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Textile and Garment Industry in India
Challenges of realising human rights and
the impact of the Ruggie Framework

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Abstract

Many textile and garment (T&G) workers are facing human rights abuses on a regular basis, especially women since they make up a majority of the workers. Most T&G factories are located in less-developed countries (LDCs), and India represents one of the top T&G exporting countries. The industry provides India with economic benefits and have been an important factor to their rising GDP. Over the years, the media attention on the T&G industry has additionally risen and it repeatedly reveals the occurrence of human rights violations. Poor working conditions appear as a normality in the T&G industry in India. However, the international sphere and consumers have started to push for changes to better the working conditions and wants to know what the conditions are where their garments are being produced. Some changes have occurred, e.g. the implementation of the United Nations' (UN) Ruggie Framework introduced in 2008. The Ruggie Framework was developed attempting to frame the responsibility of the actors involved in the T&G sector; states and businesses. Since its introduction, human rights violations still seem to occur regularly in the factories. The aim of this thesis is first to assess what the challenges are for realising human rights in the T&G industry. Second, I will look at how the Ruggie Framework is operationalised to examine if the practices in the T&G industry in India is in alignment to the framework.

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Abbreviations

CAT: Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment

CDA: Critical Discourse Analysis

CEDAW: Conventions on the Elimination of All Forms of Discrimination

CITU: Centre of Indian Trade Unions

CSR: Corporate Social Responsibility

CRC: The Committee on the Rights of the Child

DALY: Disability-Adjusted Life Year

DWCP: Decent Work Country Programme

ESI: Employees' State Insurance

EU: European Union

FIDH: International Federation for Human Rights

GATT: General Agreement on Tariffs and Trade

GATWU: Garment and Textile Workers Union

GDP: Gross Domestic Product

HRC: Human Rights Committee

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

ICMRW: International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families

ICN: India Committee of the Netherlands

ICPAPEL: International Convention for the Protection of All Persons from Enforced Disappearance

ICT: Information and Communication Technology

ILO: International Labour Organisation

INR: Indian Rupees

T&G: Textile and Garment

LDCs: Less Developed Countries

MFA: Multi-Fibre Agreement

MPV: Mahila Police Volunteers

NGO: Non-Governmental Organisation

NHCR: National Human Rights Commission
OECD: Organisation for Economic Co-operation and Development
OHCHR: Office of the United Nations High Commissioner for Human Rights
OP: Optional Protocol
PF: Provident Fund
UN: United Nations
SAWDHA GREH: Scheme for Women in Difficult Circumstances
SA 8000: Social Accountability 8000 Standards
SFC: Sisters for Change
SOMO: Centre for Research on Multinational Corporations
US: United States
US OSHA: United States Occupational Safety and Health Administration
WHO: World Health Organisation
WRAP: Worldwide Responsibility Apparel Production Certification
WTO: World Trade Organisation

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Chapter 1

Introduction

Many textile and garment (T&G) workers are facing human rights abuses on a regular basis, especially women since they make up a majority of the workers. Most T&G factories are located in less-developed countries (LDCs), and India represents one of the top T&G exporting countries. The industry provides India with economic benefits and have been an important factor to their rising gross domestic product (GDP). Over the years, the media attention on the T&G industry has additionally risen and it repeatedly reveals the occurrence of human rights violations. Poor working conditions appear as a normality in the T&G industry in India. However, the international sphere and consumers have started to push for changes to better the working conditions and wants to know what the conditions are where their garments are being produced. Some changes have occurred, e.g. the implementation of the United Nations' (UN) Ruggie Framework introduced in 2008. The Ruggie Framework was developed attempting to frame the responsibility of the actors involved in the T&G sector: states and businesses. Since its introduction, human rights violations still seem to occur regularly in the factories. The aim of this thesis is first to assess what the challenges are for realising human rights in the T&G industry. Second, I will look at how the Ruggie Framework is operationalised to examine if the practices in the T&G industry in India is in alignment to the framework.

1.1 Background

The global T&G industry has expanded over the years with increased consumption, especially from the Western countries. The global fashion market has changed from previously producing a few lines of clothing per year, 'seasons', changing drastically with clothes being produced in bulk and at all times of the year and at the cheapest possible price. Large multinational corporations represent the majority of companies selling clothes. Along with the expansion of clothes produced and the low prices, the production sites of the T&G factories have shifted. Even though many of the multinational corporations are owned by people in the Western countries, almost all of the T&G factories are located in LDCs. Factories in China, Bangladesh, India, etc. offer production at cheaper prices, making them a necessary part of the corporations' supply chain in order to meet the demand in the industry.

Cheaper prices for the consumers do have another side. Human rights violations are repeatedly reported in the T&G factories, e.g. the workers are forced to work overtime on a regular basis in order to meet the demand of clothes, few workers report that they receive extra payment for working overtime, and the payment they do receive is often below the minimum wage, other violations include denying of lunch and toilet breaks, workers not receiving contracts, etc. Especially vulnerable to human rights violations are women, who represents a majority of the workers in the T&G industry. Despite gender equality being enshrined in the constitution, women are discriminated in general in the Indian society. Sexual harassment are violations women face daily, ranging from sexual comments to rape. Informal workers are another vulnerable group in the T&G industry. This will be discussed in more detail in chapter 3.

Despite human rights violations being repeatedly reported, India has a strong legal framework with laws directed towards different aspects of the T&G industry. Gender equality, minimum payment, trade unions, maternity benefits, etc., are all protected under the laws and legislations in India. Further, they are protected under different international treaties and conventions that India has signed and ratified. By examining written laws and legislations, the working conditions in the T&G industry appear to be respecting the human rights. However, as briefly presented, this is not the reality.

The key concepts of the thesis are gender equality, gender equity, and health in general of the T&G workers. The phenomena which the thesis aims to explore further include several dimensions of the key concepts. I have relied on World Health Organizations' (WHO) definition of the concepts;

“Gender equality refers to equal chances or opportunities for groups of women and men to access and control social, economic and political resources, including protection under the law (such as health services, education and voting rights). It is also known as equality of opportunity – or formal equality. Gender equality is often used interchangeably with gender equity, but the two refer to different, complementary strategies that are needed to reduce gender-based health inequities.” (WHO)

“More than formal equality of opportunity, gender equity refers to the different needs, preferences and interests of women and men. This may mean that different treatment is needed

to ensure equality of opportunity. This is often referred to as substantive equality (or equality of results) and requires considering the realities of women's and men's lives.” (WHO).

“Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” (WHO).

1.2 The Research Problem

As presented, the changes in the global fashion market have left the T&G workers under poor conditions. With India being one of the major top exporting countries, the T&G sector make up a substantial portion of the country's GDP. The economic consideration of the T&G industry seems to have a higher priority than the working conditions. There have been discussions regarding the responsible actors of the poor working conditions, and attempting to solve this issue the United Nations introduced the Ruggie Framework in 2008.

The Ruggie Framework is a throughout framework that suggested the states would have the primary duties and the companies would have the secondary duties to achieve human rights. The framework is formally known as ‘the UN Protect, Respect Remedy Framework for Business and Human Rights’ and it consists of 31 guiding principles. With some reluctant in the beginning of its introduction, both states and companies eventually welcomed the framework. Companies were feeling the pressure from the consumers to take part in the role of bettering the working conditions in the factories in their supply chains.

Despite the introduction of the framework, human rights violations are still a problem in the T&G industry in India. The demand for cheap clothes is still present, which is pressuring suppliers to maintain their low costs. Pinpointing the responsible actors does not seem to have been adequate, and there is a need for further changes in the T&G industry.

1.3 Objectives of the Study

The media regularly report about human rights abuses in the T&G industry and it has been clear to me that poor working conditions in the T&G sector still represent the common practices. After becoming aware of the Ruggie Framework, I was interested in examining its effect. The framework has existed for a while and received much positive feedback. Consumers' awareness has expanded over the years, and a demand for change has therefore followed. With consumers, companies, and states on the same page, why are human rights violations still occurring in the

T&G industry? Attempting to understand this, I started examining the challenges for realising human rights. Some of the main aspects have briefly been introduced, and it is clear that it is complicated and time-consuming to change the entire industry. The challenges reported do not seem to end, and I only had the possibility to touch upon some of the main ones, which were the ones mostly repeated in the reports I read.

With the challenges in mind, I further wanted to compare the Ruggie Framework to the practices in the T&G industry. I entered the study with the assumption that some of the practices would not be in alignment to the framework, which was an obvious assumption seeing the multiple reports on human rights abuses in the industry. The aim of the thesis is to compare the scope of the alignment (or the lack of) between the Ruggie Frameworks' guiding principles and India's legal framework, to the practices in the industry. Seeing that the guiding principles consists of 31 principles, I could not include all of them. They are divided into three parts: states' duty to protect human rights, business' responsibility to respect human rights, and remedy. I will present a few of the principles to give a general overview of what the different parts entail. A full list of the principles is easily accessible at the UN's webpage.

The research questions and methods will be further presented in chapter 3.

1.4 Organisation of the Thesis

The structure of the rest of the thesis will begin with a global literature review to give a general overview of the most important aspects of the T&G industry. Following this chapter is a brief chapter on the methodology of the paper: the epistemological and ontological perspectives, research design, methods of data collection and methods of data analysis, and limitations to study. The next two chapters will present each of the research questions of the thesis, before a final conclusion chapter.

Chapter 2

Literature Review

In this chapter the global T&G industry will be presented followed by the structure of the industry. Further, the chapter will examine changes over the years in order to get an understanding of the development to the current practices of the T&G industry. Factors included in this development are technological development, a new capitalist approach, raising international awareness, and the introduction of Corporate Social Responsibility (CSR). This background literature will help to problematize the need to study the Ruggie Framework. First, however, a brief overview of the T&G industry.

2.1 Global Textile and Garment Industry

The global T&G industry has been a growing industry since the 1970s and presently employs 60-75 million workers (Kane 2015). In 2005 the industry was estimated to be worth \$450 billion, representing 5.1% of the total world merchandise trade (McNamara 2008). Along with the growth of the industry, the location of the industrial production witnessed a shift. Western countries in Europe and North America controlled most of the industrial production until after World War II, whilst less-developed countries (LDCs) concentrated on production of raw materials (Bonacich 1994). Today, LDCs produce half of the worlds' textiles and three-quarters of worlds' clothing exports (UNCTAD 2005). EU and China are the biggest exporters of clothing, additionally the EU is one of the main importers of clothing along with the US and Japan (McNamara 2008).

Globalisation has given opportunities to the developing world by including them in the international market. The T&G industry is one of the most valuable manufacturing contributions. E.g. in 2004, the clothing industry provided more than 40% of the total merchandise in Cambodia, El Salvador, Bangladesh, Sri Lanka, Mauritius, and Lesotho. (McNamara 2008). People in these countries are reliant on the industry for maintaining a job, and countries themselves are reliant on the industry for its export revenues.

Further, global production has not only been beneficiary to the LDCs, but similarly to the Western countries. Coalition of low-cost, unskilled labour from LDCs, with management,

technical and financial resources of Western countries, provide support for both sides in the industry. More goods and services are produced at a cheaper cost (Bonacich 1994). Nevertheless, the entrance into manufacturing for export is a step towards a much wanted development for LDCs. There is no need to question the rapid growth on this particular export industry, seeing it is one of the few industries in which LDCs can offer comparative advantage in manufacturing (Hale and Willis 2005).

Employment of millions of workers has given opportunities for individuals to be included in the employment sector. However, as a consequence of the rapid increase in the employment sector, working conditions are poor in a majority of the T&G factories.

Human rights violations are repeatedly reported in the T&G factories, e.g. the workers are forced to work overtime on a regular basis in order to meet the demand of clothes, few workers report that they receive extra payment for working overtime, and the payment they do receive is often below the minimum wage, other violations include denying of lunch and toilet breaks, workers not receiving contracts, etc. These violations appear to affect most T&G workers, but there are some groups of workers more vulnerable than other.

Women make up a majority of the workers in the T&G industry, and both physical and psychological sexual harassment are violations women face daily, ranging from sexual comments to rape. At the workplace, maternity benefits are another right directly towards women that is often reported being abused, some women risk losing their job when they become pregnant, or do not get paid during their maternity leave. Discrimination both at work and outside work makes it difficult for women to demand change. In addition, most people holding higher jobs than at the factory work level in the T&G sector, are men. With this in mind, women often do not report the human right incidents, either because of fear or simply because they believing nothing will happen if they do report violations.

Informal workers are another vulnerable group in the T&G industry. The exact number is difficult to estimate, but in some countries, e.g. India, it is said that around 90% of the workforce in India are in the informal sector. This suggests that many T&G workers are also informal workers, meaning they are self-employed or casual labourers earning daily wages. They are more vulnerable to receive protection because they are not offered social security benefits such as retirement pension, over payment, and so on.

In addition to these two vulnerable groups, the lack of trade union membership gives the workers little power. By giving a brief overview of the T&G industry, it is clear that human rights violations are a difficult challenge to tackle. In order to understand this outcome, it is important to assess how the industry operates.

2.2 Structure of the Industry

Expansion of the global T&G industry has had a tremendous impact on the industrialisation process of LDCs as briefly mentioned. Employing millions of workers, consisting mostly of women, have helped semi-skilled and unskilled workers contribute to their country's development. In addition to a decreasing unemployment rate, the expansion of the global T&G industry has led to a wide variety of technological developments.

Before the paper continues assessing the structure of the industry, it is important to make the distinction between the textile and the garment industry. They are closely combined, the textile industry on one hand consisting of production of textiles from raw material using yarn spinning, fabric weaving, dyeing and finishing, and the garment industry on the other hand, sewing together the actual garments (Nordås 2004).

For the most part, the paper will discuss both industries due to their close relationship. Despite their dependencies, they separate in a few sectors. It will be specified in the paper whenever its regarding both T&G, or one of the industries.

The garment industry is also divided in two. The garment industry contains both the high-quality fashion market and the mass production of lower-quality garments. Modern technology, good working conditions, and well-paid workers are the key components recognised by the high-quality fashion market. Firms' interests in this market are to produce new designs and compete with other high-quality fashion firms. Garments produced by these firms are high-priced with few produced items and most often located in the developed world where the designers work closely with the garment workers (Nordås 2004).

Mass production of lower-quality garments, however, is the prominent sector in the LDCs and will be the focus of this paper. Production here includes standard garments more generally afforded by consumers. Overall, consumers spend less money on clothing than before, but

prefer to shop more frequently and own more clothing items (Nordås 2004). In order to meet the growing demand from consumers, the retail sector has been forced to adapt to the emerging technological developments.

