

## The “sumangali scheme” and the need for an integrative ethic management overall the supply-chain

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### Key Words

Sumangali Scheme, Integrated Social Contract Theory, hypernorms, rules of procedure, authentic norms, legitimate norms, relativism, universalism, supply chain

### Abstract

*The economic importance of the Indian Textile and Clothing (T&C) industry is unquestioned. It is one of the second largest employment generating industry, after agriculture, with direct employment of over 35 million people. Tamil Nadu accounts for over 65% of the total number spinning units in India and has been reported exploiting young women workers in the spinning and textile units what is called the “Sumangali Scheme”. “Sumangali” in Tamil means ‘happily married woman’.*

*Globalization confronts decision-makers in connection with global conditions in identifying labour standards that can serve as guidelines for corporations producing or outsourcing outside of their home country. The Article shows that in a globalized business world the concept of a conventional corporate ethic system to put all energy into the development of codes of conduct, and ethical audits and sustainability reporting falls short. This applies to industries like the Tamil Nadu textile industry, as there is no clarity with regard to the causal factors and the key players in the supply chain of such a complex social system. The Integrative Social Contract Theory (ISCT) allows understanding the problem of Supply-Chain Responsibilities as a contractual relationship that denotes concrete moral responsibilities.*

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### 1. Introduction

In times of globalization, companies act internationally or globally. The globalization of companies is a challenge for corporate ethics. Thus, an adjustment of the corporate ethics to an international or global framework is necessary. The managers of firms have to decide to which norms and values they want to conform in their daily work. The decision of a manager has to meet the requirements of the external legitimacy of the company’s behaviour and the internal coordination of the employees’ behaviour.

Deficient international laws or lack of enforcement of local or national legislation necessarily requires a voluntary self-commitment. Harmonization of the ethical notions of the head offices and the ethical standards as practiced by the settlements is sometimes possible to a certain degree only. A differentiation with respect to the host country’s culture, grounded on a common base of ethical norms, can help to avoid conflicts. These are all notions and claims publicized by the companies in the media but not honoured in reality.

Textile and Clothing (T&C) is one of the largest and most important industries in the Indian economy in terms of output, foreign exchange earnings and it directly employs over 35 million people. The value chain in the sector comprises of spinning, weaving, knitting and garment manufacturing. The state of Tamil Nadu plays an important role in the Indian T&C industry and global brands and retailers. The cotton spinning sector is the backbone of Tamil Nadu’s textile industry and accounts for over 65% of the total number of spinning units in India. Global brands and retailers source their products from spinners and garment manufacturers accused of be exploiting – under Sumangali Scheme - young women who likewise could have

the status of working children, with the promise of a lump sum payment (approx. US\$ 500-1000) after 3 years. "Sumangali" in Tamil means 'happily married woman'.

These brands and retailers include, amongst others, H&M, C&A, Marks & Spencer, S. Oliver, Diesel, Old Navy (GAP), Timberland, Tommy Hilfinger, Primark, TESCO, Bestseller, Mothercare and Asda-Walmart. For a better understanding of the issue of Sumangali and the extensiveness of its practice, it is important to understand the supply chain linkages. "Various research findings and media reports focused on a few suppliers, who were linked with international brands and retailers. There was mention of spinning mills being the centre of Sumangali Scheme, but none of the research and global studies has focused on the mills involvement, the mills associations, or the supply chain relationships in the South Indian textile industry." (Fair Labor Association, 2012, p.4).

An ethical judgment and legitimation of the Sumangali Scheme in the factories can only be founded, if the overall supply chain linkages and the role that spinning mill, brands and retailers play have to be analysed regarding the question in how far they are directly or indirectly involved in child labour and other practices. The majority of the exploitative force under Sumangali Scheme can be found to 80% in the spinning mills and 20% in the garment manufacturing value chain. The spinning process converts fibers into yarn which is then converted into fabric and used in garment manufacturing. Spinning is the third step in the supply chain immediately after cotton cultivation and conversion into cotton bales by gins. It is the foundation of all subsequent value additions in the textile value chain, i.e., weaving, knitting, processing and garment confection (Fair Labor Association, 2012, p.10). It is important to understand the different supply chain aspects in the context of the global brands and retailers related to the issue of Sumangali. Figure 1 below shows four cases, how spinning mills sell yarn:

