



# **Sweated Labour in Sri Lankan Tea Plantation: Child Labour Analyzed by Integrated Social Contract Theory**

Lothar Auchter<sup>a</sup>

<sup>a</sup>University of Applied Sciences Kaiserslautern, Germany. [auchter@fh-kl.de](mailto:auchter@fh-kl.de)

## **Abstract**

The economic importance of the Sri Lankan tea industry for the whole population since the 19<sup>th</sup> century is unquestioned. However, the working conditions in the tea plantations and the economic situation for the working people especially for the Tamils in the plantations did not change very much. Despite the distressing working conditions in the tea plantations in general, child labour below the age of 14 is serious problem. Experience shows that ethic guidelines formulated in a general and popular way by the international tea companies are useless for qualified and responsible ethical decision making combatting child labour. Donaldson and Dunfee have succeeded in establishing Integrated Social Contract Theory a framework for international managers providing concrete guidance in everyday business operations.

**Keywords:** *authentic norms; hypernorms; integrated social contract theory; legitimate norms; relativism; rules of procedure; universalis*

## **1. Introduction**

In times of globalization, companies do not act nationally but 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 external legitimacy of the company's behaviour and the internal coordination of the employees' behaviour.

The deficient international law or the lack of enforcement of local or national legislation lead to the necessity of a voluntary self-commitment. Harmonization of the ethical notions of the head office and the ethical standards as practiced by the settlements is sometimes possible only to a certain degree. 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. In Sri Lanka where tea industry is the country's largest employer, providing employment both directly and indirectly to over 1 million people is a cautionary tale in respect to human rights. "Unfortunately the importance of the tea industry to the Sri Lankan economy has not helped to secure a reasonable standard of living for most estate employees" (Sri Lanka Campaign, 2012). Despite the distressing working conditions on tea plantations in general, child workers below the age of 14 are a serious problem as stated by the "Labour Department of Sri Lanka" (Colombo Page). However, what about of the voluntary self-commitment of tea producers and traders? Are the claims of an "Ethical Tea Partnership" only paying lip service? On the other hand, is there a lack of unequivocal ethical criteria, e.g. for child labour?

## ***Describing the "Ethical Dilemma"***

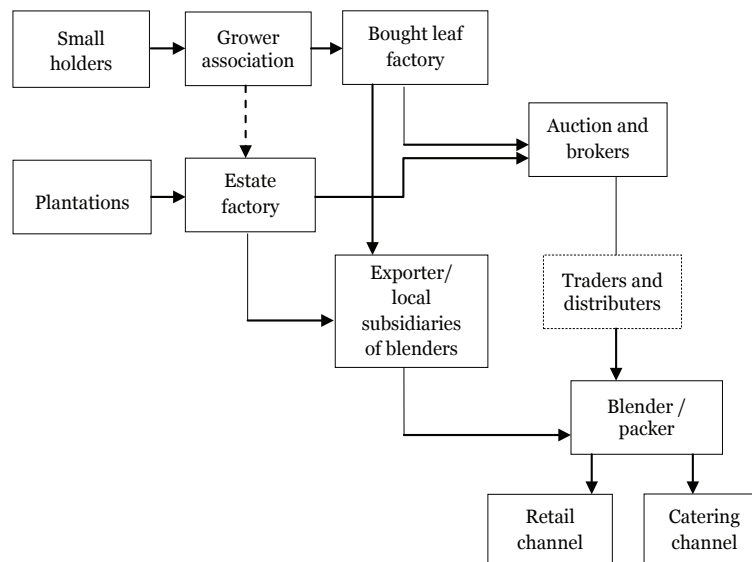
Trade is dominated by only a few multinational companies operating in the European Union. The United Kingdom, the Netherlands and Germany are playing a very important role in the tea trade. "At the global

level, 85% of global production is sold by multinationals” (cby.eu, 2013). The top packers include,

- Unilever (Brooke Bond, Lipton/Unilever Trading Company, UK – the Netherlands)
- Tetley (Tata Group)
- R. Twinings (Associated British Foods)
- Ostfriesische Tee Gesellschaft (OTG Germany)
- Teekanne (major German company)

These companies are most dominant in the tea trade with Sri Lanka. “Concentration is also high in the retail market at the national level. The top three packers, for example, have a 60% share of the tea market in the UK, 67% in Germany and 66% in Italy” (van der Waal, 2008, p 26).

