficked population.⁴³ This leads to complications for organizations to showcase their success (i.e., the achievement of their outcomes), resulting in many organizations “struggling to demonstrate impact and discern what works to combat human trafficking”.⁴⁴

The case study above illustrated an example of how trade unions, private sector and public sector collaborated to achieve effective outcomes for seafarers. What is interesting to note is that this case study differs from many of the pieces of evidence submitted for the markets working group, as it highlighted the role of public sector in collaboration with other actors. A few of the hypotheses refer to legislative function of governments but there is a dearth of evidence on impact of specific collaborative activities between public and private sector actors. This is surprising given Ruggie’s emphasis on the breadth of the states role as “taking appropriate steps to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication”.⁴⁵ We note that this lack of evidence does not mean that there is a lack of comprehensive and holistic evaluation of interventions, but rather there is a lack of publicly accessible evaluations to the research and policy communities.

When considering other actors that are involved in the markets space, we note an obvious gap in the evidence bank of research involving auditing and certification bodies. These actors are well placed in complex markets ecosystems, in some cases complementing poor public inspectorate capabilities. However due to a lack of oversight of their activities, a number of

⁴⁰ Charity Jensen, Nicola Pocock, and Pauline Oosterhoff, “Human Trafficking in South Asia: Assessing the Effectiveness of Interventions” (London: Foreign, Commonwealth and Development Office, 2020), https://assets.publishing.service.gov.uk/media/5f61d9c1e90e072bc30fa04b/REA_-Trafficking_Mar_2020_FINAL.pdf.

⁴¹ Katharine Bryant and Todd Landman, “Combatting Human Trafficking since Palermo: What Do We Know about What Works?,” *Journal of Human Trafficking* 6, no. 2 (March 14, 2020): 119–40, <https://doi.org/10.1080/23322705.2020.1690097>.

⁴² Katharine Bryant and Todd Landman, “Combatting Human Trafficking since Palermo: What Do We Know about What Works?,” *Journal of Human Trafficking* 6, no. 2 (March 14, 2020): 119–40, <https://doi.org/10.1080/23322705.2020.1690097>.

⁴³ Kiss, Ligia, David Fotheringham, Joelle Mak, Alys McAlpine, and Cathy Zimmerman. “The Use of Bayesian Networks for Realist Evaluation of Complex Interventions: Evidence for Prevention of Human Trafficking.” *Journal of Computational Social Science* 4, no. 1 (May 1, 2021): 25–48. <https://doi.org/10.1007/s42001-020-00067-8>.

⁴⁴ Bryant, Katharine, and Todd Landman. “Combatting Human Trafficking since Palermo: What Do We Know about What Works?” *Journal of Human Trafficking* 6, no. 2 (March 14, 2020): 119–40. <https://doi.org/10.1080/23322705.2020.1690097>.

⁴⁵ OHCHR. “UN Guiding Principles on Business and Human Rights,” 2011. https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf, p3.

academics and practitioners have pointed to fundamental failings in auditing, including being used to conceal the extent of labour exploitation and human trafficking within supply chains.⁴⁶ On the one hand and with well intentioned actors, this points to the potential for working with auditors and certification bodies to build the capacity and rigour in the way that they undertake assessments. Alternatively, evaluations could be undertaken to uncover the mechanisms that cause the effects that are observed, in order to inform better oversight and regulation of auditing bodies' activities.

6 Conclusion

This article sought to demonstrate the importance of understanding not just which programmes resulted in successful outcomes, but more importantly, the mechanisms that supported these changes and the context under which they occurred. It argues that with this understanding, policy actors will be better equipped to take appropriate action to develop effective evidence-based policies and practices.

By using a realist evaluation lens, this article presented an analysis of the ITF's successful efforts to ensure decent work for seafarers, highlighting a number of mechanisms that have led to its success. Firstly, the case study suggests that legally binding, normative frameworks that are harmonized and enforced at international, national and individual level led to better outcomes for seafarers. Secondly, the case study highlighted ITF's success being linked to strategic enforcement action that involved public and private sector parties. This collaboration builds on the strengths of both state-based inspectorates and ITF inspectorates, to support decent work for seafarers.

This article closes with a call for closer collaboration between researchers, and public and private sector actors, to understand the role that cross-border social dialogue and strategic enforcement action can play in preventing forced labour in globalized sectors. We note some initial work undertaken by ILO in this field, but suggest this could be expanded to specifically investigate forced labour in globalized sectors and with a broad cross section of stakeholders.

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⁴⁶ Genevieve LeBaron, "Governing Global Supply Chain Sustainability through the Ethical Audit Regime," n.d., 19; Juliane Reinecke and Jimmy Donaghey, "The 'Accord for Fire and Building Safety in Bangladesh' in Response to the Rana Plaza Disaster," in *Global Governance of Labour Rights*, by Axel Marx et al. (Edward Elgar Publishing, 2015), 257–77, <https://doi.org/10.4337/9781784711467.00018>; Javed Siddiqui and Shahzad Uddin, "Human Rights Disasters, Corporate Accountability and the State: Lessons Learned from Rana Plaza," ed. Ken McPhail and John Ferguson, *Accounting, Auditing & Accountability Journal* 29, no. 4 (January 1, 2016): 679–704, <https://doi.org/10.1108/AAAJ-07-2015-2140>.

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