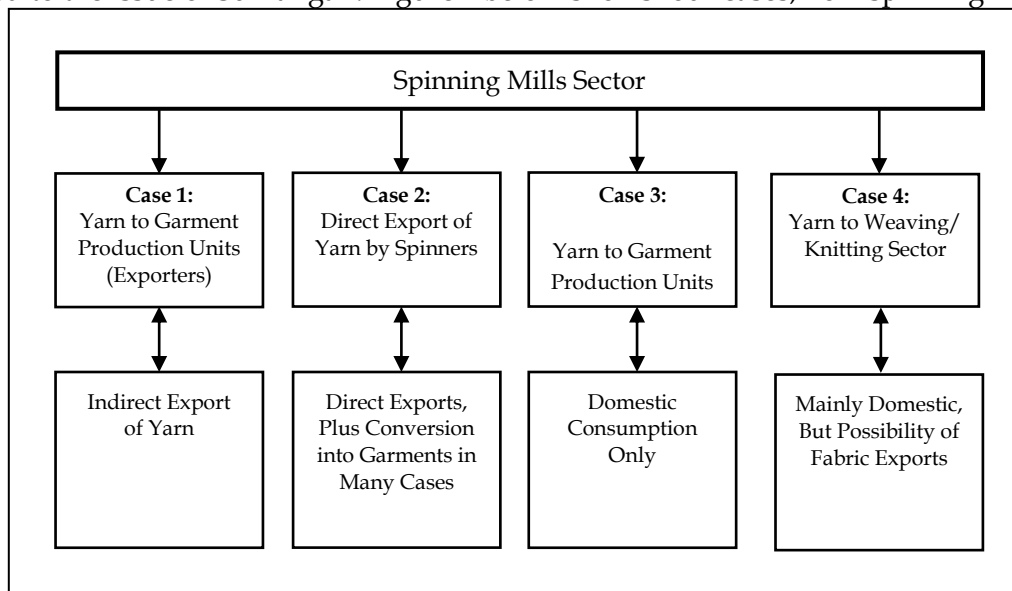


Figure 1: Spinning Mills and End Use of Yarn  
(source: Fair Labour Association (2012), p. 11.)

1. "The yarn from the mills could be sold directly to garment manufacturers who are exporters of garments. In this case, the spinning mill product is **indirectly exported** to the global market and, hence, the involvement of global brands/retailers.

2. The yarn from the mills could be **directly exported** by the spinners themselves. This could be, for example, to countries in Europe, the U.S. and other countries where this may be used to produce fabrics. The yarn could also be exported would further use it in garment production

and then export these garments into the international market. In case of direct export by spinners, international brands and retailers may not be directly involved. However, in case yarn is used by chain of international brands and retailers would-be involved.

3. The yarn from the mills could be sold to garment manufacturers who mainly supply the domestic Indian market. In this case, brands and retailers from the Indian domestic market would be involved, but no other international brands and retailers, unless they sell in the Indian market (e.g., H&M does not sell in India, whereas Mother care does sell in India). In this case, there is **no export** to global brands and retailers.

4. The yarn from the mills is provided to the weaving/knitting sectors, which converts the yarn into fabric and other uses and it is then made into various products. These products could be for the Indian domestic market or for the international market. Thus, there could be involvement of international brands and retailers, but it is not clearly defined. Thus, there **could be export** of such yarn depending on the end use of the product" (Fair Labor Association, 2012, p.10).

We are facing a new problem concerning collective responsibility. Most companies are parts of a chain or less formalized forms of organizations like industries and branches. They have a limited overview of the production of their raw materials and consumables are produced. Firms are best understood as parts of a network, rather than just as parts of a simple exchange between parties. Before the described problem will be analysed by ISCT - originated by Donaldson & Dunfee - the next paragraph gives a brief introduction into this framework.

## 2. ISCT- The Balance between Cultural Empathy and Cross-Cultural Normativity and Cross-Cultural Normativity

The challenge that confronts corporate decision-makers in connection with global labour conditions is often in identifying the standards by which they should govern themselves. Some managers of multinationals have adopted the theory of ethical relativism. Ethical relativism is the view that ethical standards do not fully comply with absolute truth criteria. Something is right for the people or companies in a particular society if it accords with their moral standards and wrong for them if it violates the moral standards of this particular society. Certain Asian societies hold that child labour is morally acceptable, although Germans believe it is immoral. The ethical relativist conclude that if a German company considers as wrong being involved in child labour in Germany, then it is not necessarily wrong for a Indian manager to employ children in their own society. (Auchter L. 2013, pp. 139-140)

The existence of some common values and norms is indispensable for sustained business relationships. The following organizations have issued the call for the introduction of universal principles and standards in business:

- Labour rights adopted by the ILO (International Labour Organization) and FLA (Fair Labor Association)
- Social Accountability 8000
- Caux Round Table Principles (Avoidance of illicit activities like corrupt practices, bribery, condone etc.)