However, first trade structures and distribution channels for tea have to be considered. “The route to the EU market, shown in Figure 1, is often facilitated by the activities of traders (i.e. importers, agents, brokers) who act as the middlemen between producers and their customers. Traders may also work with, or be a part of, downstream companies, which allows them to supply these companies directly” (cbi.eu, 2013; ISD, 2008, p. 15)



Source: CBI.eu, 2013

Figure 1: Tea supply chain

“Brokers constitute an important link between tea producers and buyers, since they communicate information regarding supply and demand. About 70% of the global tea production is sold through auctions.” (cbi.eu, 2013) The auction brings buyers (traders, agents and importers/blenders) together in order to determine the price through interactive competitive bidding. These trade structures show obviously that a transparent ethical sourcing is a vast task.

Before the child labour problem is analysed with respect to all relevant stakeholder who are directly or indirectly involved in economic contracts of tea production and/or trading with tea, one should know the basic principles of ISCT.

### ***Integrated Social Contract Theory – The Balance between Cultural Empathy 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 multinational companies have adopted the theory of ethical relativism. Ethical relativism is the view that there are no ethical standards that are absolutely true. Something is right for the people or companies in one 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 concludes that if it is considered wrong for a German company to be involved in child labour in Germany, then it is not necessarily wrong for Sri Lankans to employ children in their own society.

The existence of some common values and norms are indispensable for sustained business relationships. The call for the introduction of universal principles and standards in business refer to,

- 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 originated by Donaldson and Dunfee (1999) 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 and Dunfee (1994,1999) 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 the 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 and Dunfee (1999) propose four principles, which should 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. Hypernorms which measure the value of authentic norms against a set of universally upheld values. Culturally invariant moral concepts are reflected in these hypernorms “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 the case of conflicts between norms, which satisfy principles 1-3, an order of priorities must be drawn up by using rules that 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).

## 2. Applying Theory to Practice

First, it is necessary in this research study to identify all relevant communities, which may have a stake or are involved in the economic contract. The United Kingdom, the Netherlands and Germany are dominant in the EU regarding tea trade with Sri Lanka. Even if the ethical notions and practices concerning child labour in the Netherlands and the United Kingdom presumably may be not so different to German ethical notions, it is necessary to create a separate study for all countries. It is attempted to apply ISCT to the problem of child labour in the tea plantation sector in Sri Lanka in order to provide guidelines for German tea corporations producing or trading with tea companies in Sri Lanka.

Secondly, an ethical judgment and legitimation of child employment on tea plantations in Sri Lanka can be founded only, if the following criteria are investigated,

- Production and sourcing channels of traders (i.e. importers, agents, brokers), producers and their customers have to be analyzed regarding the question in how far they are involved in child labour directly or indirectly.
- It has to be specified what child work in Sri Lanka means from a legal and cultural perspective.

### ***Recognition of the Ethical Problem: Child Labour in Sri Lanka***

Sri Lanka has signed and ratified ILO Convention 138 on the Minimum Age for Employment and C 182 on the Worst Forms of Child Labour. The *International Labour Organization* (ILO) Convention No. 138 on the minimum age for admission to employment and work supports this classification of the age appropriateness of various activities done by children, determining the minimum age at which children can start work as the age of completion of compulsory schooling or at least 15 years of age, although 14 can be the minimum age in developing countries (ILO No. 138, Article. 2). Light work which does not threaten health and safety and is consistent with schooling attendance, may be performed by children between the ages of 13 and 15 (in developing countries 12 and 14) (ILO No. 138, Article 7). However, the minimum age of employment for activities that can be harmful to health, safety, or morals of young persons, should not be less than 18 years (or 16 under strict conditions) (ILO No. 138, Article 3). Furthermore, the ILO labels in the Convention No. 182 some specific activities as the “worst forms of child labour”, which have priority to be eliminated. These “worst forms” include all forms of slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflicts, prostitution, pornography and illicit activities (ILO No. 182, Article 3).