2.2.1 Technological Development

Increasing demand from consumers have pushed the T&G industry to expand both labour and machine utilisation. In order to fulfil this, the focus has been to produce technologies that boost the development of automated and computer-based manufacturing systems, to improve speed, quality and flexibility at all stages in the production (Keenan 2004). This section of the paper will briefly introduce some of the main technological introduction in different sectors of the T&G industry. The process of producing garments starts with the raw materials, a sector with multiple recent technological developments.

Weaving has shifted from operating with composite mills combined with spinning and processing operations, to power loom factories more capable to meet the higher volume of demand at lower costs. Power looms are mechanically operated combining threads to make cloth at a high production speed, as opposed to operating manually. Similarly, most of the spinning sector converting fibres, has moved from hand spinning with spinning wheel to automated spinning machines (Chandra 2006).

Further, the processes of dyeing and finishing textiles have partly been affected by new technologies. Automated batch has been introduced to the dyeing sector, but for the most part it relies on hand processors dyeing cloth and yarn manually. Finishing and printing are mostly conducted by automated or semi-automated equipment (Chandra 2006).

Perhaps the most important development are the specialised sewing machines. These machines have made the division of sewing tasks in garment production more effective. Sewing involves multiple operations that are often divided in different workstations where each station has specialised machines for different sewing tasks. In order for this to work efficiently, the zones are divided with equal amount of tasks in order to finish at the same time, resulting in increased on-time delivery and production (Carr and Chen 2012).

In addition to technological developments in the production of T&G, are effective technological implementations to the merchandise and retail sector, e.g., barcodes for data processing. Since

its introduction to the T&G industry in the 1980s, retailers have been able to monitor their products, allowing them to know which products, sizes, colours, etc. sell better than others. By monitoring popular products, barcodes make the production, track of inventory, and deliveries of garments flow much better (Nordås 2004).

Not only have developments been presented in automated and computer-based manufacturing systems, but additionally to the information and communication technology (ICT) development. ICT has improved the supply chain management, customisation, and reduction in lead time, due to more efficient information sharing systems (Keenan 2004). Communication between manufactures and companies has therefore become much more flexible. For instance, ICT developments have enabled Western companies to create their designs in-house and at the same time managed to program machines in LDCs. Also, it has allowed for a higher level of customisation in clothing with computer-generated body measures, enabling the production of better-fitted customised apparel (Keenan 2004).

As we have seen, the spectrum of new technologies developed over the years in the T&G industry is widespread and has had a crucial impact on the efficiency, allowing the industry to cope with the rapid increase of demand. At the same time, this development has affected human resources. Technological inventions have replaced parts of the production tasks previously conducted by labour employment. Falls in the employment sector in the T&G industry have been witnessed worldwide (Keenan 2004). Decrease in employment in the Western countries has occurred due to corporations moving to cheaper locations in LDCs, and again, employment in LDCs has decreased due to their replacement to new technology. Nevertheless, the T&G industry remains large because of the increase in demand, and changes in the model of the T&G industry have therefore been necessary.

2.3 New Capitalism

As mentioned, the geographical shift in production in the garment industry started in the 1970s when a new form of capitalism started developing. Multinational corporations behind clothing brands stopped having factories in their home country, and shifted to what is called subcontracted supply chains in the LDCs. This way the corporations could concentrate on design, marketing and brand developments in-house (Hale and Willis 2005). Even more convenient was the access to the cheapest manufacturers and resignation of responsibility through the subcontracting supply chains. By using subcontractors, corporations can easily

choose the ones sourcing production at the best quality and cheapest price. Manufacturers are under constant pressure to maintain a business relationship with the corporations, they operate as most other businesses and do what they can to reduce expenses and receive maximum profit.

In order to take a more thorough look at the relationship between actors involved in the garment industry, a supply chain approach is helpful.

2.3.1 Supply Chain Approach

When analysing patterns of global manufacturing, the supply chain is a common approach. The approach maps out the actors involved in the global T&G industry, including all actors from top to bottom. It is used to examine the relationship between the decisions made by the ones in power to the individual experiences at the local level. The supply chain includes all stages involved, from production of raw materials to manufacturing and retail. In order for the supply chain to meet the demand from retailers with fast turnover in styles and fashion trends, the different stages need to be integrated in terms of information and efficiency. For garment manufacturers to be able to quickly respond and produce new clothing items, they are dependent on textile manufacturers to have available products. Further, textile manufacturers need to be able to access raw materials. Production is more capital- and skill intensive industry compared to garment manufacturing, making this a complicated supply chain to function (McNamara 2008). A supply chain focuses on how companies govern this buyer-driven T&G industry, where the companies themselves are in power rather than the factory workers.

As touched upon, most large corporations no longer produce T&G in-house and are therefore dependent on other manufacturers. Attempting to shorten the supply chain, many large corporations have started to reduce the number of manufacturers they do business with. In shortening the supply chain, it becomes easier to have control over the areas involved. Again, this pressures manufacturers to continue a business relationship with the corporations. In order to maintain the relationship, multinational manufacturers have started to provide ‘full-package’ services where the subcontractors control all areas below the corporations (Hale and Willis 2005). This means that the corporations are only responsible for designing clothes while the subcontractors are responsible for all aspects in producing the clothes. The supply chain appears to have shortened, when in fact most areas are hidden. Presented in an article by Magretta (1998), Li and Fund illustrates the complexity of the hidden aspects using an example of an order to Europe from a manufacturer in Thailand;

“Say we get an order from a European retailer to produce 10,000 garments. For this customer, we might decide to buy yarn from a Korean producer but have it woven and dyed in Taiwan. So we pick the yarn and ship it to Taiwan. The Japanese have the best zippers and buttons but they manufacture them mostly in China. So we go to YKK in Japan, but we order the right zippers from their Chinese plants. Then we decide that, because of quotas and labour conditions, the best place to make the garments in Thailand. So we ship everything from these. And because the customer needs quick delivery, we may divide the order across five factories in Thailand. Effectively, we are customising the value chain to best meet the customers’ need. Five weeks after we have received the order, 10,000 garments arrive on the shelves in Europe, all looking like they came from one factory.” (Magretta 1998, 1).

Rather than having all production segments located in one place, the supply chain is organised with different locations where each specialise in a specific activity, as Li and Fung explain. By doing this, subcontractors ensure that they receive maximum value of the end product. Maximum value includes variables such as costs, quality, reliability of delivery, and transportation, to mention a few (Nordås 2004). In addition to the maximum value, the example from Li and Fung illustrates the difficulty in placing the responsibility on corporations for problems in the industry. There is a huge gap between the ones on top and the ones on the bottom, both in terms of the supply chain and in terms of actual distance. Not only does this make it difficult to place the blame on someone, it additionally makes it difficult for the industry workers to raise their voice. Since the managers are not directly responsible for the workers, same as with the corporations, they are not either fully dependent on them (Hale and Willis 2005). Meaning if the industry workers attempt to bargain over terms and conditions of employment which may raise the costs, they risk the possibility for the contract to shift to another location and they will lose their jobs. This is not the case for all industry workers and there might be room for some improvements, but seeing the pressure and competition in the industry, it is a tempting way out for corporations in order to maintain the maximum value variables. Either way, the industry workers are dependent on what is decided at the top which makes it difficult for them to unionise without support from others, which will be more elaborated in chapter 3. Activists at local and international level have helped bringing awareness to this issue.

2.4 International Awareness

Non-governmental organisations (NGOs) and activists have helped raise awareness to the issue of T&G working conditions, which further has made consumers press for ethical standards in the industry. The demand has first and foremost been on corporations from whom consumers are buying their garments. Prompted by corporations, manufactures therefore have had to comply to changes in their factories. Most of the manufacturers who preferred not to comply to new regulations, have lost their business relationship with the corporations. In order to stay in business, manufactures have eventually been forced to comply. Not all corporations have listened to the consumers, but increasingly they are becoming more open about their workforce's working conditions (McNamara 2008).

In order for the activists to play a key role in pressuring for better working conditions, understanding the structure of the industry is crucial. Successful organisations who have accomplished this are the Clean Clothes Campaign based in Europe, the Maquila Solidary Campaign based in Canada, and the United Students Against Sweatshops based in the US, to mention a few (Hale and Willis 2005). By raising their voices, organisations like these have pressured corporations in changing their interests. No longer are profit and quality solely the critical aspects corporations consider from their manufactures, but the social and environmental responsibilities have become their additional core issues. In order to separate corporations and suppliers that comply with ethical standards to the ones who do not, regulations have been developed. The transition, however, was not rapid, and the development started with the establishment of the Multi-Fibre Agreement (MFA).

2.4.1 Phasing Out the Multi-Fibre Agreement

In 1975 the MFA was introduced under the General Agreement on Tariffs and Trade (GATT), as a short-term tool to regulate the global trade in the T&G industry to protect manufacturers in the United States (US) and European Union (EU) (Rasiah 2012). Although the agreement was under GATT, the T&G differed from the other free trade sectors. The MFA allowed the T&G trade sector to operate with a global quota system, which was not part of GATT's standard rules. In addition, although the MFA initially was meant to be a short-term tool, it stayed in place until 1995. After almost twenty years, it had made some unsuccessful implications which eventually pushed for the replacement to its successor: the World Trade Organization (WTO) (Ernst 2005). The next section will briefly discuss the implication of the MFA and further present the current T&G trade principles.

The result of the MFA was a price increase for consumers due to the implementation of quotas, and importing countries therefore searched for production in non-quota countries. By importing from non-quota countries, countries were able to import low-cost clothes to the consumers. At the same time, when importing countries sought for T&G trade at the lowest possible prices, the employment opportunities in the exporting countries became very fragile as importers regularly shifted production sites, thus employment was often temporary. Criticism of the economic and social implications the MFA had eventually led to a phasing out of the agreement (Whalley and Yao 2016).

Replacing the MFA was not a quick operation, and the transition was therefore set to be completed within ten years, on January 1st 2005. Since its replacement, the trade market in the T&G has expanded along with a tougher price and quality competition (Whalley and Yao 2016). However, the most important change with MFA's successor, WTO, was the role of Corporate Social Responsibility (CSR) in the T&G industry.

2.4.2 Corporate Social Responsibility

During the 1990s large protests and social movements against the neo-liberal capitalism took place attempting to change the T&G industry. The international society was in opposition to the accelerated use of subcontractors by large corporations in the Global North in order to access cheap labour (Pearson and Seyfang 2001). Pressure from several different sides led to social and environmental responsibility being the one of the core issues for corporations. Improving the social and environmental aspects in the industry helped corporations to maintain a good reputation. Corporations are dependent on consumers and need to follow their demands in order to keep their business. In response to the pressure from the international stage, corporations were forced to recognise their responsibility to the workers included in the supply chain. In order to meet these requirements, corporations developed the CSR.

CSR are regulations for both the corporations themselves, as well as for their suppliers (Hale and Willis 2005). The standards of the CSR come in the form of code of conduct. These are buyer-imposed and include regulations and certified labour standards that the manufacturers have to follow. Additionally, they include inspections and audits that the corporations perform.

Usually the code of conduct entails a list of regulations often referring to the laws of the country. This regulation allows corporations to get an overview of the subcontractors' standards and help corporations in choosing the better-complied subcontractors. By the end of the decade, social compliance regulations had shifted from being an option for manufactures to becoming a requirement from corporations (Stigzelius and Mark-Herbert 2009).

However, along with the rise of compliance with the code of conduct, there is scepticism regarding its impact. Both the standards and monitoring are set up by the buyers themselves, and therefore may not present the true picture according to sceptics (Barrientos 2008). Since corporations are dependent on having a good reputation, the picture they present of their manufactures may be contradicting to the actual situation.

Attempting to solve this issue, international voluntary standards have been developed. Two of these are the Social Accountability 8000 Standards (SA 8000) and the Worldwide Responsibility Apparel Production Certification (WRAP). They include core International Labour Organizations (ILO) standards and national legislation in order to represent minimum standards across industries. SA 8000 are mostly Europe based, while WRAP is based in the US (De Neve 2009). The main difference between these and the code of conduct is that the certified standards are checked by a third party in order to enhance the credibility.

Both the code of conduct and certified standards have had major implications at the material- and management level. At the material level, improvements are made on the factory buildings to meet the required standards for safe and healthy working environment. The management level, on the other hand, include reduction to 8-hours shifts, overtime payment, etc. Implementations like these cannot occur in one day. They are both time consuming and require money, and are therefore easier to successfully implement in larger exporting firms (De Neve 2009).

A majority of exporting firms have to cover the expenses to improve the material- and management level themselves. There are corporations who contribute to the expenses, but the code of conduct allows them to demand suppliers to comply without the buyers themselves having to cover the costs. In cases where the suppliers have to cover the expenses themselves, smaller exporting firms are faced with difficulties and often not able to comply. Further, the suppliers who can afford to comply have to accept the standards from different buyers. Buyers

have their own code of conduct and their own set of standards the suppliers have to follow, often resulting in lack of clarity for suppliers to what is specifically demanded from them (De Neve 2009).

Corporations often refer to a close relationship with their suppliers, but making these demands from a superior perspective is contradicting. As mentioned, there are a few corporations who work closely with their suppliers where there exists a fair relationship, but the standard way of thinking for corporations are in terms of profit and consumers' demand.

Despite this, suppliers can choose from different buyers as well. According to suppliers in Tiruppur, India, larger, global brands are more stringent than the smaller, less well-known brands. Choosing the smaller buyers, suppliers are able to export to several buyers and choose among the most suitable ones. Smaller buyers are often local and easier to keep in personal contact with. On the other hand, larger global brands are preferred when it comes to larger, regular orders. Increasingly, larger buyers put in place local representatives who visits and inspects factories (De Neve 2009). Therefore, both of the alternatives of supplying to large, regular orders or multiple smaller ones, can be a safe option. The effect of code of conduct and certified standards seems to have had an effect on the subcontractors, but the struggle in realising human rights in the T&G industry is still present.

2.5 Conclusion

In this paper, I will first assess what the challenges are for realising human rights in the T&G industry, using India as a case country. Despite the implementation of code of conduct and certified standards, what seems to have been missing in the past were clear guidelines regarding the responsible areas for the different participants involved in the T&G industry. In 2008, the UN introduced the Ruggie Framework to solve this, attempting to distinct binding obligations between corporations and states, in an effort to improve the working conditions in the T&G industry. There are many reports on the working conditions in the T&G industry, which have led to increased awareness regarding the human rights violations in the factories. However, there are not much research conducted on the impact of the Ruggie Framework. More research on the Ruggie Framework is important in order to examine if it has led to any improvements in the T&G industry, or if not, why it has failed. I will therefore first examine the national laws and legislations in India, as well as their international commitments. Further, I will assess how

the framework is operationalised and compare it to the practices of the T&G industry in India. The next chapter will introduce the methodology of the paper.