Extreme positions of *Relativism* or *Universalism* are not useful for making effective ethical decisions in business. ISCT represents a concept of "pluralism" allowing a "moral free space"! Pluralism accepts different moral convictions, suggesting that a consensus on basic principles in a certain social context can, and should be reached. Donaldson & Dunfee integrate two distinct kinds of contracts: The first is a normative and hypothetical contract similar to the classical contractarian theories in philosophy and political economy and represents the macro-level embodied by hypernorms. The second is an existing (extant) implicit contract and reflects

the micro-level that can occur among members of specific communities, including companies, departments within companies and industries in which local values are presumed to be right on principle.

Donaldson & Dunfee propose four principles to form the relations between micro- and macro-level:

1. Local economic communities can specify ethical norms for their members through micro-social contracts.
2. Micro-social contracts to specify local norms (authentic norms) must be based on informed assent which itself must be supported by the right to leave the contract.
3. In order to develop powers of obligation, a micro-social contractual norm must be compatible with hypernorms, which measure the value of authentic norms against a set of universally upheld values. These hypernorms reflect culturally invariant moral concepts. "Core human rights, including those to personal freedom, physical security and well-being, political participation, informed consent, the ownership of property, the right to subsistence; and the obligation to respect the dignity of each human person" (Donaldson & Dunfee, 1994, p. 267). Hypernorms are representing a hypothetical social contract.
4. In case of conflicts between norms, that satisfy principles 1-3, an order of priorities must be drawn up by using rules which correspond to the spirit and letter of the macro-social contract.

After reaching a method-legal consensus, authentic norms will be transformed into legitimate norms. It has to be emphasized that all previously described elements and steps of the approach have to be considered. However, Dunfee (2006) states explicitly that most of these attempts have not been applied in the way the creators had suggested: In the majority of cases, applications have failed to use all elements of ISCT and to go through every suggested step of the judgment process. ISCT should be applied in its full scope, including the steps of determining relevant and appropriate communities, identifying authentic norms within those communities, testing those norms against substantive and structural hypernorms, and using the rules of thumb to seek for dominant norms (Dunfee, 2006, p. 313).

### 3. Applying ISCT-Theory to Practice

#### 3.1 Recognition of the Ethical Problem: Child Labour and the Sumangali Scheme

Parents, especially from poor backgrounds, struggle to earn and save sufficient money to get their daughter/s married off with reasonable gifts at the time of marriage. Hence, the Sumangali Scheme provides an opportunity to employ young women workers and children, who have few or almost no opportunities to find gainful employment.

The first issue concerning working children is to determine what a "child" is. International instruments generally use age to define a child. Along with Article 1 of The United Nations (UN) Convention on the Rights of the Child, the 2<sup>nd</sup> Article of the International Labour Organization (ILO) Convention No. 182 accords the rights of a child to all persons under the age of 18. However, neither "child labour" nor "child employment" nor "child work" is explicitly defined in these Conventions (Edmonds, 2007, p.7). Child labour typically refers to children who are economically active, meaning that they participate in the production of economic goods and services, excluding the persons doing household chores in their own household. Both ILO's Statistical Information and Monitoring Program on Child Labour (SIMPOC), as well as ILO's International Program on the Elimination of Child Labour (IPEC), define a child labourer as a child 5 to 11 years of age working in economic activities, a working child aged 12 to 14 unless

performing light work, or a child aged 15 to 18 engaged in the worst forms of child labour (ILO/IPEC, 2007, p.7).

In reality the textile industry under Sumangali Scheme employs cheap labourers as “apprentices” (trainees), well below the minimum wage, without statutory benefits such as Provident Fund (PF) and Employees State Insurance (ESI). The young “apprentices” are mostly children. It is estimated that 27% of the workers are aged 12-14 years, 40% are aged 15-16 years, 17% are aged 17-18 years and 16% above 18 years (Fair Labor Association, 2012, p.16).

Textile industry has been criticized by forcing children to work as “apprentices” for long hours, in poor and unhygienic working and living conditions, forcing them to stay in company-operated hostels, and limiting their contact with the outside world, thereby violating their fundamental rights and freedom of association (Fair Labor Association, 2012, p.16).

To understand the extent of exploitation and the problem of child labour under Sumangali Scheme it is necessary to analyse the value chain of T&C industry or in terms of ISCT ‘identifying the relevant communities’.

### 3.2 Identifying relevant communities and authentic norms

Once an ethical problem has been identified, the next step in applying ISCT is the identification of relevant key communities for the decision-making process. At this point it has to be made sure that all significant communities which may be affected by a particular business practice will be considered in the process of identifying key communities. The definition of a community allows a great, open-ended, variety of economic communities. Consequently, defining the boundaries of a community is one of the challenging issues in applying ISCT (Dunfee, Smith & Ross, 1999, p.30). Donaldson and Dunfee note that the relationships between or among identified communities may be *horizontal*, e.g. between nation-state to another nation-state or between competing corporations, or *vertical*, e.g. between corporate subsidiaries to parent firms or corporations to their home nation-states (Donaldson & Dunfee, 1999, p.101). This “horizontal-vertical dichotomy” helps in identifying potential norms.