The National Child Protection Authority Act, No. 50 of 1998 (NCPAA, 1998) states in section 39 that a child means any person under 18 years old. The Employment of Women, Young Persons, and Children Act, No.47 of 1956 sets the minimum age for employment at 14 and the minimum age for employment in hazardous work at 18 (NCPAA, 1998, pp. 3, 20, 21). Children under age 14 may engage in light work in family run farms or as a part of their technical education, as long as their employment does not prevent them from attending school (NCPAA, 1998, p. 14, 22, 23). Education in Sri Lanka is compulsory until the age of 14 and free through age 18 (NCPAA,1998, pp. 23, 29).<sup>1</sup>

<sup>1</sup> See also the definition in: *Child and Activity Survey 2008/2009 Chapter 5, p. 45.*

The law defines children as beings below the age of 18 years, and stipulates that all children must attend school until they reach the age of 14 years (UNICEF-OOSC, 2013, p. 4). Thereafter, they are eligible to enter the labour market provided certain conditions are fulfilled. “However, serious issues exist with regard to the gap between 14 years and 18 years, during which many children are either trafficked or enter the hazardous labour sector, the effects of which can be harmful to their health, morals and safety” (salary.lk, 2013).

### **Identifying Relevant Communities**

The broader Sri Lankan community seems to be relevant, since the issue of child labour takes place in Sri Lanka and a domestic producer hiring children supplies the domestic trader with tea. Moreover, the broader EU societies are other relevant communities, since the tea will be sold there.

The estimates of the number of working children in Sri Lanka vary because of the differing definitions, concepts and methods of estimation. The Sri Lankan “Child Activity Survey 2008/ 2009” (DCS, 2011) estimated the total number of children in the age group of 5-14 years in Sri Lanka at 3,300,719. The number of children who is engaged in child labour<sup>2</sup> is 51,813. This is a proportion of 1.57% (DCS, 2011, p. 47)<sup>3</sup>. 12.9% of these working children are not attending school (DCS, 2011, p. 49). The prevalence of child labour is higher in rural areas. Altogether 78.7 % of the children engaged in child labour are working in the rural sector (DCS, 2011, p. 30).<sup>4</sup>

The main reason for child labour in Sri Lanka is the poverty at the household level. It is estimated that about one-fifth of the population lives below the poverty line (colombopage.com, 2013). However, the situation is much more worse for the tea plantation Tamils. “In other words, Estate Tamils today still suffer from what could easily be described as economic slavery” (abdf.org, 2009). The specific and dramatic economic and social situation of the plantation Tamils requires a separate study.

This economic situation puts pressure on families that their children have to be “economically active” rather supporting the family than going to school (UNICEF-OOSC, 2013, p. 36-37). “The main problem is insufficient income” (DCS, 2011, p. 18). 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 pressure puts condoned pressure on families working in the tea plantation sector to force their children below the age of 14 to work (Sinnathurai & Březinová, 2012, pp. 44-45).

The Child Activity Survey states that a majority of the child labourer are below the age of 14 (DCS, 2011, p. 21). The majority of the boys engaged in child labour are from rural areas working as agricultural workers for example in tea plantations while the girls are mostly used as domestic aides in urban areas (DCS, 2011, pp. 35-42). 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 Sri Lankan community.

The second issue refers to 14 until 18 year old children who are not allowed by law or the ILO Convention to do hazardous work in in the tea plantations. That is the big legal grey area. Ideally seen, children have formally received their right to minimal education until the age of 14 without any exploitation. However, after

<sup>2</sup> According to definition DCS 2011, p. 45.

<sup>3</sup> Difference between „Child labour“(age group 5-14: 51.813 children à 1.57 % of total children in this age group, DCS 2011, p. 47 ) and “Children engaged in work of economic value” (age group 5-14: 302.865 childrenà 9 % of total children in this age group, DCS 2011, p.29). Definition of “Working children” see DCS 2011, p. 29 and “Economic activity” see pp. 34-35.