Chapter 3

Methodology

This chapter will offer a brief overview of how the master thesis is conducted, including epistemological and ontological perspectives, research design, methods of data collection and analysis, and limitations to the thesis. Before presenting the overview, I will present my motivation for choosing this particular research focus.

3.1 Background

First, my personal motivation for the thesis is my background with a bachelor degree where I conducted a field course regarding rural development challenges in India. During the field course the main focus of my research were the empowerment of women. A majority of the textile and garment (T&G) workers in India are women who are facing discrimination on a daily basis. Further, other human rights violations have been reported in the T&G industry regularly in media over the past few years, which has caught my interest. In my bachelor thesis I wrote about the challenges in general in the T&G industry. For this master thesis I was eager to research the field more in depth, and India appeared as a natural case country to choose seeing my own interest in the country, and not least because it is one of the major exporters of T&G in the world.

Second, since the introduction of the Ruggie Framework, there have not been conducted a lot of research regarding its impact in India. The framework was therefore an interesting perspective for examining what improvements the international stage and India themselves have attempted to implement, and why human rights violations still occur on a regular basis in the T&G industry.

The choice of this particular research focus is therefore taken both from an academic viewpoint and from my professional interests.

3.2 Epistemology and Ontology

In order to provide a foundation for my research's logic, the epistemology I will use are liberal human rights theory and social feminist theory. Which epistemology one chooses is crucial for

the understanding of a paper, because it entails what is regarded as acceptable knowledge in a discipline.

I found it suitable to enter the research from these perspectives because the thesis is concerned with power structures and gender relations faced by the T&G workers. From the international spheres' perspective human rights are basic rights every human being are born with. However, India must politically commit to secure the human rights of the T&G workers, making them reliant upon an external institution or agent that allows the human rights to be "given" or "ensured". The rights holder is therefore seen as an individual and the states' political commitment is organised around the conception of human rights and make the necessary changes to fulfil them. State intervention is crucial in order to ensure protection of the human rights in the T&G sector (Clark 2010).

Human rights in the T&G industry is the main focus of the thesis, but seeing most of the T&G workers are women, a human rights perspective would be lacking with the absent of a feminist points of view.

A social feminist epistemology is not only concerned with gender issues but it also recognises that other political hierarchies and power relations influence the production of knowledge (Alcoff and Potter 1993). *"The interest of feminist social epistemologists in how gender plays out in knowledge practices is generalizable to an interest in how power relations play out epistemically, especially systematic relations of power."* (Stanford Encyclopedia of Philosophy). From a social feminist epistemological perspective, knowledge is not reduced to power politics, even though attention in the thesis will draw to it. The goal in social feminist epistemology is not only to describe the current social practices of knowledge production, but understand how we know and how we can improve our knowledge practices (Stanford Encyclopedia of Philosophy).

This approach will help understand the power politics in the global T&G industry between international corporations and India through the Ruggie Framework. Further, it will be a helpful approach to understand how the power politics are affecting the T&G workers, consisting mostly of women, and the choices of the workers who are facing poor working conditions. I will present the current social practices in the T&G industry when examining what the challenges are for realising human rights in the industry, but in addition I will attempt to

understand how the current social practices have been shaped and how it should be improved, if it is found necessary.

I found the theories both equally important when assessing the working conditions in the T&G industry.

The ontological stance taken in the thesis is one of constructivism. Ontology are concerned with the nature of being, or social entities (Bryman 2012). According to Bryman (2012, 33), *“constructionism is an ontological position that asserts that social phenomena and their meaning are continually being accomplished by social actors”*. Social phenomena are not only produced through social interactions but are in a constant state of revision. They are social constructions accomplished and reproduced by social actors. Meaning, social actors do not discover meaning but construct it, and new knowledge is founded on previous knowledge (Crotty 1998). One example are gender roles, which are constantly changing through social actions and interactions. It is dependent upon human practices and interactions with their world and with each other (Crotty 1998). Gender roles are one of the main issues in the thesis, and I will examine how/if the introduction of the Ruggie Framework and India’s commitment to the international treaties and conventions have had an impact on the practices in the T&G industry, especially affecting women.

As Bryman (2012) notes, this ontological position notes that the researcher’s understanding of the social world are constructions. Meaning that “the researcher always presents a specific version of social reality, rather than one that can be regarded as definite” (Bryman 2012, 33). However, the interest of constructionism is to represent a social phenomenon: in this paper it is the working conditions in the T&G industry.

3.3 Research Design

Based on the underlying epistemological and ontological assumptions, the framework for the collection and analysis of data will be conducted through an evaluation research design. This relates to the criteria of the evaluation, representing a structure guide to my research (Bryman 2012). This structure guide consists of several core questions. First of all, I need to assess the scope of the problem: what are the challenges in realising human rights in the T&G industry and how is the Ruggie Framework operationalised? In order to further evaluate this in-depth, I need to examine what the problems are and how serious they are, and how the problems should

be addressed. In other words, it is crucial to gain an in-depth understanding of the research questions. In addition to examine the challenges for realising human rights in the industry, this evaluation research will evolve around the assessment of the implementation of the Ruggie Framework and its outcome. Has it been effective? Are the outcomes as originally anticipated?

Outcome assessment will be the main focus in my research when researching the present situation. However, evaluation research can include several stages, and I will additionally touch upon input measurements. Both the input and output measurements are equally important for evaluation to have an effect in the future.

There have been conducted a number of researches on the T&G industry in India over the years, but research on the Ruggie Framework is rather limited. Even though the major goal of an evaluation research should be to influence the decision making or policies, I am aware that these are high ambitions. The goal of my evaluation research is therefore to provide some sort of useful feedback on the Ruggie Framework in India.

3.4 Research Questions

Based on my academic viewpoint and professional interests, and the limited research on the Ruggie Framework, I came up with the following research questions;

- What are the challenges for realising human rights in the T&G industry in India?
- How is the Ruggie framework operationalised in India?

The next section briefly present how I collected data for the thesis.

3.5 Methods of Data Collection

I have gathered information through policy review work. I selected relevant policy reports through purposive sampling in order to direct my selection information towards my research questions (Bryman 2012). I examined the laws and legislations that I gathered from the Indian governments'- and ministries' webpage, and used Google Scholar and Social Sciences Citation Index to collect reports on the working conditions in the T&G factories in India. Due to the limited research on the Ruggie Framework, the information for chapter 5 are mostly from different UN articles and multinational corporations' webpages.

3.6 Method of Analysis

For the process of analysing data, I have chosen the linguistic method of critical discourse analysis (CDA). This method “emphasise the role of language as a power resource that is related to ideology and socio-cultural change.” (Bryman 2012, 537). Both social practices and linguistic practices constitute one another in attempting to address the construction of societal power relations. A CDA approach attempts to find out what structures of texts, talk and other interactions are playing in the role of the construction of dominance. It is a complicated structure where the critical targets are the power elites. They are blamed for the inequality in the T&G industry because of their access to public discourse, and henceforth, their ability to make necessary changes in the industry. Power elites come hand in hand with access to discourses, such as business reports and documents, news media, politicians and other managers, etc. T&G industry workers with limited power, on the other hand, might only have access to discourse through family and colleague conversations, and are being ‘controlled’ by the dominant discourses. T&G industry workers are controlled in the way that the ones in management of discourses can decide what is allowed to say, write, hear and read (Dijk 1993).

The perspective of this approach are the ones who are neglected: the T&G industry workers, consisting mostly of women. The goal is to raise awareness to the suppressed group of people and social issues in order to gain a critical understanding of the T&G industry and the Ruggie Framework. In the paper I have attempted to provide an overview of the construction of the T&G industry in relation to the social structures. What will become noticeable in the paper is that discourses draws on one another: e.g. discourses on new technology, Corporate Social Responsibility (CSR), globalisation, and so forth, are influencing each other in the T&G industry (Bryman 2012). Discourses have a crucial role in the construction of dominance and inequality, and the aim of the CDA approach is to illustrate this.

3.7 Limitations

Limited research on the Ruggie Framework is both an advantage and a limitation to the master thesis. It is an advantage because the limited research is the reason why I chose to study the framework. However, even though I mainly gathered information through documents from the Indian government and ministries, if these would be lacking it would have been helpful to examine previous conducted research. Further, I briefly examined the perspectives of multinational corporations involved in T&G factories in India. Some of the information are

likely to be bias since corporations want to appear as good as possible. If this was the case, I would have needed to look elsewhere for reports to gather information.

Despite possible limitations regarding the collection of information, there have been conducted enough research on the T&G industry in India in that I was confident that I eventually would end up satisfied with the information I gathered. However, what would have been a strong contribution to the master thesis is if I would have conducted field work. For a while the plan was to visit T&G factories in Bangalore, India, to get in contact with the T&G industry workers. I believe this could have had a strong positive effect on my thesis. On the other hand, the reason I choose not to go through with the field work was not only my own poor planning regarding the time schedule for the thesis, but also due to my own experience of previously conducting a field course in India. Field work is time consuming and access to genuine knowledge from interviews are difficult. From my own experience, interviewees, especially women, are sceptic to elaborate on their experiences at their work place. Few aspects, e.g. salary, hours of work, etc. might be things they would be comfortable talking about, but discrimination and other stressing human rights violations are most likely aspects I believe they not would be comfortable in telling a random Norwegian student about.

Perhaps I am too pessimistic about conducting field work, which I believe can contribute immensely to a thesis. However, I would have needed to do a better job in following a time schedule if I should have had time for field work. Despite this, I believe the main findings of the thesis would be rather similar to what I will find from only relying on documents.

Chapter 4

Challenges in Realising Human Rights in the Textile and Garment Industry

As I have shown in chapter two, the textile and garment (T&G) industry is an intricate industry facing multiple challenges regarding the realisation of human rights. In order to examine what these challenges are I will use India as my case country and study their legislations and policies. Considering the country's large population in addition to being one of the major exporters of T&G globally, I found it to be an appropriate example to assess the challenges of realising human rights.

First, I will give an overview of India's representation in the T&G industry. Further, I will examine the country's legislations and policies, followed by India's involvement in the international sector regarding treaties and conventions. Finally, I will discuss my findings and present recommendations for possible improvements.

4.1 Overview of the Indian Textile and Garment Industry

India is the second most populous country in the world with approximately 1.24 billion people. With increased liberalisation, privatisation and less state control, India has undergone significant economic development in recent years. Globally, India represents a large portion of the T&G industry, employing around 35 million T&G workers, 8 million in the garment sector alone (Kane 2015). The number may be even higher since a large portion of workers are in the informal sector.

The informal economy is a "label for economic activities which take place outside the framework of corporate public and private sector establishments" (Hart 2001, 1). Workers in the informal sector in India are largely self-employed or casual labourers earning daily wages (Pellissery and Walker 2007). They are not offered social security benefits such as retirement pension, a decent salary, overtime payment, and other benefits included in the formal sector. Myrdal (1968) describes informality as "a symptom of a weak state failing to regulate social forces" (Pellissery 2013, 84). Despite the resistance of the informal sector from the government and from the employers themselves, it is estimated that 90% of labourers in India are in the informal sector (Pellissery 2013). However, the exact number of informal workers is difficult

to measure and some workers are both in the formal and informal sector. The reason the number of informal workers is high is due to the employment opportunities it offers. A policy challenge is therefore to integrate the informal sector into the formal sector.

Regardless of the large informal workforce, India is unique having a large industry in both T&G seeing most countries in the industry are usually concentrated in one or the other. This offers employment opportunities for many people all through the year, including skilled, unskilled, educated, and uneducated workers (Devaraja 2011). There are six key areas T&G production in the country; Tiruppur (in Tamil Nadu), Delhi, Noida, Gurgaon, Indore (Madhya Pradesh), and Ludhiana (Punjab) (Kane 2015).

Indian T&G industry includes the whole process from raw materials: cotton cultivation or producing synthetic or man-made fibres (polyester, viscose, nylon, acrylic), to the ready-made garments. Only China has as diverse a production of textiles and fibres as India. India is the largest producer of jute in the world, the second largest of silk and cellulose fibres, third largest in cotton, and fifth largest in synthetic fibres and yarn. However, India's T&G industry is predominantly cotton based. The process of ready-made garments includes spinning, weaving, knitting, processing, through mills, power looms, and handlooms. The complete value chain after the production of raw materials (cotton, polyester, etc.) to ready-made garments includes the following steps;

- Basic raw material, i.e. grey fabric
- Processing charges (bleach, dyeing, printing, impregnating fabric, etc.)
- Cutting and fabrication
- Fitting and accessories (button, zips, laces, sewing threads)
- Embroidery and handwork if necessary

The manufacturing and lead time in delivery, from yarn to shipment of garments is 120-160 days (Devaraja 2011).

Regardless of the uncertainty of number of workers, the T&G industry offers employment opportunities for millions of people in India and is therefore a valuable economic source for the country. The industry contributes to India's economy with 4% of Indian GDP and 11% of their

total exports, which in 2015/16 amounted to 40\$ billion (IBEF 2017). It has gradually increased over the years, as illustrated in figure 4.1.

Figure 4.1 Export of Textile and Garment in India

Year	Textile/Garment Exports	Total Exports	% Total Exports
2011 (Textiles and Textile Articles)	\$ 32.55 billion	\$ 235.85 billion	13.60%
2012-2013 (Textile & Garment)	\$ 31.62 billion	\$ 300.40 billion	10.53%
2012-2013 (Readymade Garment: Makes up part of overall (T&G figure)	\$ 12.40 billion	\$ 300.50 billion	4.13%

(Adapted from Kane 2015, 9).

Under half of India’s population are employed in the formal and informal sector, approximately 484.3 million, and the literacy level of the general population stands at 62.8%. The median per capita income is \$616 per year and only 25% of the population have fulltime employment, according to a 2013 Gallup Survey (Kane 2015). These figures illustrate the importance of the T&G industry to India. After the end of the Multi-Fibre Agreement (MFA) which regulated the global trade in the T&G industry in order to protect manufacturers in the US and EU, the T&G industry grew substantially in India due to the expansion of the trade market and price and quality competition, as discussed in chapter 2. The government eventually devoted an entire ministry, The Ministry of Textiles, due to the expansion of the industry.