The broader Indian community seems to be relevant, since the issue of child labour in the Sumangali Scheme takes place in India and the Sumangali factories employing children supply the Indian textile value chain with yarn. The US, Germany and other European are dominant in the trade with the spinning mill sector. Even the notions and practices concerning child labour in EU states and the US presumably may not so different to German ethical notions, it is necessary to create a separate study for each country. One attempt to apply ISCT to the problem of child labour in the Sumangali Scheme in India to provide guidelines for all textile and garment corporations, trading companies despite their nationality involved in Indian textile value chain. Child labour is traditionally anchored in Indian society: The tolerance threshold towards working children is higher and supporting the family is more important than education. OECD-study supports the conventional view that child labour is mainly caused by household poverty (OECD, 2003, p.29).

The main reason why women workers took up jobs in Sumangali Schemes is the poverty at the household level. 47% women workers who have been a part of Sumangali Scheme took up jobs in mills due to their families’ urging and need for a monthly income to sustain the family, while 53% chose to take up the work so that they could earn money for their dowry, and/or to get away from the village (Fair Labour Association, 2012, p.16).

Furthermore, the study showed that child labour is related to the parents’ educational attainment, the Indian caste system, and the presence of education opportunities (Sakamoto, 2006, p. 26). One may assume that child labour is broadly accepted especially in poor families



and in families with lower levels of education. The parents in such families believe that more children means more earning, however, their income is too low and the children are forced to work. These cultural and traditional aspects cause that children are committed to work from the beginning (Ahmad, 2004, p. 100).

Moreover, the Indian national legislation prohibits employment of children younger than 14 only in the cases of work in factories, mines or other types of *hazardous* employment, meaning that a child below 14 is allowed to work in non-hazardous industries. The Child Labour (Prohibition and Regulation) Amendment Bill from 2012 prohibits employment of children below 14 years in certain occupations such as automobile workshops, bidi-making, carpet weaving, handloom and power loom industry, mines and domestic work. In light of the Right of Children to Free and Compulsory Education Act, 2009, the Bill *seeks* to prohibit employment of children below 14 years in all occupations except where the child helps his or her family after school hours (PRS, 2012).

In this context is to mention, India did not ratify the ILO Convention No. 138, nor the ILO Convention No. 182. At this point, one has to distinguish in the debate between two kinds of practiced child labour:

1. Children under age of 14 engaged in light work, as long as their employment does not prevent them from attending school, and
2. Children between 14 years and 18 years, conditionally eligible to enter the labour market not allowed to perform hazardous work.

In this study, the author put the focus on the first issue because these children deserve special care and protection due to their vulnerability. The economic situation puts condoned pressure by the parents to force their children below the age of 14 to work under the conditions of the Sumangali Scheme.

One has to consider that parents lack information and awareness about the real situation of their children working under Sumangali Scheme. Parents believe that mills and garment units ensure full security and safety for their children within the premises. The Sumangali Scheme seemed to be a win-win situation for all, it started with good objectives in mind. However, after it became popular, each mill began interpreting it differently leading in a lot of cases to the exploitation of the working children (Fair Labour Association, 2012, pp. 7-9). Over 80% of the labourers under Sumangali in the 12 to 18 age group are more or less pressured by their parents sent to work.

Based on this evidence, it may be assumed that non-hazardous employment of children (below the age of 14) is an *authentic norm* within the broader Indian community.

Germany, in contrast, is one of the pioneers in the fight against child labour. It was one of the first countries to ratify the UN Convention on the Rights of the Child, the ILO Convention No. 138 and the ILO Convention No. 182. The German legislation prohibits the employment of children below the age of 15, however children above the age of 13 may be employed under strictly specified conditions. Furthermore, there is an *obligation* for children to attend school in Germany, making it more difficult for children to participate in illegal employment. However, Indian children aged 6 to 14 have the *right* (but not the obligation) to attend school due to the Right of Children to Free and Compulsory Education (RTE) Act 2009.

Moreover, there is a considerable presence of organizations and activists endorsing the fight against child labour in the German media, and many large German companies in their corporate code prohibit participation in child labour or even participate in child labour enforcement. In general, it seems that the German society holds a norm against the use of hazardous child labour and the employment of children below the age of 14.

Consequently, it may be presumed that the Indian community holds an authentic norm allowing children below the age of 14 to be economically active, as long the work is not harmful, whereas in the broader German community a tendency towards an authentic norm prohibiting the employment of children below the age of 14 is apparent.