<sup>4</sup> For a detailed analyses see: *Child and Activity Survey 2008/2009*, pp. 30-45.

the age of 14, i.e. after leaving school, the children are free for any kind of exploitation! These conditions are condemned and not tolerated by the community and therefore do not represent an *authentic norm*. This case obviously violates the Sri Lankan law and the ILO Convention C 182 and is not to be discussed further.

“Germany, in contrast, is one of the pioneers in the struggle 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 14,<sup>5</sup> however, children above the age of 13 may be employed under strictly specified conditions.<sup>6</sup> Furthermore, there is an *obligation* for children to attend school in Germany, making it more difficult for children to participate in illegal employment” (Auchter, 2013, p. 145).

It may be presumed that the Sri Lankan community holds an authentic norm allowing children below the age of 14 to be economically active, as long as 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. Table 2 at the end of paragraph 3.4 summarizes the process of identifying the relevant communities and authentic norms.

### ***Legitimacy of the Authentic Norms***

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 listing of hypernorms (Donaldson and Dunfee 1999, pp. 54, 256), they leave the task of identifying hypernorms to ethical theorists. In this context, they offer a set of proxies for identifying presumptive principles with hypernorm status relevant to a pending decision. The different kinds of evidence in support of a hypernorm are as follows,

- “Widespread consensus that the principle is universal.
- Component of well-known global industry standards.
- Supported by prominent nongovernmental organizations such as the International Labour Organization or Transparency International.
- Supported by regional government organizations such as the European Community, the OECD, or the Organization of American States.
- Consistently referred to as a global ethical standard by international media.
- Known to be consistent with precepts of major religions.
- Supported by global business organizations such as the International Chamber of Commerce or the Caux Round Table.
- Known to be consistent with precepts of major philosophies.
- Generally supported by a relevant international community of professionals, e.g., accountants or environmental engineers.
- Known to be consistent with findings concerning universal human values.
- Supported by the laws of many different countries.” (Donaldson & Dunfee 1999, p. 60)

A decision maker should take a rebuttal presumption that a hypernorm exists, if two or more of these kinds of evidence confirm a widespread recognition of an ethical principle and if there is no evidence countering the hypernorm presumption. Generally, it can be said that the more types of evidence in support of a hypernorm, the stronger the presumption (Donaldson & Dunfee, 1999, p. 6).

An authentic norm, which is consistent with hypernorms, is considered to be both legitimate and obligatory, though norms violating hypernorms have to be rejected. However, it is possible that different legitimate norms come into conflict.

<sup>5</sup> see § 5 Jugendarbeitsschutzgesetz

<sup>6</sup> see § 5 (3) Jugendarbeitsschutzgesetz; § 2 Kinderarbeitsschutzverordnung



The probability that the German authentic norm of not allowing employment of children below 14 years of age violates any hypernorm is low. However, it seems to be more likely that there may exist hypernorms prohibiting child labour or employment of children younger than 14 years old. Since there is a paucity of literature and academic studies on the ISCT decision making-process concerning the ethicality of different kinds of child employment,<sup>7</sup> the methodology of identifying presumptive hypernorms proposed by Donaldson and Dunfee (1999) will be applied at this place. With regard to the Sri Lankan case, it seems appropriate to determine whether there is evidence for the existence of the following hypernorms: A hypernorm prohibiting the non-hazardous employment of children below 14 years of age; a hypernorm prohibiting hazardous and exploitative child work between 14 and 18; and a hypernorm prohibiting child employment in the case of deprivation of educational opportunities.

The sources used at this point include the United Nations (UN), the International Labour Organization (ILO), the Organization for Economic Cooperation 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. In the following analysis, each source is investigated in terms of child employment. Fundamental issues of labour rights and labour conditions are not considered.

Taking into account the existence of a hypernorm the different resources are given below in table 1 which summarizes the results. A detailed consideration of the findings would go too far.