Despite the low employment rate in India, the employment in the T&G industry has nevertheless expanded. With this in mind in addition to the poor literacy level, trade unions are an important contribution for the T&G workers to ensure protection of their rights.

During the past few years the number of union membership have grown. In 2013 the top three trade unions in India were “Indian National Trade Union Congress”, “Bharatiya Mazdoor Sargh”, and “All India Trade Union Congress”, with a total number of 64.8 million members (Kane 2015). These trade unions do not include the garment industry where there are generally

lower levels of trade unions membership. However, the numbers have increased slightly. Two of the unions in the T&G industry are “Garment and Textile Workers Union (GATWU)” (Karnataka), and “Garment and Fashion Workers Union” (Tamil Nadu). However, their influence has been rather limited, which I will discuss later in the paper.

With the large number of workers in the T&G industry and limited memberships in trade unions, human rights violations are a difficult challenge to tackle. Human rights violations have been revealed a number of times in the T&G industry in India, including discrimination at work, lack of payment, and lack of sanitation facilities, to mention a few. The violations are especially affecting women since they represent the majority of the industry workers and are generally more discriminated in the society, which I will come back to. Further, poor building constructions and other work facilities have caused a number of accidents. Both unsafe work conditions and work-related illness are estimated to be two of the leading causes of death and disability among India’s working population (Sanjiv 2009). India has several legislations and policies protecting T&G workers from human right violations, but the informal workers are more vulnerable and do not receive as much protection as formal workers. Legally, the legislations and policies regarding proper working conditions apply to all workers. Workers who are not permanent employed suffer in terms of access to social security measures, e.g. Provident Fund (PF) and Employees’ State Insurance (ESI). However, in Gurgaon for instance, where the majority of the workers are contract workers, PF and ESI deductions are made from their salaries. Access to the benefits of PF, for instance, remains a challenge for these workers.

Lack of trade union members is only one of the many concerns in the T&G industry. Several other concerns regarding the working conditions will be touched upon in the paper, with notable attention to the most vulnerable group of T&G workers in India, which is women. Before presenting the common practices in the T&G industry, it is important to be aware of India’s legal framework. In the following section of the paper, I will review what I find to be the most relevant laws and policies regarding human rights in the T&G industry. The section will be followed by a review at the international level: what conventions and treaties India have ratified. Ratification of a convention means committing to legally work towards meeting the demands laid out by the conventions.

4.2 National Law and Policies

Indian national law includes the Constitution, statutory laws, and the jurisprudence of the court. Both the central and state governments have jurisdiction to enact legislation, the difference is mainly the responsibility of each government section. The central government, also called union government, possesses the power of national defence, foreign policy, currency and monetary policies. The state governments, 29 in total, have the power of law and order, local administration and governance, and collection of some important taxes. Further, the leader of the central government is the Prime Minister, and the state governments each have a Chief Minister. Labour matters are in the jurisdiction of both the central and state government and they have both enacted laws on labour relations and employment issues (Mishra 2006). The national labour law entails 40 laws, which are all important for the rights and dignity of Indian citizens. India is the most populous democracy in the world (Government of India). This part of the paper will present the core legal rights of industry workers and women's rights in the workplace.

First is the "Industrial Disputes Act" (1947) governing employer-employee relationships. The act is meant to assist investigations of violations of the labour laws, and present recommendations for settlement for those involved. In addition to providing settlement for parties involved in disputes, the act lays down what are considered unfair labour practices of both employers and employees. The act applies only to the organised sector employing more than 100 workers. Firms employing more than 100 workers requires permission from the Government before layoffs, retrenchments and closures (Government of India 1947).

More specifically directed towards the T&G industry is the "Factories Act" (1948), ensuring the welfare of workers in factories, such as health, safety, working hours, benefits, leave, overtime pay, and so on. The act works to assist in formulating policies in India considering occupational safety and health, and it is applicable where ten or more workers are employed (Government of India 1948). However, the original act was criticized for not keeping in pace with the fast changes in the global economy, technological improvements, etc., and a few amendments were therefore introduced in 2015. The updated act includes positive improvements such as permitting women employee to work during night shifts, which promotes gender equality and women empowerment, and reduction in number of compliance days where workers now can leave after 90 days instead of 240 days. The amendment objectives were to ensure more fairness and equity towards the working class (Shah 2016).

The “Contract Labour (Regulation and Abolition) Act” (1970) was passed to regulate employment of Contract Labour where 20 or more workers are employed. It does not apply to intermittent or seasonal nature work. Through contract labour workers are employed through a contractor operating as their indirect employees responsible for hiring, supervising, and remunerate workers. The contractor is in turn remunerated by the principle employer of an establishment. The principle employer should ensure that the contractor pays wages determined by the government, provides a canteen, restroom, drinking water, etc. In addition, the principle employer is responsible for supervising the contractor. If the principle employer fails to get registered under this act, then he/she cannot employ contract labour. Briefly presented, the objective of the act is to prevent exploitation of contract labour and work towards bettering working conditions (Government of India 1970).

It is estimated that there are around 80 million migrants in India (Mazumdar and Sarkar 2008), and the “Inter-state Migrant Workmen (Regulations of Employment and Conditions of Service) Act” (1979) was enacted to protect workers whose services are requisitioned outside their native state in India. Whenever an employer faces a lack of workers locally, the act creates provision to employ workers outside the state. The general labour laws are applicable, but the inter-state workers are additionally entitled to equal or better wages as local workers, displacement allowances, home journey allowances, suitable residential accommodations and medical facilities free of charge on a mandatory basis, and terminations of employment after the contract period, to mention a few. The government should employ inspectors to oversee the implementation. The act applies to every establishment in India in which five or more inter-state migrant workers are employed (Government of India 1979).

Briefly presented, the “Payment of Wages Act” (1936) guarantees payment of wages on time and without any deductions except those authorised under the act. It does not apply to persons whose wage is Rs. 10,000 or more per month (Government of India 1936). The “Minimum Wage Act” (1948), more specifically, sets the minimum wage to skilled and unskilled labourers according to the calculation of the living wage in the country. The wage should ensure basic standards of living, which include good health, dignity, comfort, education and provides for any contingency (Ministry of Labour and Employment 2010). Further, the constitution has defined a ‘fair wage’ based on the ability of the factories to pay. The central and state governments both have the jurisdiction to adjust wages, the conditions of work are subjected in

the Concurrent List under the Constitutional Scheme. Meaning wages can be adjusted for one state, or parts of a state, and similarly for a specific industry, as stated in the act. The act applies to scheduled employment. To be a scheduled employment, it should be one where 1000 people are employed. In addition to calculating the minimum wage, the act requires breaks during the working day, at least one day off per week, and overtime pay, to mention a few (Government of India 1948).

Further, the “Equal Remuneration Act” (1976) states that payment remuneration rates should be equal to men and women performing the same work, and there should be no discrimination of men or women in the recruitment of workers. An Advisory Committee of at least ten people is established as a legal obligation to provide increased employment opportunities for women by guiding the Government in the appropriate directions towards respecting women. Further, the Government appoints authorities responsible for hearing and deciding claims and complaints regarding contraventions of the act, and claims regarding payment discrimination against women. In these incidents, both the applicant and the employer are to be heard and adequate steps need to be taken from there (Government of India 1976).

The act does not include cases *“affecting the terms and conditions of a woman's employment in complying with the requirements of any law giving special treatment to women”*, neither does it apply to any special treatment to women in connection to birth or marriage (Government of India 1976, 9). Such cases are covered in the following acts.

Acts directly addressing discrimination of women have also been passed, such as the “Sexual Harassment of Women at Workplace Act” (2013) which was based on the formal guidelines of the Vishaka judgement (1997). The act prevents, prohibits, and redresses any discrimination towards women in order to protect women from sexual harassment at the workplace. Workplaces with minimum 10 employees are legally required to implement the act, both private and public. Gender equality and security at the workplace will improve women's participation in work, resulting in their economic empowerment and an inclusive growth. Both the central and state government are responsible for the implementations. Complaints should be passed on to the Internal Complaint Committee who is responsible for;

- Investigating every formal written complaint of sexual harassment
- Taking appropriate remedial measures to respond to any substantiated allegations of sexual harassment
- Discouraging and preventing employment-related sexual harassment

(Government of India 2013).

The Internal Complaint Committee has 90 days to complete an enquiry, and the employer then has 60 days to follow through with the recommendations from the Internal Complaint Committee. The policy is to have an environment free from sexual harassment and the employers therefore have a legal obligation to create an environment of ‘prevention’ by “providing necessary facilities to the Internal Committee”, “make available such information to the Internal Committee”, “provide assistance to women if she chooses to file a complaint”, “cause to initiate action against the perpetrator”, and so on (Government of India 2013, 10). Meaning the central and state government are responsible for overseeing and monitoring the implementations, but the employers have the primary responsibility to ensure the provisions of the law at the workplace.

The “Maternity Benefit Act” (1961) is an additional act towards protecting women at workplace. The act extends to every factory with at least 10 employers, with some exceptions from factories governed under the “Employees’ State Insurance Act”. Maternity benefit are provisions for maternity leave and other benefits in terms of childbirth with the maximum of 12 weeks. To be qualified for maternity benefits women employers have had to work at least 80 days during the 12 months immediately preceding the date of her expected delivery, with a few exceptions. The maternity benefit constitutes payment at the rate of the average daily wage for the period of absence, which runs from the period immediately preceding the day of delivery to the period immediately following the day of delivery. The average daily wage is calculated from the woman’s average wages during the three months preceding the day from which the absence period starts. The duties of the employees in addition to pay during the maternity leave is to allow nursing breaks and not dismiss women during their period in maternity leave. Penalties for employees not following the act include both imprisonment and fines (Government of India 1961).

Lastly, I will include the “Trade Unions Act” (1926) extending to the whole of India, with exceptions from the State of Jammu and Kashmir. Trade unions are voluntary organizations

working towards protecting and promoting workers' rights. The act provides registration to unions and prescribed rights and duties to registered unions. It is perhaps the most important act regarding employers' rights due to its wide areas of rights: secure fair wages, security at workplace, participate in decision-making processes, and so on. In other words, trade unions are crucial for the rights of the working class (Government of India 1926).

There are several other acts I could have included, but I found these to be the core ones in tackling human rights issues in the T&G industry. In respect to these laws the ministries have developed national policies, each specializing in different areas. As mentioned previously, India has its own Ministry of Textiles with a market driven perspective focusing on boosting employment generation, investment, production and export promotion. The Ministry of Women and Child Development and the Ministry of Labour and Employment, on the other hand, are focusing on the safety and well-being of the workers, creating gender equitable and child-centred legislation, policies and programs, and pushing for labour law amendments. I have chosen not to include the Ministry of Textiles' policies seeing as it entails pursuing India's market share in the global T&G industry rather than pursuing human rights at the workplace. Therefore, I will review the policies of the Ministry of Labour and Employment and the Ministry of Women and Child Development.

4.2.1 Ministry of Labour and Employment

The Ministry of Labour and Employment in India has developed detailed policies in order to protect workers. The aim is to create a healthy work environment by securing higher production and productivity and in addition assist in vocational skill training and employment services. Attempting to provide healthy work environments, various labour statutes have been enacted, including the "National Policy on Safety, Health and Environment at Workplace" (2009). The purpose of the policy is to eliminate work incidents and human rights violations, and enhance the well-being of the society at large (Ministry of Labour and Employment 2009).

In order for the state to implement activities to improve safe and healthy working conditions, the policy offers a set of Directive Principles that the state is committed to adopt to;

- Securing the health and strength of employees, men and women – what are the benefits workers are entitled to at the workplace? How do they access these benefits?

- Secure that the tender age of children is not abused – what is the age at which a person can start working in a textile factory?
- Citizens are not forced by economic necessity to enter avocations unsuited to their age or strength – how can the state ensure economic safety for underage and the sick/elderly by who should not enter the workforce?
- Just and humane conditions of work and maternity relief are provided – what benefits are needed in order to ensure women are able to maintain their job when they get children?
- The government shall take steps, by suitable legislation or in any other way, to secure the participation of employees in the management of undertakings, establishments or other organisations engaged in any industry – why is it important to include employee participation in these steps? (Ministry of Labour and Employment 2009, 1).

By adapting to these principles, the government recognises that it will have a positive impact on both social and economic developments in India. The main objectives of the principles are to;

- Continuously reduce work incidents
- Improve coverage of work related incidents
- Enhancement in awareness regarding safe and healthy workplaces
- Increase community expectations of safe and healthy workplace standards

(Ministry of Labour and Employment 2009, 4)

Further, the policy provides a 10-step action programme on how to achieve these objectives. The action programme includes “amending existing relevant laws and bring them in line with international instruments”, “facilitating sharing of best practices and experiences between national and international regulatory authorities”, “set up safety and health committees wherever appropriate”, and “enforce all applicable laws and regulations in an effective labour inspection system” (Ministry of Labour and Employment 2009, 5). All of the 10 steps are necessary, however, the four listed above are the ones I find to be the most effective steps.

The government has the fullest responsibility in implementing the action programme. Compliance includes multiple areas, such as providing assistance, develop plans and programmes, encouraging co-operation of partners, encouraging adopting to the CSR, and

ensuring suitable machinery, to mention a few. Equally important is raising awareness on safe and healthy work environments. In order to increase the awareness, the policy suggests forums for consultations with representatives with experience in safe and healthy working conditions, and evaluate the impact of such awareness initiative (Ministry of Labour and Employment, 5-6).

Additionally, the policy includes providing support for research in the field and developing approaches for dealing with safety and health related problems at workplaces. By gathering data, statistics will guide action programmes in prioritising key issues by improving access to information. Finally, a review and analysis will be carried out at least once in every five years to assess the relevance of the national objectives and action program (Ministry of Labour and Employment 2009). What is evident from the policy is that the government is the main responsible actor, but is highly dependent on other social partners to achieve the objectives.

There are in total 44 statutes enacted by the central government that are labour related dealing with minimum wages, accidental and social security benefits, occupational safety and health, conditions of employment, etc. (Ministry of Labour and Employment 2009). The “National Policy on Safety, Health and Environment at Workplace” is the main policy regarding working conditions in the T&G industry, but equally important is the “National Policy for the Empowerment of Women”.