### 3.3 Determining legitimacy of the authentic norms und hypernorm test

In order to determine the legitimacy of the identified authentic norms, it has to be verified that there is no violation of *hypernorms*. However, Donaldson and Dunfee refuse to provide a comprehensive list of hypernorms, they leave the task of identifying hypernorms to ethical theorists. In this context, they offer a set of proxies for identifying presumptive principles with a hypernorm status relevant to a pending decision. The different kinds of evidence in support of a hypernorm are as follows (Donaldson & Dunfee, 1999, p.54, p. 256):

1. Widespread consensus that the principle is universal.
2. Component of well-known global industry standards.
3. Supported by prominent nongovernmental organizations such as the International Labour Organization or Transparency International.
4. Supported by regional government organizations such as the European Community, the OECD, or the Organization of American States.
5. Consistently referred to as a global ethical standard by international media.
6. Known to be consistent with precepts of major religions.
7. Supported by global business organizations such as the International Chamber of Commerce or the Caux Round Table.
8. Known to be consistent with precepts of major philosophies.
9. Generally supported by a relevant international community of professionals, e.g., accountants or environmental engineers.
10. Known to be consistent with findings concerning universal human values.
11. Supported by the laws of many different countries.

Generally, it can be said that the more types of evidence in support of a hypernorm, the stronger the presumption. An authentic norm, which is consistent with hypernorms, is considered to be both legitimate and obligatory, though norms violating hypernorms have to be rejected.

The following sources cover a large portion of Donaldson and Dunfee's suggested types of evidence regarding the identification of hypernorms: The United Nations (UN), the International Labour Organization (ILO), the Organisation for Economic Co-operation and Development (OECD), the European Union (EU), major religions and the Caux Round Table. These sources provide guidance regarding the identification of hypernorms with respect to the Donaldson and Dunfee standards 1-4 and 7-9. To a much lesser extent, various documents provide some guidance for the standard 5, 6 and 11. The following analysis investigates each source in terms of child employment and labour conditions. Fundamental issues of labour rights are not considered. A detailed consideration of the findings would go too far. Table 1 summarizes the results of the analysis.

		prohibition of employment of children aged below 14	protection against hazardous and exploitative conditions	right to minimal education
United Nations	Universal Declaration of Human Rights	-	✓	✓
	UN Convention on the Rights of the Child	-	✓	✓
ILO	ILO Convention No. 138	✓	✓	✓
	ILO Convention No. 182	-	✓	✓
OECD	OECD Guidelines for Multinational Enterprises	-	✓	-
European Union	Charter of Fundamental Rights of the EU	✓	✓	✓
Major Religions	Christianity, Islam, Judaism, Buddhism	-	✓	✓
Caux Round Table	Stakeholder Management Guidelines	-	✓	✓
hypernorm status		-	✓	✓

Table 1: Child employment: Hypernorm recognition (own illustration)

Taking the analyzed sources from which to seek evidence for presumptive hypernorms in totality, it may be concluded that there exist the following hypernorms in terms of child employment:

- Children may not be employed under conditions which are hazardous or exploitative, rather they have a right to appropriate working conditions. Especially children aged below 14 are only allowed to perform light work.
- The employment of children is not legitimate in cases of deprivation of the child's educational opportunities. This principle applies until the child has reached the age of finishing compulsory schooling, respectively until the child has attained basic education (at least 14 years old).

Adopting these hypernorms one can say, that the German authentic norm does not violate any hypernorm and thus is legitimate. The Indian norm allowing children younger than 14 to be economically active is more problematic. The fact that the children aged under 14 does not represent a problem as long the children participate in light work. Since the activities performed by these children are neither harmful nor dangerous, the hypernorm of protecting children against exploitative and hazardous working conditions is also not violated.

It is decisive whether the children work full-time or only after school hours during their leisure time. Working full time under the age of 14 like in the Sumangali Scheme would originate a clear breach of the hypernorm on the right of education. According to ISCT, this practice is not legitimate and consequently unethical. Under such conditions, a German manager should not do business with an Indian businessman even involved indirectly into the Sumangali Scheme. On the other hand, the practice would be legitimate when the Sumangali children attend school and achieve basic education, or work only in their free time after school hours. In this setting, the practice would not violate any hypernorm. However, according to the ISCT decision-process, the issue would require resolution under the rules of thumb, since the German and Indian norms would be in conflict.