Table 1: Child employment – Hypernorm recognition

		<b>Prohibition of employment of children aged below 14</b>	<b>Protection against hazardous and exploitative conditions</b>	<b>Right to minimal education</b>
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, Hinduism, Buddhism	-	✓	✓
Caux Round Table	Stakeholder Management Guidelines	-	✓	✓
hypernorm status		-	✓	✓

Source: own illustration

Applying these hypernorms to the Sri Lankan case, it can be said that the German authentic norm does not infringe any hypernorm and thus is legitimate. Allowing children younger than 14 to be economically active like the Sri Lankan norm is more problematic. When children aged 6 to 14 participate in light work, there does not appear a problem as long the activities performed by these children are neither harmful nor dangerous, the hypernorm of protecting children against exploitative and hazardous working conditions is not violated.

However, one has to consider if children aged under 14 working on tea plantations helping their family violates the hypernorm against employment depriving children of their education. Thus, two distinct cases have to be treated differently. It is decisive whether the children work full-time or only after school hours during their leisure time. Working full time 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 the Sri Lankan businessman. On the other hand, the

<sup>7</sup> Excepting Hartman/Shaw/Stevenson (2003) who identified hypernorms concerning child labour under sweatshop conditions. However, their study covers only the part of identifying hypernorms, and fails to apply the whole ISCT decision-process.

practice would be legitimate when the Sri Lankan children attend schooling and achieve basic education, thus help their family only in their free time after school hours. In this setting, the practice would not violate any hypernorm. The ISCT decision-process has shown, the issue requires the application the rules of thumb, since the German and Sri Lankan norms would be in conflict.

### ***Resolving Conflicts and Ethical Judgment (Rules of Thumb)***

Donaldson and Dunfee have established a set of priority principles to help practical decision-makers to arbitrate conflicts between coexisting legitimate norms. The contents of the particular rules may be summarized as follows (Donaldson & Dunfee, 1999, p. 184),

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." (p. 269-270)

Applying the rules of thumb helps to resolve ethical conflicts and to provide guidance; however, the six priority rules must be weighted and applied in combination, since there is no ordinal ranking or hierarchy for these rules. 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.

It is assumed the practice of child employment takes place in the Sri Lankan community and a German manager is involved in a transaction. We have to distinguish in the following two cases whether the tea blender/packer is directly involved with the estate factory or indirectly via the trader. 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 and adverse effects on others

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 in the case when an exporter/local subsidiary of blenders buys directly at the estate factory. 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 Sri Lankan businessman (trader), since the German managers (buyers) 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, p. 150).

Considering Dunfee's argument than it does appear that this rule applies in this case. It has also to be noted that German multinational traders with their own plantations are directly involved. That implies that this rule also appears.

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

Here, the question arises whether the broader German or Sri Lankan 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 (Sri Lankan trader, local subsidiaries, blenders) being supplied by a family engaging their own children in light work. Neither a German tea retailer nor a trader or blender are directly involved in employing children. Even if directly involved as an estate owner there would not emerge a problem as long the children being engaged in it only do light work. 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" (Auchter, 2013, p. 147).

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

This rule determines priority on the basis of the relative size of the relevant communities. Again, it becomes obvious that the determination and definition of the relevant communities in the macro social contract is crucial. There exists a horizontal relationship between the German and Sri Lankan communities. In direct comparison to the sizes, the German society is more than six times larger than the Sri Lankan society. This priority rule supports the German norm not allowing child labour aged under 14 even in cases of light work.

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

However, it appears that child labour of those aged under 14 does not substantially harm the economic environment of that transaction. Furthermore, it seems unlikely that when a German blender is doing business with a Sri Lankan tea producer or trader this would be harmful to the German economic system. Thus, a dominance in terms of the fourth rule of thumb remains ambiguous.

#### 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.

Sri Lanka is a multi-religious country, dominated by Buddhism and Hinduism. The religions consid-

ered here comprise 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 the children's education, because children have the right to proper education (ILO, 2012, p. 42). In line with Catholicism and Islam, education in the Jewish tradition is important, too. The children's family and community are responsible for providing education. Furthermore, children should not be subjected to harmful hard labour (ILO, 2012, p. 42). Buddhist tradition is also skeptical 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 skepticism, since it is considered to be incompatible with the values of human worth and dignity. In addition, the religions attach importance to education. However, there is no clear consent about a minimum age for admission to employment so the result remains ambiguous.