4.2.2 Ministry of Women and Child Development

Approximately 60% of the T&G workers in India are women, but the number varies from region to region and from rural and urban areas (Kane 2015). In rural areas 32% of women are in the workforce compared to 83% of men. The number is lower in the urban areas with 21% of women and 81% of men. Overall India has lower levels of women employment than other LDCs, and the number fell from 29.4% in 2004-2005 to 22.5% in 2011-2012. The women included in the workforce are generally engaged in rural agricultural activities. However, with the growing economy, urbanisation, industrial development and other changes, women should be entering workforce into more productive sectors such as manufacturing and service (Chaudhary and Verick 2014). According to the report (2014) 62.8% of women are employed in the agricultural sector, 20% in the industry sector, and 17% in the service sector.

The main reason for the low level of women workforce participation are cultural barriers. Deeply entrenched ideas about gender roles and concern around social implications of women's economic empowerment are barriers that needs to be overcome in order for women to be able to participate in the workforce (Chaudhary and Verick 2014). However, women who have succeeded getting employed still face many challenges, which will be presented in chapter 5. Attempting to address the challenges women workers face, the "National Policy for the Empowerment of Women" have been developed by the Ministry of Women and Child Development, and are of considerable importance for the women's health and safety at the workplace in India.

Gender equality is enshrined in the Indian Constitution, not only granting equality to women, but additionally including positive measures for women such as reservation of seats in the local bodies of Panchayat raj and the Municipalities. Panchayat raj is the oldest system of local government in India. Despite the initiatives the reality is that women in India face discrimination. This policy is a thorough attempt in the continuous work towards ending gender inequality.

The first step is to encourage active participation of all stakeholders in order to fulfil the policy objectives, which includes;

- Creating a positive economic and social environment for women at workplaces
- Enjoyment of all human rights on the same basis as men
- Having equal access in participation and decision making
- Equal access to healthcare, remuneration, social security, etc.
- Strengthening legal systems towards eliminating discrimination against women
- Changing social attitudes and community practices by involving women in becoming active participants
- Eliminate violence against women
- Strengthening participation for women's organisations
- Mainstreaming a gender perspective in development processes

(Ministry of Women and Child Development 2001, 2).

The policy prescription includes a more gender sensitive legal-judicial system to women's needs. Laws that discriminate against women, e.g. laws related to marriage, divorce, property

rights, etc., should change. Women should be included in decision making processes in the political sphere at all levels. Further, policies should ensure mainstreaming of women's perspective in all development processes. These processes include policies regarding economic and social policies, such as in the T&G industry. Women's role in the T&G industry have been crucial to the development of the industry. Women should be supported in terms of labour legislation, social security and other necessary support services, e.g. child care facilities, nutrition and health services, safe drinking water, toilet facilities, and all violence against women should be dealt with in order to eliminate it. These are the core initiatives for empowering women at workplace to ensure safe and healthy working conditions (Ministry of Women and Child Development 2001).

Central and state ministries will themselves draw up action plans for initiating these policies and are responsible for the implementations. National and State councils will monitor the operationalisation of the policy on a regular basis. In order to ensure effective implementation of legislation, the civil society and community will be involved. Legislations include "*measures to prevent and punish sexual harassment at the place of work, protection for women workers in the organised/unorganised sector and strict enforcement of relevant laws such as "Equal Remuneration Act" and "Minimum Wages Act" to be undertaken*" (Ministry of Women and Child Development 2001, 8). Also, crimes against women will be regularly reviewed by the central and state ministries, and literacy programmes and rights information programs regarding women will be done.

Attempting to operationalise the policy, different initiatives have been developed. A few of the initiatives are the "Mahila Police Volunteers (MPV) Initiative" working towards a gender responsive police service, which requires increased female personnel within the police force. The MPV will be a woman responsible for creating awareness of existing services available for women, inform police about unpleasant behaviour towards women and report incidents, conduct home-to-home meetings, etc. The MPVs will act as a link between police and communities and facilitate women in distress. A "Scheme for Women in Difficult Circumstances" (SWADHA GREH) is another initiative where women e.g. can be guided to report incidents and medical check-ups will be conducted. "Gender Champions" is a third initiative working towards gender socialisation where schools and colleges play a major role. Gender champions at the schools and colleges have to be 16 years or older and will be

responsible for providing guidance on how to integrate gender in all activities, identify gender gaps, organise awareness program, and so on.

These are only a few of the initiatives developed to operationalise the policy, and much more could have been included. However, the initiatives mentioned gives an overview of how the policy should be operationalised and they are crucial regarding impacting gender discrimination in the T&G industry (Ministry of Women and Child Development 2001). Raising awareness of existing services to report incidents and receive assistance when T&G workers experience human right violations, and making people gender sensitive from an early stage are important factors in order to change cultural attitudes.

Despite the thorough attempts to end gender inequality, the reality presents a different picture. Women still face numerous challenges regarding human rights violations at the workplace and are more prone to gender discrimination than men, as illustrated in the numbers presented in the beginning of this section. Physical and psychological sexual harassment are common experiences among women T&G workers, which will be presented in more detail in chapter 5.

Successful implementation of these initiatives, again, relies on partnerships with other social actors, e.g. the voluntary sector organisations and other international cooperation, in order to continue the empowerment of women through influencing each other by sharing experiences and ideas, and networking. In the following section of the paper I will present India's representation in international conventions and treaties relating to proper working conditions.

4.3 International Representation

What is repeatedly mentioned is the need for cooperation in order to achieve safe and healthy working environments in the T&G industry. Cooperation at an international level is an important tool to press states to follow through with their commitments. In regards to relevant international institutions I have chosen to focus on the core treaties and conventions of the United Nations (UN) and International Labour Organization (ILO). These illustrate the representation of India's international cooperation on the issues.

4.3.1 Human Rights Treaties

The Universal Declaration of Human Rights was proclaimed by the United Nations General Assembly in 1948. The Declaration represents universal rights for all human beings protected

both in municipal and international law. India has been a member of the UN since its foundation in 1945 and participated in drafting the Human Rights. The Human Rights were created to agree on principles to tackle issues regarding poverty and inequality, containing 30 articles (UN 1948). All the articles are relevant for tackling human rights issues for workers in the T&G industry, included the five listed below;

- The right to freedom from discrimination
- The right to the highest attainable standards of physical and mental health
- The right to work and to just and favourable conditions of work
- The right to participate in political process
- The right to freedom of opinion and expression

(UN 1948).

These articles are crucial to tackle in order to ensure proper working conditions in the T&G industry. Together with the human rights themselves, conventions have been established aimed at different areas of interests, which is what constitutes the treaties. Among the Human Rights Treaties that have been drafted, four of them are of particular importance in connection to the rights of workers;

- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The Convention on Elimination all forms of Discrimination of Women (CEDAW)
- The Convention on the Rights of the Child (CRC)

(NHRC).

Briefly described, countries that have ratified the ICCPR are committed to respecting the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. In total, there are fifty-three articles divided into six parts. The Human Rights Committee (HRC) is both the monitoring and enforcement body of the ICCPR, and states must submit reports to HRC if requested (OHCHR 1966)

By ratifying ICESCR countries are obliged to work towards granting economic, social and cultural rights to their citizens. The core rights of ICESCR are labour rights, the right to health,

the right to education, and the right to an adequate standard of living. The Committee on Economic, Social and Cultural Rights is the monitoring and enforcement body (OHCHR 1966).

Further, CEDAW defines what constitutes discrimination against women and committed countries must undertake measures to end such discrimination. Similar, CEDAW has a monitoring and enforcement body: the Committee on the Elimination of Discrimination against women (UN Women 1979).

Finally, the CRC sets out the civil, political, economic, social, health and cultural rights of children. Children are defined as human beings under the age of eighteen. The Committee of the Rights of the Child is the monitoring and enforcement body (Kane 2015).

India has ratified all four of the treaties and are practically obliged to commit to them, but India has made some reservations. By making reservations, state parties are able to cater to local specificities. However, reservations are problematic if made against crucial provisions of the Treaty. In such cases, countries may not be allowed to make such reservations. This is derived from international jurisprudence. The reservations India has made will not be listed, rather the focus will be on a mechanism to ensure countries are complying to the treaties. The individual complaint mechanism allows individuals to complain about human rights violations. However, in order for the individual complaint mechanism to exist, countries have to sign the first of the two optional protocols (OP) to the conventions. India have not signed the first OP for the listed treaties, except from the CRC. Resist signing the OPs result in individuals being unable to bring complaints to the different enforcement and monitor committees (Kane 2015). Depriving this right is unfortunate for the T&G workers who would otherwise be able to speak up regarding human rights violations at the workplace.

Another aspect is the low number of T&G workers in trade unions. The inclusion of the T&G sector in trade unions is relatively new and they are still facing challenges to increase their members. A main reason for this is that workers in general have to be part of a trade union to receive benefits from complaint mechanisms. This is a challenge for the many informal workers in the T&G industry since workers have to be employed to be able to register to a trade union. “There are registrations of informal worker’s trade union, e.g. SEWA, but many trade union registrars refuse to register trade union of informal workers” (Routh 2014, 36). Despite these challenges there are some examples of complaints that have been brought by Indian trade unions

in the T&G sector, one example is GATWU. Since union activists are often not allowed inside the factory premises to monitor the working conditions, GATWU has advised members to inform their colleagues and the trade union when incidents arise. Jayanthi was employed in the T&G sector and was harassed in the workplace. She spoke against the management and then got terminated. GATWU got involved and warned the management if they continued in this practice they would get the police involved. The case went on for one year, but Jayanthi eventually got reinstated and recompensed for her back-wages (Lyimo 2010).

Due to the low number of trade union members and the large number of informal workers, etc., Jayanthi's case is rare in the T&G industry. In chapter 5 some of the challenges regarding why T&G workers are not reporting incidents of human rights violations more often, will be further presented, as well as what kinds of remedies that exist in the international domain.

The next section of the paper will continue to present India's representation at the international level, but first is a completed list of treaties India has not ratified and OPs they have not signed presented (NHCR). The list is included because the contents of the conventions are all concerning protection and the health and well-being of people, and are therefore important for the T&G workers. E.g.: inhuman and degrading treatment is existing in the T&G sector: many people employed in the T&G sector are migrant workers in need of protection when moving to another state, and people with disabilities are another group of people that are in need of protection. These are some of the important contents of the treaties and conventions listed below, and presenting them gives an overview of India's relation to the international human rights treaties in general, and it illustrates the important linkages between these and the existing conditions in the T&G sector.

Figure 4.2 International Human Rights Treaties and Option Protocols Not Signed or Ratified

CORE INTERNATIONAL HUMAN RIGHTS TREATIES & THEIR OPTIONAL PROTOCOLS NOT RATIFIED BY INDIA	STATUS
Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT), 1984	India signed the Convention on 14 October 1997, but has not ratified it yet
International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMRW), 1990	India has not signed the Convention
International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED), 2006	India signed the ICPAPED on 6 February 2007, but has not ratified it yet
First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), 1966	India has not signed the ICCPR Optional Protocol I
Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), 1989	India has not signed the ICCPR Optional Protocol II
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), 2008	India has not signed the ICESCR Optional Protocol
Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1999	India has not signed the Optional Protocol to CEDAW
Optional Protocol to Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT), 2002	India has not signed the Optional Protocol to CAT
Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD), 2006	India has not signed the CRPD Optional Protocol

(NHCR 2012).

4.3.2 International Labour Organisation

ILO is a UN agency working directly towards granting rights to workers. ILO sets global minimum labour standards and develop program and policies promoting fair working conditions. The organisation was established in 1919 and contains 187 member states, including India. Underlying ILO's work is the collaboration between governments, employers' and workers' organisation (ILO).

ILO have developed a number of conventions, where 8 are considered to be the core conventions. India has ratified only 4 of them, however, the core conventions must be respected and promoted, irrespective of ratification. The conventions ratified by India include;

- C029: Forced Labour Convention, 1930 (ratified in 1954).
- C100: Equal Remuneration Convention, 1951 (ratified in 1958).
- C105: Abolition of Forced Labour, 1957 (ratified in 2000).
- C111: Discrimination (Employment and Occupation), 1958 (ratified in 1960).

(NHRC).

The 4 core conventions remaining to be ratified by India include;

- C087: Freedom of Association and Protection of the Right to Organise Convention (1948).
- C098: Right to Organise and Collective Bargaining Convention (1948).
- C138: Minimum Age Convention (1973).
- C182: Worst Form of Child Labour Convention (1999).

(NHCR).

A standard supervisory system helps to ensure that the states who have ratified the conventions also implement them. Under the ILO conventions member states must submit a report every 3 or 5 year to the "Committee of Experts on the Application of Conventions and Recommendations". In addition, employers and workers' organisations have the opportunity to comment on the reports. After submitted, the Committee gives feedback and future recommendations if necessary. Further, the Committee pass on the report to the ones on top: the "International Labour Conference", where there is a "Conference Committee on the Application of Standards" present to conduct a final examination of the report (ILO 1919).

India has submitted several such reports, one of them is the Decent Work Country Report (DWCP) (ILO 2013-2017). DWCP is a collaborative framework between the Ministry of Labour and Employment along with other ministries at national and state levels, the Planning Commission and other relevant stakeholders, and the ILO (2013-2017, 30). It contains detailed policies, strategies and results required to realise progress towards decent work for all (ILO 2011).

Regardless of the conventions a country has ratified, employers and workers' organisations possess the possibility to complain to the "Freedom of Association Committee", another ILO Committee. This particular Committee is significant for employers and workers' organisations in India, allowing them to complain against member states not complying to the conventions. A Committee will then examine the complaint and be in dialogue with the concerned government. States can file a complaint against each other, and the ILO then makes the investigation and future recommendations (ILO 1919).

India has filed a number of complaints over the years: in 2015 and 2012 complaints were filed by Garment and Allied Workers Union (GAWU) (case 3215 and 2991), in 2008 and 2012 the Centre of Indian Trade Unions (CITU) filed a complaint (case 2680 and 2962), and numerous other other complaints connected both to the T&G- and other industries (ILO).

Adopting ILO's conventions set the standard for all women and men at the workplace and are important for all parties involved: workers, employers, and the government. Decent work conditions do not only affect the well-being of the T&G workers, but work as an instrument of poverty alleviation and provides economic benefits for India.

Considering India's national laws and policies on securing safe and healthy work environments and their moderate commitment to international treaties and conventions on the same issue, the reality is different. Multiple human rights violations occur at the workplace in the T&G industry. The next section will first examine challenges for realising human rights in the T&G industry, before presenting ways to meet these challenges.