### 3.4 Ethical Judgement (Rules of Thumb)

An important feature of the ISCT decision-process is that different behaviors are recognized to coexist among different communities. When conflicts arise between norms and practices, the issue requires applying the rules of thumb. The following six rules must be applied to help resolve them (Donaldson & Dunfee, 1999, pp. 182-191):

1. Transactions solely within a single community, which do not have significant adverse effects on other humans or communities, should be governed by the host community's norm.
2. Community norms including a preference for how conflict-of-norms situations should be resolved should be applied, so long as they do not have any significant adverse effects on other humans or communities.
3. The more extensive or more global the community which is the source of the norm, the greater the priority which should be given to the norm.
4. Norms essential to the maintenance of the economic environment in which the transaction occurs should have priority over norms potentially damaging to that environment.
5. Where multiple conflicting norms are involved, patterns of consistency among the alternative norms provide a basis for prioritization.
6. Well-defined norms should ordinarily have priority over more general, less precise norms.

The rules must be applied as a set, with no prior assessment of relative importance among them. If a clear dominant norm emerges, ethical judgment should be based on it. If the principles fail to identify a clear dominant norm, particularly when the preference is weak, mixed, or absent, then the decision-maker is permitted to act within his moral free space and follow his own values in determining which of the competing norms to follow. In such a case, ethical judgment can be based on any of the legitimate norms. (Donaldson & Dunfee, 1999, pp. 190-191) By applying rules of thumb we have to distinguish according to the cases described above (see figure 1) whether the German manager is directly or indirectly involved in the Sumangali Scheme. The result of applying the ISCT priority rules is illustrated and summarized in table 2 at the end of this paragraph.

#### Priority Rule 1: Transactions solely *within* a single community

The first rule of thumb deals with "*transactions solely within a single community*" (Donaldson & Dunfee, 1999, p. 184) and it seems that this rule applies to case number three explained in figure 1. There are not any significant adverse effects on others. Therefore, one could argue that this act should be governed by the host community's norm, hence it does not appear that this rule applies in this case.

One might ask why the German manager should care about the ethicality of certain actions of the Indian producer and consumers, since the German managers (retailers like C&A) are not directly involved in the questionable activities. Dunfee (1999) responds to this question, arguing that existing morality within markets creates obligations for corporate managers. His second principle for respecting marketplace morality states that "managers must respond to and anticipate existing and changing marketplace morality relevant to the firm that may have a negative impact on shareholder wealth" (Dunfee, 1999, p. 149). For managers, it means that not considering the moral desires of e.g. important customers or other stockholders in the relevant marketplace may result in declining sales. It follows that if a German manager fails to anticipate existing attitudes within the market he or she serves (in our case it's the German market), he

may end up making decisions that have a negative impact on his company's shareholder wealth (Dunfee, 1999, pp. 150).

Considering Dunfee's argument than it does appear that this rule applies in this case.

### **Priority Rule 2: Priority rules adopted as norms within communities**

Here, the question arises whether the broader German or Indian communities have their own framework for resolving conflicts, so long as they do not have significant adverse effects on other humans or communities. It seems that there are no specific community rules prohibiting making business with someone (Indian trader, spinning mill, garment producer) being supplied by engaging children in hazardous work in the Sumangali Scheme. Within that community, this behaviour might be the norm, and as long as other people and communities are not hurt, it might be appropriate.

"Yet another context shows the importance of this rule. Many firms, particularly those with very strong core values, have set up internal rules for dealing with problematic conflict-norm-situations. Levi Strauss (LS), for example, has set up standards determining the circumstances under which it will allow production of its products in other countries. LS recognizes that other firms and cultures may have norms at a direct variance with those of LS concerning the minimum working age, work conditions, support for employee education, and so on. LS not only specifies how they will resolve their own conflicts, but they make it very clear that they will follow rigid rules in dealing with contractors, requiring, in essence, that their contractors implement specified LS norms on these issues. [...] Rules of thumb such as those followed by LS may result in the firms being classified as 'corporate imperialists'" (Donaldson & Dunfee, 1999, p. 186).

However, there are community-members (Germany, Netherland, the United Kingdom) provoking boycotts of products made with the help of child labour. But it is not clear whether these boycotts include light work performed by children participating in school education. Furthermore, boycotting such products could lead to significant adverse effects: If children are not allowed to help their poor families, in the worst case they could die of poverty and hunger. It seems that such priority rules do not exist, and thus the second rule of thumb does not appear to apply in this case.

### **Priority Rule 3: Relative size of communities**

The broader and more global the community which is the source of the norm, the greater the priority which should be given to the norm. The majority of the exploitative force under Sumangali Scheme can be found to 80% in the spinning mills and 20% in the garment manufacturing value chain. Compared to the whole Indian economy the norms and practices of Sumangali Scheme should not take precedence over the broader Indian business community. This priority rule supports the norm not allowing child labour aged under 14 even in cases of light work.