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

This rule supports the Sri Lankan 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.

Table 2: Applying the Rules of Thumb to Child Employment

practice	Principles for evaluating behavior						Conclusion
	1	2	3	4	5	6	
Child labour	U	-	U	E/U	E/U	E	<b>no clear dominance</b>

Source: Own illustration

### 3. 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 trader or blender/packer doing business with a Sri Lankan exporter it is morally not acceptable because his suppliers are indirectly involved in light child work under the age of 14.

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).

However, not doing business with Sri Lankan exporters, respectively with the Estate Factories and Grower Associations would not solve the problem. This would not help the children to receive education and it would be unfavourable for the family.

The German manager could improve the contract conditions in the following way so that the company has to guarantee that their suppliers both pay the children's regular wages and make sure they attend school (Donaldson 1996, p. 12; Donaldson & Dunfee, 1999, p. 231). Moreover, in the new contract it could be stipu-

lated that after reaching the age of 14 each child should get a job offer and that the company should pay the school fees and school materials. In this way, no hypernorm would be violated and long-term benefits would be generated in the host country.

It has to be taken into account that attitudes and behaviours may change over time (Donaldson & Dunfee 1999, p. 148), possibly causing an evolution of norms meaning that the current authentic norm would be cease to be authentic. For instance, the Sri Lankan Government wants to amend the actual National Child Protection Authority Act and ban all forms of child employment for children aged less than 14 years of age. 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 Sri Lankan authentic norm towards light child work may change over time. However, that is a long way to go. It has to be mentioned here that the “National Steering Committee on Child Labour” (NSC) coordinates the implementation of the “Roadmap for the Elimination of the Worst Forms of Child Labour” by 2016, the Government’s key mechanism for the elimination of the worst forms of child labour (US Department of Labour, 2012, p. 659).

### ***Consequences for the Formulation of Ethic Codes***

The study has shown that child employment is a complex issue and that the acceptance of these practices are perceived differently in Germany and Sri Lanka and business practices considered unethical in one setting may be perceived ethical in another.

This experience shows that ethic guidelines formulated too generally and using popular language cannot give responsible guidance to a qualified and ethically responsible decision maker. The approach shows that we need a more differentiated understanding whose rights are being considered and to whom rights are being denied.

As an example the following general statement published by *Twining* Company could be adduced, which is representative for the unpractically and legally not binding proclamations of intent as stated by most tea plantation owners and *traders* (i.e. importers, agents, brokers): “Children and young persons under 18 shall not be employed at night or in hazardous conditions. These policies and procedures shall conform to the provisions of the relevant ILO standards” (twining.co.uk 2013). It should be mentioned that the Code of Ethics of *Ethical Tea Partnership* (tetley.com 2012) is going in the same direction and is also meaningless as nearly every single Ethic Code published by a company. One has to follow up thoroughly whether the market actors participate in tea trade and/or tea production are directly or indirectly involved into the supply chain. This fact has also to be considered in a process of certification “since more than 90% of the teas are sold through auction and not direct. In other words, the producers might not know who the ultimate customer is. Such certified teas might even end up in destinations, which do not reward, recognize or compensate efforts taken by the producers towards following CSR practices” (ISD, 2008 p. 56).

One cannot emphasize strongly enough 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 the “prism” providing a variety of considerations (hypernorms) 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. 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.

The application of ISCT has shown some shortcomings of the framework: Especially in situations requiring immediate ex ante decisions, the limited possibility to acquire information may influence the quality of the framework. An inherent problem of the approach is the identification of relevant communities, identifying authentic norms and hypernorms. Severe criticism was voiced by scholars on the justification and value of hypernorms but they can be considered as a mitigation against relativism, Dunfee even describes them as

an “important bulwark against cultural relativism” (Dunfee 2006, p.310).

“All things considered, ISCT is a very promising concept of business ethics. The basic idea of integrating empirical evidence and normative theory is unique and the concrete framework for practical applicability is ground-breaking” (Auchter, 2013, p. 148). The approach delivers a comprehensive framework capable of guiding and constraining everyday ethical conduct on national and international level.

### ***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.

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