4.4 Challenges

As we have seen, India's effort in providing safe and healthy working conditions for T&G workers gives a somewhat contradicting picture. On the one hand, India's national laws and policies provide a dedicated picture regarding proper working conditions attempting to eliminate human rights violations. On the other hand, seeing that India has made reservations in international treaties offers the impression that they are not fully committed to ensure proper working conditions. Either way, there is no hiding the fact that human rights violations are present in the T&G industry.

During the development in the last decades, India has paid more attention to the economic perspective rather than labour standards. Labour laws have been regarded as a limit to growth instead of a long-term investment for better productivity. Poor work environment leads to reduced working capacity, which further cause economic loss (WHO 1994). This is especially the case for women where the impact is harder due to their additional responsibilities. Most often women do the demanding jobs outside work, including: cleaning, cooking, and taking care of the children. These were the responsibilities of women when only the men were working, but it has continued to be the situation after women started to join the working sector.

Labour laws should be regarded as a long-term investment for better productivity due to the positive relationship between improving working conditions and the health status of workers. The World Bank estimated that two-thirds of the occupationally determined loss of disability-adjusted life years (DALY) can be prevented if proper labour laws are followed (WHO 1994). Disability-adjusted life years is a World Health Organization (WTO) measurement of the number of years lost due to illness, disability or early death compared to the "ideal health situation where the entire population lives to an advanced age, free of disease and disability" (WHO, 1). DALY gives a good indication for the relationship between good working conditions and health among workers and increased productivity.

Another factor which is more challenging to measure is discrimination at workplace. Reports have shown that discrimination is an issue especially among women in the T&G industry. Even though discrimination is reported, the number is highly uncertain. A number of incidents are probably not reported due to women being afraid to report them and needs to build confidence in order to do so (Terwindt and Saage-Maass 2016). What makes it more difficult to encourage women to report discrimination incidents at workplace, are the underlying causes of gender

inequality in the social and economic structure in India. Based on informal and formal norms and practices, women are oppressed in comparison to men. On top of this, one of the main reason why discrimination at workplace is not reported is because of the large portion of T&G workers in the informal sector. I will come back to discussing this challenge in more detail in chapter 5.

The informal sector makes up a large group of T&G workers, which means a number of discrimination incidents and other human rights violations in the T&G industry are never reported. For many people in the informal sector, having work is more important than safe and healthy work environments. Their first priority is to earn money for themselves and their family. Among those who might consider raising their voice, the risk of getting fired and not be protected by the labour laws, surpass the need to speak up (Kane 2015). While this is an important part of why working conditions are not improved, there is a bigger picture. Global economic structures and problematic policy decisions are the main reasons for the poor working conditions in the T&G industry. The global fashion market has changed over the years from previously producing a few lines of clothing per year, ‘seasons’, changing drastically with clothes being produced in bulk and at all times of the year. H&M, Zara, Walmart, etc. will have thousands of clothing items produced over short periods of time to ensure maximum sales. In order for the factories to meet this demand the T&G workers are required to work overtime on a regular basis. The global suppliers are more interested in ensuring production and immediate availability in the market rather than maintaining inventory. More detailed overview of what the poor working conditions entail will be presented in chapter 5.

Further, in order to complain about human rights violations at workplace, the T&G workers need to be aware of their rights. Lack of information is an issue applying both to the formal and informal sector. If workers are not aware of their rights, they will not claim them. With a literacy level at 62.8% affirms that lack of education in India are one of the factors for the limited awareness of rights among T&G workers. However, the presence of strong trade unions and worker representative bodies are the factors shown to be the most effective tools for ensuring awareness among workers. Many statutes required that workers would be informed about the beneficial provisions, which was independent of the formal education workers might have had.

Innumerable challenges exist in eliminating human rights violations in the T&G industry in India. The main challenges have been presented, and the following concern is how to meet these

challenges. India's legal framework for protecting workers have been in existence for a long time and it includes the important aspects involved in the T&G sector. If the acts and policies the country has developed were properly followed, the T&G workers would not experience any human rights violations. Unfortunately, the implementation of the policies has been lacking. Finally, I will present suggestions for the direction of future development in the T&G sector.

4.4.1 Meeting the Challenges

First of all, in order to tackle the challenges of realising human rights in the T&G industry and improve the working conditions, India is required to fulfil the obligations of their legislations (OHCHR 2000). India need to commit to their legislations by allocate sufficient resources, monitor implementations, spread information, and so on. International Federation for Human Rights (DFID) (2000) more specifically points to the poor implementation of legislations and the need for further work at the national level on formulating benchmarks and indicators relevant to the country's and local communities' needs. This will help to ensure that the universal principles India are required to fulfil have local relevance and enable citizens to make claims on the basis of concrete entitlements. Local citizens taking action will push the political will to turn principles into practices (DFID 2000).

Further, in order to make sure the acts and policies are being followed, the ministries are supposed to provide a number of safety officers, factory inspectors and medical inspectors to control the factories. However, recent numbers have showed that there are only 21 institutions in India capable of training 460 specialists, and currently 1000 qualified occupational health professionals. These numbers include inspectors for all industries in India and the fact that there are around 35 million people in the T&G sector alone, states that the numbers of specialists and professionals are clearly not sufficient. Educating more people in this sector is therefore a prerequisite in ensuring the acts and policies are not violated (Zodpey 2009).

The government bear the main responsibility in meeting these challenges, which include ensuring that the T&G workers are aware of their rights. People need to know their rights in order to claim them and inform about violations at the workplace. Article 29:1 in the Human Rights Declarations states that: "Everyone has duties to the community in which alone the free and full development of his personality is possible" (UN 1948). In other words, it is necessary for the government and the T&G workers to cooperate in the process towards realising human rights in the T&G industry.

Informing T&G workers about their rights enables them to speak up when violations of human rights occur in the workplace. For the government to understand the human rights violations in the T&G industry, it is essential that they listen to the workers of the industry and let them participate in the relevant decision-making processes. A top-down approach from the government and other power elites will not be able to tackle the scope of human rights violations present if the T&G workers themselves are not empowered. Empowering the T&G workers enable them to monitor the actions of their employers and the government. Article 20:1 in the Human Rights Declaration is central in achieving this: “Everyone has the right to freedom of peaceful assembly and association” (UN 1948).

Empowering T&G workers entail inclusion of all. As discussed previously in the thesis, gender discrimination and informal workers are two main challenges in the T&G industry. Despite the laws forbidding gender discrimination, the social values and norms in India are an issue. Preventing and changing the social values and norms which are causing or negatively affecting human rights violations at the workplace can be achieved through education, training, consultations and exchange of information and good practices (Burton 2010). Further, to include the portion of informal workers in the future, policies regarding their rights should be included and they must therefore gain representation in rule-setting and policy-making processes (WIEGO 2012). The state will benefit with relevant knowledge for the direction of future policies, by including the T&G workers in the political processes, both from the formal and informal sector. With the support from India and local organisations, the workers are encouraged to take an active part in fighting for their rights. For this to occur, workers need to be allowed to unionise. Unionisation is already a fundamental and legal right in India, despite the lack of members. Reasons why the right is negated at the workplace will be further discussed in chapter 5.

Taking action to improve the current situation in the T&G industry requires concerted national and local action. India has already developed a legal framework for the labourers, and local organisations are encouraged to assist in the work towards realising human rights in the T&G industry. Multiple organisations already exist serving to influence Indian legislations in different areas. Their main effort in this attempt is to work as a supporting system for the neglected groups of people in the T&G industry and to speak up regarding their rights. Additionally, local organisations bear a vital role at the national and international level to push

for further changes necessary for the realisation of human rights. Variety among the organisations are important since they may be exclusive in their work. Different organisations working to improve the conditions in the T&G industry, may specialise in separate issues. E.g. mainly focus on gender discrimination or disabled people (OHCHR 2000). Approaching issues in the T&G industry in exclusive practices can have a mixed effect. On one hand, it can have a positive impact since a group of people get support. On the other hand, there is a risk of leaving certain groups of people out of the process. To ensure that no one is left behind, organisations should develop inclusive approaches in their work. Including all people in the T&G industry will have a stronger impact on the workers to take an active role in speaking up regarding their rights and possibly be included political processes.

As we have seen, there is a gap between the numerous international treaties and national legislations, and the current conditions of T&G workers. Attempting to minimise or cope with these challenges, one can examine how similar issues have been dealt with in the past. Again, the government hold the primary responsibility in securing these rights, along with their citizens. What becomes clear from assessing similar situations from the past, is that pro-poor growth policies are essential for increasing resource allocation where needed (OHCHR 2000, 16). The government need to listen to the T&G workers, because including them in the political processes will give the government insight to the development of specific policy responses. Pro-poor policies where resources are not excluded from any group of people requires a good governance approach. Good governance is not between the government and their citizens alone, but include relationships with other corporate sectors and international affairs. For all parts involved, transparency is important to check if the different actors are taking the action required towards fulfilling their obligations. India need to commit to their legislations, and the international community's role is to support India in reaching their goals. Non-state actors involved in the T&G industry, e.g. international corporations, have a role to achieve economic well-being and adapt to code of conduct to minimise human rights violations in the factories.

International corporations and NGOs play a vital role in the T&G industry. India is reliant upon exporting to international corporations, and they can therefore help set the standards in the T&G factories. The code of conduct and certified standards presented in the previous chapter have had an impact on the subcontractors, but not enough to end human rights violations in the T&G industry. Changing the working conditions require more pressure from corporations in order

for India to take action. NGOs play an important role in informing about the working conditions and can also have an impact in pressuring both corporations and India to make a change.

Moving beyond national and international policies, the consumers of T&G produced in India can pressure for change. During the past years, consumers have become more aware of the working conditions in the T&G industry around the world. By raising their voice, they can have a strong impact on corporations who further can pressure Indian factories. However, according to a report in the Guardian newspaper in 2013, consumers in the United Kingdom (UK) buying clothes made in India wanted ethical working conditions, but were not willing to pay more for their clothes (Kane 2015). The report further explains the low increase in price of clothes that would be needed in order to provide living wages for the Indian T&G workers. In another report conducted in Finland by Koskela and Vinnari (2009) regarding the future of the consumer society, 91.8% wanted to see information on the ethicality of production. They believe increased information will increase consumers' willingness to act differently, e.g. buy less clothing items and pay more for each item.

Either way, if consumers are willing to pay more for their clothes or not, India is the main responsible actor in improving the working conditions and tackling human rights violations in the T&G industry, and will have to implement incentives without the consumers' support.

What is clear, however, is that in the attempt of minimising the gap between international treaties and national legislations and the current conditions of the T&G workers, India need stronger enforcement mechanisms to realise their obligations. India has legislations promoting and protecting labour laws and gender discrimination, but making reservations from international treaties on the same issues illustrate a lack of commitment. Presenting themselves as fully committed to realise human rights in the T&G industry, require first of all to sign international treaties respecting human rights for T&G workers, without any reservations. Second, guidance to implementations should be followed through by enforcing and training employers regarding discrimination at workplace, in order for them to deal with it correctly. When it comes to improving the conditions for women at the workplace, maternity benefits are essential in order for them not to lose their job when expecting a child. Further, providing childcare is an important practical solution for women to have access to work after having children. These are specific measures, but seeing they are not properly implemented as most other incentives, finding effective enforcement mechanisms appear as a difficult task. After

researching the issue, however, it seems like this is where the main problem lies and what India need to work towards. Collective effort is important in order to achieve this, but again, India is the main responsible actor to ensure human rights are not violation in the T&G industry.

Chapter 5

Operationalising the Ruggie Framework

There is no questioning that human rights violations are an issue in the textile and garment (T&G) industry in India and have been for many years. Challenges for realising human rights have been discussed, which illustrates the complicated issue and the need for improvements in many areas to ensure proper working conditions in the T&G industry. What is certain however, is the need for cooperation between the responsible actors involved in the industry: the state and the business enterprises. Attempting to delegate their responsibilities, the Ruggie Framework was introduced. The Ruggie Framework consists of 31 guiding principles. Not all of these will be included, but the chapter will present a number of the guiding principles in order to assess how these are in alignment to the practices of the T&G industry.

5.1 Background of the Ruggie Framework

As discussed in the previous chapter, there is a need for the state and business enterprises to cooperate. Business and human rights are not a new issue, e.g. the creation of the International Labour Organisation (ILO) took place in 1919, the Universal Declaration of Human Rights was formed in 1948, and the creation of World Trade Organisation (WTO) in 1995. When creating the WTO, however, ILO's core labour standards were not included. This led to more attention for them and ILO eventually made the eight key conventions that the labour standards entailed reaffirming them as the 'Declaration of Fundamental Principles and Rights at Work', and have since been provided as a minimum reference framework for employment standards. In 2000 they were incorporated in the UN Global Compact by Kofi Annan, the then UN Secretary-General. The UN Global Compact addressed businesses' responsibilities of their activities' impact, both social and environmental. It consisted of ten principles and the countries signing it agreed to respect the principles. What seem to be missing though, were clear guidelines for the responsible actors regarding social standards (UN Global Compact 2013). In 2004 the Sub-commission of the then UN Commission on Human Rights produced the 'Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights' attempting to impose binding obligations on companies under international human rights law. The norms suggested the states would have the primary duties and the companies would have the secondary duties to achieve human rights. Human rights advocacy

groups welcomed the norms, while companies were strongly opposing them. The Commission on Human Rights did not adopt the document at that time, but requested the UN Secretary-General to appoint a Special Representative with the task of clarifying the roles of responsible actors in the business and human rights sphere. In 2005 Kofi Annan appointed a Harvard Professor to the post: John Ruggie. During his first three-year mandate the Commission was replaced by the UN Human Rights Council, which he was to report to in addition to the UN General Assembly (UN 2010).

John Ruggie was the first to be successful in tackling this issue. He presented a framework in 2008 that clarified the respective roles of states and businesses: ‘Protect, Respect and Remedy’. The framework rests on three pillars: *“the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulations, and adjudication; the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur; and greater access by victims to effective remedy, both judicial and non-judicial.”* (UN 2010, 2-3). These pillars are formally known as ‘the UN Protect, Respect Remedy Framework for Business and Human Rights’, but are often referred to as ‘the UN Framework’ or ‘the Ruggie Framework’, the latter is the chosen term in the paper.

When Ruggie presented the framework to the Human Rights Council, for the first time they unanimously approved a policy position on this issue for the first time. The Special Representative was given another three years to operationalise and promote the framework he had presented. Norway, Argentina, Nigeria, Russia, and India, representing one country from each UN regional group, co-sponsored in authorising the mandates’ resolution. During his second mandate Ruggie developed a set of guiding principles for operationalising the framework (UN 2010).