### **Priority Rule 4: Essentialness to transaction environment**

Norms essential to the maintenance of the economic environment in which the transaction occurs should have priority. The norms practiced under Sumangali Scheme is affecting the market transaction in the supply chain differently. In the cases one and two (see Figure 1) yarn is directly and indirectly exported, so German managers are affected. Norms essential to maintaining the broader economic environment (all export markets in Europe and US. except China and Bangladesh) should have priority over economically damaging norms. Considering Case 3 where yarn from the mills is sold to garment manufacturers who mainly

supply the domestic Indian market, this transaction can be governed by the host community's norm.

But in this case the Sumangali Scheme is also incommensurable with the Indian authentic norm.

### Priority Rule 5: Patterns of consistency across communities

Donaldson and Dunfee acknowledge that complex situations may involve numerous communities, especially when a norm is identified in diverse cultures (Donaldson & Dunfee, 1999, p. 188). ILO estimates that in 2008 there were 306 million children economically active around the world, most of them in the Asian-Pacific region, followed by Africa. Since the practice of working children is also common in other regions of the world, in most cases these communities do not distinguish in respect to age and whether work is harmful or not. There is no pattern of consistency among alternative norms providing a basis for prioritization except for those to be found in major religions.

India is a multi-religious country, dominated by Buddhism and Hinduism. The religions considered here include Protestant traditions, Catholicism, Islam, Judaism, Hinduism and Buddhism. The following findings are mainly based on a study by ILO (2012) and summarize the most important aspects concerning child labour.

Protestant traditions state that children should not be forced into labour, but educated, since the rights and dignity of children should be protected. The Catholic tradition says that child labour in its intolerable forms is not acceptable. Moreover, this religion explains that children should not be placed in workshops and factories until their bodies and minds are sufficiently developed (ILO, 2012, p.41). In the Islamic tradition, child labour is unlawful since children cannot legally agree to a contract of employment until they have reached an appropriate age. Domestic duties performed by children should not affect their education, because they have the right to proper education. In line with Catholicism and Islam, education in the Jewish tradition is important, too. The children's families and communities are responsible for providing education. Furthermore, children should not be subjected to harmful hard labour (ILO, 2012, p. 42). Buddhist tradition is also sceptical towards child labour. For instance, the minimum age for full ordination into monastic life is 19 years, which indicates a necessary level of maturity (Peccoud, 2004, p. 47). The Hindu religion clearly says that from age 8 to 16 children should go to school for education (Weiner, 1999).

Summarizing, in all traditions, exploitative and harmful child labour is regarded with scepticism, since it is considered to be incompatible with the values of human worth and dignity. In addition, the religions attach importance to education. Priority rule number five does apply, since the practice of working children is also common in other regions of the world, and there are other countries holding norms against employing children.

### Priority Rule 6: Well defined priority over less precise norms

This rule supports the Indian norm, since the norm allowing the employment of children below 14 under non-hazardous and non-harmful working conditions is more precise than the German norm prohibiting the employment of children younger than 14 in general. The practiced norms under Sumangali Scheme are ambiguous.

practice	Principles for evaluating behavior						conclusion
	1	2	3	4	5	6	
child employment	U	-	U	U	U	E/U	U

E: Ethical U: Unethical E/U: Ambiguous whether ethical or unethical

Table 2: Applying the Rules of Thumb to child employment(own illustration)

#### 4. Results and Conclusion

Taking stock of the achieved outcomes the application of ISCT has shown that child labour on the one hand is unethical – children younger than 14 working full-time, depriving them of schooling – however on the other hand justifiable where the children attend school and work in their free time. However, in the case of a German importer (trading companies, buying offices, brand-named importer) doing business with an Indian exporter (garment factories) it is morally not acceptable because his or her suppliers are *indirectly* involved in Sumangali Scheme practicing child work under the age of 14 until 18 under exploitative conditions.

Even if not directly involved in questionable activities, Dunfee states “managers must respond to and anticipate existing and changing marketplace morality relevant to the firm that may have a negative impact on shareholder wealth” (Dunfee, 1999, p. 149).

It has to be taken into account that attitudes and behaviors may change over time (Donaldson/Dunfee 1999, p. 148), possibly causing an evolution of norms meaning that the current authentic norm would cease to be authentic. According to the Child Labour (Prohibition and Regulation) Amendment Bill from 2012, the Indian Government *seeks* to prohibit employment of children below 14 years in all occupations except where the child helps his family after school hours (PRS, 2012). This amendment would then be in accordance with the right of education.

It is intended that even light work of children attending school would become illegal and thus illicit for an ethical-minded manager. It is therefore conceivable that the Indian authentic norm towards light child work may change over time. But that is a long way to go.