Not only has the Ruggie Framework been endorsed by the Human Rights Council, but it has also been endorsed by individual governments, business enterprises and associations, civil society and workers’ organisations, national human rights institutions, and investors, who were all included in the part of informing the guiding principles (Human Rights Council 2011). Companies were no longer reluctant to the framework as previously mentioned. Over the years there have been a growing awareness among consumers wanting to know where their garments are produced and under which conditions. Companies are aware of this and forced to listen to

the consumers in order to stay in business. The guiding principles can therefore be seen as a political response to the concerns of consumers, where companies have to deal with the Corporate Social Responsibility (CSR) to ensure human rights in the T&G industry. Consumers expect businesses to prevent human rights violations and the guiding principles attempts to ensure this by requiring businesses to exercise due diligence. Ruggie uses this term to cover the steps and processes by which a company understands, monitor and mitigates its human rights impacts. This requires long-term processes for all stakeholders involved and proper grievance mechanisms, which will be elaborated on later in the chapter. The due diligence provisions were tested by 10 companies in more than 20 countries, using different scenario-based workshops with different officials who had experience in coping with similar challenges. Furthermore, the Ruggie Framework went through extensive consultations with Human Rights Council delegations, business enterprises and associations, and civil society groups (UN Global Compact 2013). Following this, the document was presented at the International Coordinating Committee of National Human Rights Institutions before Ruggie developed the full draft of the framework. The guiding principles have *“established a common global platform for action, on which cumulative progress can be built, step-by-step, without foreclosing any promising longer-term developments”* (Human Rights Council 2011, 5). It builds on already existing international law obligations and provide solutions to where current regime falls short, which differs from companies as well as for states.

In order to address how governments should help companies avoid getting drawn into human rights abuses in industries, such as the T&G industry, the guiding principles offers guidance drawn from own experience. In the subsequent section some of the practices in the T&G industry will be examined followed by their alignment to the Ruggie Framework.

5.2 Common Practices in the Textile and Garment Industry

In chapter 4 some challenges for realising human rights in the T&G industry were presented. The challenges illustrate that human rights abuses are not a rare occurrence in the industry. This section will further examine some of the common practices before comparing them to the Ruggie Frameworks’ guiding principles. After reading a few reports reports on the practices in the T&G industry: Sisters for Change (SFC) (2015-2016), ILO (2015), Centre for Research on Multinational Corporations (SOMO) and India Committee of the Netherlands (ICN) (2014), International Federation for Human Rights (FIDH) (2014), it became clear what common practices are and I will present those practices that were most repeatedly mentioned.

The general overview of the T&G industry points to common practices of low wages and long working hours. According to a report from 2015-2016 conducted by SFC, the average wage in the T&G industry was Indian Rupees (INRs) 7.336 (\$109) per month. In an ILO report (2015) 80% of responded that six-day working weeks were the norm while 20% said seven-day weeks, and 25% of the respondents said they are working ten-hour shifts while 12% reported working twelve hours or more. A majority of them (79%) reported they were required to work overtime either occasional or frequently. The long hours were required by their supervisors in order to meet the targets. Some manufactures claimed the overtime only occurred in the peak seasons and that the workers were paid extra for the overtime. However, the ILO report (2015) suggests working overtime is a common practice during the whole year and not all are given extra payment, in worst cases no payment at all. Another report, SOMO and ICN, 2014, investigates the spinning mill sector and found that the industry is recruiting poor and marginalised workers by luring their families promising proper living conditions and bonus payment for their children. The report found that the reality of these workers are often a 68-hour working week and hostels they are required to stay inside during non-working hours. ILO (2015) maximum hours per week is 69 (48 regular, twelve overtime – double payment). This may not be among the common practices, but it is worth to mention its occurrence. In addition to forced overtime the workers are given short breaks: only ten minutes during an eight-hour shift. The workers are therefore required to eat before or after their shifts. However, at one of the mills investigated by SOMO and ICN (2014) workers were given a 30-minute lunch break and 5-10-minute toilet break. SOMO and ICN additionally touched on the issue of contracts and the fact that they are rarely signed. Among their respondents only 20 out of 120 had signed a contract. Other problems raised were insufficient time to read through the contracts and workers not receiving a copy of it.

What have been presented so far affects most T&G workers. However, women are substantially more affected than men. As mentioned, a majority of the T&G workers are women. All of the supervisors in the investigated mills in the SOMO and ICN report (2014) were men. Due to different reasons women are more often faced with human rights violations at work and are more often victims of discrimination. Gender discrimination is clearly an issue in the T&G industry and it comes in various forms, e.g. FIDH, 2014, reports that harassment from supervisors occur frequently including physical and psychological violence and humiliation. A few examples from FIDH was that job applications often include marital status, indicating that

women would not be hired if they had been married for less than six months. SFC (2016) points to the statistics that 43% of women were not given maternity leave. Female workers getting fired when becoming pregnant is therefore not uncommon. Another example they mention is that some women were given drugs to prevent menstruation in order to maintain productivity.

An even more alarming issue is that 14% of garment workers in the SFC report (2016) have been raped or forced to commit a sexual act. Cultural factors and the fact that most of the people in the higher positions are male makes it a difficult issue to tackle. In the same report 75% of women said they did not have confidence that they would receive equal protection under law if they reported. Another reason why the victims were not reporting the violations was fear of losing their job. In the SFC report (2016) 50% said they were the primary wage earners in their families. As the single head of the household or the sole wage-earner in the family they were especially vulnerable in losing their factory job. For the women who did in fact report incidents 60% were disbelieved or blamed when they reported sexual abuse or violence, and in 95% of the reported cases the factory management took no action at all.

Intimidation and fear are among the main reasons why these incidents are not reported, which further can be blamed on the social stigma in India. There is a high level in general of violence and discrimination towards women in the country. According to the SFC *“the high level of violence is a result of a society based in a patriarchal culture where unequal gender power dynamics perpetuate discrimination against women, reducing their social and economic participation and normalising abuse and violence against them.”* (2016, 14). In their report garment workers were asked why they believe sexual harassment and violence are routine in the T&G industry and came up with three answers:

1. Male workers think they have the right to harass female workers.
2. Senior managers never punish supervisors or managers who harass women.
3. Victims are threatened to silence.

(SFC 2016, 5).

The answers are not surprising seeing that 75% of the workers additionally reported that there is no functioning complaint procedure in the factories to investigate and punish sexual harassment and violence (SFC 2016). This includes no (or lack of) formal redressal mechanism to hear women workers' complaints and that trade unions are mostly absent. According to the

SOMO and ICN report (2016) many women thought they could not join trade unions or did not know what it was. With few unionised, the workers have relatively little bargaining power to improve conditions and ensure management to investigate complaints. Lack of transparency is another aspect making the investigation of complaints difficult. Transparency at all times, especially in the long supply chains in the T&G industry, is crucial in order to get to the bottom of complaints and implement proper mechanism. Over the years more corporations have started to have their supply chain public in order to tackle this issue, e.g. Hennes & Mauritz (H&M), Nike, Levi Strauss Co., etc., which will be more elaborated on in the next section of the paper (FIDH 2013). However, a number of corporations still choose not to make their supply chain available to the public. On top of this SFC (2016) states that the Indian government has had a poor record of recognising sexual harassment and taking measures to combat it.

Some of the main practices in the T&G industry have been presented and there are more that could have been included. However, from what have been presented it is clear that there are many concerns in the practices of the T&G industry and in the subsequent section discuss the alignment between the practices and the Ruggie framework.

5.3 Alignment to the Guiding Principles

Human rights abuses are clearly an issue in the T&G industry in India and the Ruggie Framework was developed attempting to cope with these violations. This section of the paper will present the Ruggie Framework and compare it to the practices in the industry to examine if they are in alignment. As previously mentioned the Ruggie Framework rests on three pillars: the state duty to protect against human rights abuses (principles 1-10), corporate responsibility to respect human rights (principles 11-21), greater access by victims to effect remedy (principles 22-31). The pillars consist of 31 principles in total and will not all be included. A few principles from each of the three pillars will therefore be presented to give a general overview of India's T&G industry in accordance to the Ruggie Framework.

5.3.1 The State Duty

The state duty is to affirm their obligations under international human rights laws of protecting workers from human rights abuses within their territory, enforce relevant laws, and provide guidance to companies (Human Rights Council 2008). Their duty is more elaborated on in the two following principles:

“1. States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.” (OHCHR 2011, 3).

India has multiple laws protecting against human rights abuses by third parties. Business enterprises are to adhere to the rules and legislations in India as presented in chapter 4. In order to get an overview a few of the acts will be repeated; the “Factories Act” ensure the welfare of workers regarding health, safety, working hours, etc. in order to prevent human rights violations connected to these areas; the “Sexual Harassment of Women at Workplace Act” more specifically address the prevention, prohibition, and redress of any discrimination towards women; the “Equal Remuneration Act” similarly address discrimination to that there should be equal remuneration to men and women; the “Industrial Disputes Act” governs the employer-employee relationship and is meant to assist in investigation of violations of any labour laws and present recommendations for settlement; the “Trade Unions Act” is to secure workers’ rights and prevent and investigate human rights violations.

This is a brief recap of India’s laws to protect workers against human rights abuses. It appears to be a thorough legal framework where T&G workers should be able to expect proper working conditions. Despite this, even though India has a legal framework in place the practices of the industry are clearly not in alignment according to the findings presented in this paper. Policies and legislations do not help when they are not properly operating. Preventing, investigating and punishing human rights abuses in the T&G industry are almost absent. For instance, according to a ILO report (2015) the government officials are aware of the practices in the T&G industry but often tend to close their eyes. This statement seems accurate seeing it is repeatedly mentioned in different reports that the Indian government has a poor record of dealing with human rights violations in the T&G industry.

Again, there are several reasons for the poor enforcement of the legal framework which was discussed in the previous chapter: large amount of workers in the informal sector, lack of information to workers regarding their rights, lack of guidance and factory inspectors, to mention a few. It is clear that India is in need of a stronger enforcement mechanism if they want to achieve alignment between the first guiding principle and their own legal framework to protect workers from human rights abuses from business enterprises.

To assist in this achievement, it is crucial that institutions are aware of India's human rights obligations which is why the next guiding principle of the state duty included is the following;

“8. States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.” (OHCHR 2011, 10).

Attempting to ensure policy awareness and fulfilment, the Indian government has the overall responsibility to provide assistance in protecting human rights and develop plans on how to do so, encourage business enterprises to adopt the Corporate Social Responsibility (CSR), raise awareness to workers regarding their rights, and so on. In order to divide the responsibilities, the ministries in India have different focus areas.

The Ministry of Labour and Employment provide a detailed policy action programme to shape business practices towards protecting workers. Various labour policies have been enacted to create healthy work environment such as the “National Policy on Safety, Health and Environment at Workplace”. The aim of the policy is to eliminate work incidents and human rights violations and enhance the well-being of the workers by ensuring that those that are shaping business practices are aware of and respect India's human rights obligations (Ministry of Labour and Employment 2009).

Similarly, the Ministry of Women and Child Development has developed policies working towards gender equality, e.g. the “National Policy for the Empowerment of Women”. Both the central and state ministries are responsible for drawing up action plans and the implementation of the policy which includes developing a more gender sensitive legal-judicial system to women's needs in order to ensure women's health and safety at the workplace (Ministry of Women and Child Development 2001).

Numerous policies could have been included to represent India's effort in ensuring their human rights obligations are known among, and followed, by institutions shaping business practices. Seeing that they would present a similar picture as the two policies mentioned, they have been left out. The two policies are found sufficient to illustrate that India's policies is in alignment

with the 8th principle by offering relevant information, training and support regarding their human rights obligations. However, even though India's policies reflect the principle it does not necessarily reflect the actual practices. Considering the practices mentioned in section 5.2: little awareness among workers to join trade unions, lack of complaint procedure, low wages, and so on, illustrates that the state is not succeeding in its attempt to ensure policy awareness and fulfilment.

The overall reason for the failure in fulfilling their roles is the lack of convergence between the different ministries. Convergence effort is needed to ensure effective implementation of the different policies. Gaps occur when laws and legislations are not effectively enforced and the many of the goals will remain illusions. Failure of enforcement include lack of awareness, poor planning and coordination, inadequate resources, etc. (Centre for Child Rights 2011). Convergence of policies between ministries remain a serious challenge, e.g. there is a substantial gender gap in the workforce in India and a majority of women are not protected in the T&G sector. There are many other ministries whose function may also need convergence with the Ministry of Labour and Employment and the Ministry of Women and Child Development, in order to achieve better synergy.

Despite the state's failure in ensuring protection of human rights to the T&G workers', business enterprises have responsibilities of their own.

5.3.2 The Corporate Responsibility

The issue of recognising human rights violations does not solely rely on India, similarly the corporations are responsible. Companies hold great power to affect human rights and their responsibilities entail upholding and protecting human rights. The second pillar offer companies to "know and show" that they are meeting their responsibilities (HRC 2011).

Included in the guiding principles of the corporate responsibilities are:

"11. Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved." (OHCHR 2011, 13). And;

“18. In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- (a) Draw on internal and/or independent external human rights expertise;*
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.” (OHCHR 2011, 19).*

Illustrating business enterprises’ respect of human rights are Corporate Social Responsibility (CSR) and code of conduct presented in chapter 2. These entail regulations most corporations adopt and therefore have to follow in addition to demanding certain conditions from the suppliers to prevent human right abuses in the T&G industry. By adopting code of conduct business enterprises commit to protecting human rights in their supply chain. It is based on laws in India as well as international human rights. Inspections and audits are helpful procedures in the code of conduct in order for the business enterprises to control the conditions in the factories. An indication that the code of conduct is successful is when the factory workers are comfortable in raising concerns regarding the working conditions.

Further, when choosing their suppliers some business enterprises have a system where they gauge human rights risks in the different factories in order to get an overview of the better-complied factories. E.g. H&M have a system of rewarding the factories scoring best with gold, silver, etc. partnership, which will be further discussed in the subsequent section. This can be a helpful mechanism for the business enterprises to ensure proper working conditions. However, at the factory level meaningful consultations seem to be lacking though. Lack of awareness of their rights is a concern among the T&G workers, e.g. many T&G workers do not have a contract or have not received a copy of their contract, are not aware of their right to unionise, etc., depriving them of their rights.