Further results of this case attract attention:

- **First** we can state it is difficult to determine a clear agent that we can hold accountable for the practices in the Sumangali Scheme. Each company in the supply chain can point to the responsibilities of a large number of other parties, competitors, exporters, shareholders, government. The issues described, point beyond the responsibility of individual companies. The ‘members of the supply chain’ organizations and individuals have a joint responsibility.
- **Second**, it can be stated that the hypernorms, the authentic norms of the community and especially the Indian law is clearly infringed by the practices of the Sumangali Scheme. The mill companies point to the fact that they are fulfilling their obligations, they are doing nothing non-illegal behind the factory walls but in contrast as reported by supervisors, it is also known that the control results are frequently faked. (SOMO, 2011, p. 14)
- **Third**, business and the ethical responsibility of a firm should not be seen as isolated islands of economic activity, but as actors operating within a web of businesses, bound by mutual interests and interlinked flow of resources, rewards and ethical responsibilities. As the four cases have shown (Figure 1) one should not restrict the concept of responsibility to individuals and well-structured organization. It is also possible and useful to hold a comprehensive social system responsible for those results that go beyond the intentions and responsibilities of the agents within that social system. The representatives of foreign brands and retailers are also involved into the Sumangali Scheme. So responsible behavior should not only be based on minimum standards and obligations that must be met, but should also be concerned with the question of how to contribute to the well-being of the community. (Wempe, 2009, p. 752).
- **Fourth**, there is a shift taking place from holding a company later accountable, to the question of how companies can contribute to solving social issues. What is reasonable to expect from an individual company in the supply chain whether retailers or international brands to contribute the social issue of Sumangali Scheme. “The brands and retailers have information

about their first-tier suppliers (cut, make and trim units). They are making efforts to understand the supply chain linkages in these suppliers to see if there are any practices which may amount to Sumangali Scheme. In addition, these brands and retailers are also going beyond their first-tier suppliers and identifying the linkages in the mills" (Fair Labour Association, 2012, p. 26). Many of the brands have come together to develop joint actions. "It is a positive sign that all three key sectorial associations (i.e., SIMA, TASMA and TEA, under the banner of TSF) have now come up with guidelines on recruitment and selection of women workers in the textile and garment industry, as well as a code of conduct for hostels, (...) The analysis of the three Guidelines/Codes of Conduct by the three leading associations suggests that while there are positive aspects in each, however, none of them covers all desired aspects" (Fair Labour Association, 2012, pp. 29-30). "A single code would be easy to develop (or benchmark) and will be easier to follow by industry constituents. For brands and retailers, it will be easy to implement in their supply chains and monitor. For civil society organizations, it would be easier to see progress and discuss various aspects of the code for the industry as a whole" (Fair Labour Association, 2012, p. 35). Without any monitoring, it is difficult to assess the impact and feasibility of the guidelines. (SOMO 2013, pp. 2-3)

To turn back to ISCT-approach. One cannot strongly enough emphasize that practitioners applying ISCT on the issue described above may come to a different conclusion because the strength of ISCT is not the "lens view" to focus the ethical issue on a single spot. ISCT is viewing the ethical problem through a "prism" providing a variety of considerations - hypernorms and authentic norms - for solving the ethical dilemma. Based on this "spectrum" of views, the business actor then - for the first time - is able to fully comprehend the problem and its possible solutions. (Auchter L., 2014, p. 107)

Secondly the consideration of authentic norms (local norms) tested under the priority rules will result in a profound ethical decision making considering all relevant aspects, especially the distinction between the direct or indirect involvement into an economic transaction. Rather than looking only for universal principles that have to be applied dogmatically in every situation, this pragmatic approach allows for all these aspects to play a role.

Finally an important feature of ISCT is the distinction between macro and micro contract. The first is a hypothetical contract (macro) which according to the previous analysis defines the normative ground rules for creating the second kind of contract on the micro level. This existing micro social contract facilitates translating the responsibility of the community into a micro social contract. The roles of the actors, weaving/knitting companies, garment factories, retailers and brands, trade unions, but also government and civil society organizations have a shared responsibility for solving the Sumangali problem and the relationships between them can be part of the contents of the micro-social contract. Subsequently the question is emerging how this social system can be governed. Hierarchical steering is not the only possible way but supplemented by self-organization it could be more effective. "A long-term sustainable solution requires mutual respect understanding, partnerships and joint collaboration to find possible solutions and comprehensive actions" (Fair Labour Association, 2012, p. 35).

### **Direction for Future Research**

The application of ISCT has identified some deficiencies of the framework which can point out the way for further research focusing on the refinement on the identification of relevant communities the process of identifying authentic norms and hypernorms. Finally the idea of a micro-social contract has to be elaborated more concretely in respect to the governance of a social system.



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