A majority of the T&G workers, especially women, are not speaking up regarding poor working conditions in fear or simply because they believe they will not receive help from the managers, as described in the previous section. This indicates that the practices are not in complete alignment to Principle 11 and 18. Despite this, by reviewing the practices of the T&G industry the code of conduct is either lacking or not followed in a number of factories. Lack of transparency in some corporations may be the reason why human rights violations are still

present. Regardless of why human rights violations occur corporations should not wait for India to take responsibility, they should themselves interfere whenever they are enlightening by violations in their factories, leading to the next principle.

“21. In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

(a) Be of a form and frequency that reflect an enterprise’s human rights impacts and that are accessible to its intended audiences;

(b) Provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact involved;

(c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.” (OHCHR 2011, 23).

Due to raised awareness regarding working conditions in the T&G industry more businesses have realised the need for transparency. Pressure from consumers, states and international NGOs have led multiple business enterprises to reveal their supply chains. H&M are one of these business enterprises. They are open with regards to human rights violations present in T&G factories and how they tackle the issue. For instance, they believe the T&G workers should know their rights and be able to claim them and therefore attempts to contribute to the improvements of the industry. Code of conduct is the main tool they use when choosing suppliers and they additionally operate with awards for those suppliers scoring best with respect to human rights, e.g. gold and silver partnerships (H&M).

Another example is Levi Strauss Co. operating in similar respect where they both have their supplier list public available. Levi Strauss Co. demand their suppliers to adhere to their ‘Terms of Engagements’ which define the labour standards to ensure safe and healthy working conditions. With their ‘Worker’s Rights Grants’ they attempt to positively influence the states with their business practices, for instance, by releasing their supply chain they believe it will foster suppliers’ performance and workplace conditions. By involving the entire industry, they will send a stronger message regarding the importance of a responsible workplace (Levi Strauss Co.).

However, even though H&M and Levi Strauss Co. are representing strict demands and regulations to their suppliers' there are still a number of business enterprises who do not illustrate the same commitment, e.g. Vero Moda, Jack & Jones and Zara, have not published their supply chains. Having their supply chains hidden from the public makes it difficult reveal human right violations in the T&G factories. They disclaim responsibility for the working conditions and attempts to avoid any critique towards their merchandise. According to reports many of the businesses who do not reveal their supply list do not know what the working conditions are either. Revealing its supply list is an important step for business enterprises to take in order to ensure safe and healthy working conditions for their T&G workers. Also, by making their supply lists public it becomes easier to cooperate with other business enterprises supplying from the same factories (Future in Our Hands 2016).

Businesses who do not reveal their supply lists claim it is because of competition concerns. However, when e.g. Levi Strauss Co. and H&M published their lists they already knew what factories their competitors were supplying from (FIDH 2014).

Due to the variations business enterprises are partially in alignment with the principle. H&M and Levi Strauss Co. are among the business enterprises setting a good example and other should follow in their footsteps. It is worth mentioning that even though H&M and Levi Strauss Co. have their supply chains easily available on their webpages, it does not mean that no human rights violations occur in their factories. Despite this, their openness is a good indicator for their willingness to cooperate and wanting to better the situation for their workers, bringing us to the next principle of remediation (FIDH 2014).

5.3.3 Remedy

The third pillar addresses both the states' and corporations' responsibility for victims of corporate-related abuse. The state should provide access to remedy through judicial and non-judicial means, while corporations should attempt to prevent and remediate any infringement of human rights that they contribute to (Human Rights Council 2008). Two of the principles are chosen to describe more in detail what their responsibilities entail. The first principle is regards corporations' responsibility:

“22. Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.” (OHCHR 2011, 24).

Business enterprises’ reaction to their linkage to human rights violations differs, as we have seen, but another business enterprise illustrating a positive reaction is Nike. During the 1990s Nike was revealed to have connection to various factories violating human rights. Nike eventually took responsibility and responded with several remedies, e.g. in 1998 Nike announced that they would “raise the minimum age of workers, significantly increase monitoring, and adapt to U.S. Occupational Safety and Health Administration (OSHA) clean air standards in all factories” (Nisen 2013). Shortly after, in 1999, Nike created the Fair Labour Association establishing “independent monitoring and code of conduct, including a minimum age and a 60-hour work week” and urged other brands to do the same (Nisen 2013). Nike also started performing factory audits where the problematic factories were repeatedly visited. In 2005 they were the first brand to publish their list of suppliers, with other brands following their footsteps as presented in the previous section (Nisen 2013).

Nike was the first targeted brand with connection to poor working conditions which was revealed to the public. Not because they were the only brand at that time who could be linked to human right violations, but because of their size and popularity. Since this period Nike has regularly published reports on the working conditions and acknowledges the issues in the factories. Responding to the allegations and willingly take actions to change the situation had a positive impact for Nike. It does not mean they no longer are connected to any human rights violations, as they are open about in their reports, but they managed to change their bad reputation by illustrating an image of concern and actively make an effort in improving the working conditions (Nisen 2013).

Since Nike’s connections to poor working conditions were revealed, others brands experienced the same. However, not all brands have illustrated the same commitment as Nike in providing remediation. The brands not publishing their supply chains mentioned in the 21st Principle are also the ones illustrating poor engagement to any remediation: Zara, Benetton, Mango, Polo Ralph Lauren, and the list goes on. It is therefore a long way to go before business enterprises are in alignment to this principle, but there are a number of companies setting a good example where others are being pressured to follow.

The next principle is regarding India's own responsibility;

“27. States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.” (OHCHR 2011, 30).

India has over the years established proper judicial mechanisms reflecting international human rights standards including such as the “Minimum Wage Act”, the “Sexual Harassment of Women at Workplace Act”, etc. In addition to the judicial mechanism Cividep India have partnered with SOMO's Human Rights & Grievance Mechanisms Programme to strengthen the country's non-judicial grievance mechanism. This was a four-year project from 2012-2015 to improve the non-judicial grievance mechanism for stakeholders who experiences human rights violations at their workplace and it was developed from the context of the Ruggie Framework, published by Organisation for Economic Co-operation and Development (OECD) Watch. The program offers possibilities for addressing human right abuses and practices of corporations without having to do it through legal forms which are often more expensive and time consuming. Objectives of the program include providing tools and information needed, advocate for new mechanisms guaranteeing access to remedies, and *“strengthening the capacity of individuals, workers, communities, and civil society organisations to prevent and stop human rights abuses caused by corporations”* (SOMO 2015, 1).

The non-judicial grievance mechanisms can be used by victims of human rights abuses at the workplace but do not always function properly. For instance, as presented in the “Principles and Practices”-section there are lack of awareness among many T&G workers regarding their rights, in addition to absent of complaint procedures. One of the aims of the program is therefore to address this issue and make more workers aware of their rights, which will lead to more workers demanding better working conditions.

However, according to an OECD Watch report from 2015 there are very few examples of complaints leading to results that provide measures of remedy. The report further points to the fact that when policy changes do occur they “encompass only forward-looking corporate policy changes” (OECD Watch 2015, 5). By only addressing the future they fail to end present and

past corporate misconduct. In order to increase access to remedy the government needs to strengthen their commitment and implementation.

What have been presented is only a handful of the guiding principles' three pillars. The intent is that the presented principles give a general overview of what the Ruggie Framework entail and how those are in alignment to the practices of the T&G industry in India. What had been missing prior to the introduction of the Ruggie Framework were clear guidelines on the responsibilities of the different actors involved in a business and human rights sphere. John Ruggie successfully introduced his framework receiving good response because it was a general framework that included all industrial sectors, and it was therefore supported by a broad range of Human Right Councils member states. Despite this there were also concerns regarding the Ruggie Framework.

5.4 Debating the Ruggie Framework

One of the concerns raised regarding the introduction of the Ruggie Framework was that international human rights laws do not impose direct legal obligations on business enterprises, even though some legislations are enshrined in domestic jurisdiction, e.g. labour laws, etc. The concern was therefore the fear that the Ruggie Framework would end up as another voluntary code of conduct, which had been introduced years before but had not led to a sufficient shift towards ending human right abuses in the T&G industry. Supporting this concern is the fact that since the Ruggie Framework is general to include all industrial sectors, they are not an operational manual to be downloaded and implemented (Bader et. al. 2012). However, as John Ruggie himself stated;

“I am under no illusion that the conclusion of my mandate will bring all business and human rights challenges to an end. But council endorsement of the guiding principles will mark the end of the beginning.” (Ruggie 2011, 7).

Issues need to be tackled by all participants involved in the T&G industry. However, some advocates have raised the concern of extending human rights obligations to business enterprises. They are in doubt of the applicability to companies seeing that human rights instruments are written for and by states, and therefore might not be appropriate for business enterprises. To elaborate on this concern, human rights are not only a set of principles that needs to be followed, but a whole system. When companies then are given the guiding principles to

uphold and protect human rights, they can push it down their supply chain which can risk causing a distraction from ensuring that the government themselves enforce their own labour laws (Bader et. al. 2012).

Seeing that India already have their own labour laws in place, this is not an issue. By giving business enterprises responsibilities to ensure they are protecting T&G workers from human rights abuses might “lesser” the pressure on India in doing the same. However, considering what changes some business enterprises have done to protect human rights, e.g. H&M, the outcome of giving both actors responsibilities seem to have a greater impact than leaving business enterprises out of it.

In addition to business enterprises and states, communities should be involved. Advocates points to the weakness that the guiding principles are more practical than aspirational and do not mobilise citizens. Companies disagree with this suggesting that implementing a human right due diligence system is aspirational and therefore will include citizens. It is an important debate because it contains if states and companies should be held responsible for their actions or the outcome (Bader et. al. 2012).

Reviewing practices in the T&G industry in India, citizens are rarely included. Discrimination is a main issue pointing to the importance of including citizens in the attempt to change their attitudes and perceptions. Tackling dilemmas, such as this, that have been present for decades, is a challenge.

To summarise, the main concerns of the Ruggie Framework is the fear that it is too opportunistic, and that it avoids necessary challenge of getting to the root causes of human rights abuses in the T&G industry. The suggestion of whether or not business enterprises should work out their own theories of change, drawing upon research on what causes governments to change policies and behaviour, has been raised (Bader et. al. 2012). Again, this does not seem to be a good solution since there have been made progress by a few companies. Even though this can be regarded as both a challenge and an opportunity for states in creating government leadership, the positive impact from companies should rule out the challenges that can occur.

By only considering India’s legal framework and the Ruggie Framework they seem to be in alignment, but the practices reveal a different reality. All practices presented were either not-

or partially in alignment to the guiding principles. Most of the concerns raised by advocates therefore seem to be accurate. Despite this, the Ruggie Framework has had an effect in representing a changing point in the T&G industry. Participants involved are urged to take their part in protecting human rights. Dividing the responsibilities makes it easier to demand the necessary changes when human rights violations occur. What is clear from the issues presented is the need for cooperation among participants involved in the T&G industry. As John Ruggie himself said: *“No single silver bullet can resolve the business and human rights challenge.”* (Ruggie 2013, 77). To conclude this chapter, the Ruggie Framework is summarised in the figure below.

Figure 5.1 Summary of the Ruggie Framework

The State Duty	<ul style="list-style-type: none"> - The State duty to protect against human rights abuses committed by a third party through appropriate policies, regulation and adjudication - Primary role in preventing and addressing corporate-related human right abuses
The Corporate Responsibility	<ul style="list-style-type: none"> - Acting with due diligence to avoid infringing on the rights of others, and addressing harms that do occur - Applies across its business activities and through its relationships with third parties connected with those activities - Companies need to consider the country and local contexts for any challenges they may pose and how those might shape the human rights impacts of company activities and relationships
Remedy	<ul style="list-style-type: none"> - Victims of human right abuses must be able to seek redress - Effective grievance mechanisms play an important role in both the state duty to protect and the corporate responsibility to respect

(Adapted from UN 2010)

Chapter 6

Conclusion

This thesis started out asking what are the challenges for realising human rights in the T&G industry in India, and how is the Ruggie Framework operationalised? To answer these questions, I have examined the national laws and legislations in India as well as their commitment to international treaties and conventions under the UN and ILO. In doing so, I have found what the main challenges India faces in the T&G industry are, as well as how the practices in the industry are in alignment to the guiding principles of the Ruggie Framework. The findings of my thesis demonstrate that India is poorly in alignment to the guiding principles and that more effort is needed from the state in order to fulfil their human rights obligations. I will briefly present the findings of each research question, then the theoretical contributions, before moving on to a general conclusion.

6.1 Findings

In the first research question, I assessed the challenges for realising human rights in the T&G industry and it became apparent at an early stage that the challenges are numerous. Since the expansion of the T&G industry, India has paid more attention to the economic perspective rather than the labour standards. Overall, the working conditions for the T&G workers are poor: low wages, long working days, lack of sanitation facilities and canteens, and so on. Informal workers and women represents the majority of the T&G workers, and these are two groups that are vulnerable to human rights abuses. Informal workers are not offered social security benefits such as retirement pension, a decent salary, overtime payment, and other benefits included in the formal sector. Women face discrimination not only in the T&G industry, but in the society in general. Discrimination at the workplace includes, among other things, sexual harassment and no maternity benefits, to mention a few. Even though India has established a legal framework that should protect workers from human rights abuses, the violations still occur. There are international treaties India has not ratified, and this can be viewed as a lack of commitment from India to the international sphere. However, after assessing the numerous challenges, the treaties India has not ratified does not seem to be the main challenge for the realisation of human rights in the T&G industry. The challenges need to be tackled in all the

different areas of in the industry. Attempting to make this easier, the Ruggie Framework was introduced to divide the responsibility between the states and businesses.

In the second research question, I examined how the Ruggie Framework is operationalised in India. In order to do this, I compared a number of the guiding principles to the practices of the T&G industry. Since I had already assessed the challenges for realising human rights in the industry, I was aware of the poor alignment with the framework. However, alignment was present in a few of the guiding principles, but the overall alignment was almost absent. The framework has been criticised for being too opportunistic and that it avoids the necessary challenge of getting to the root causes of human rights abuses in the T&G industry. Despite the critiques towards the framework, I found it to have a positive effect. The Ruggie Framework has introduced a ground foundation between the responsible actors in the T&G industry. Even though it is not at present functioning properly in India, the framework makes it possible to evaluate the working conditions in the T&G industry, which helps to know where changes are necessary.

The findings from the two research questions are that changes in the T&G industry alone is not sufficient in order to end human rights violations. Changes are needed in all aspects of the industry: both in India and in the international sphere. India has a long way to go before the Ruggie Framework is operating properly, but the framework has had a positive effect. The findings will be more elaborated in the final section of the paper, but first a discussion on the theoretical perspectives.

6.2 Theoretical Perspectives

The theoretical frameworks from my thesis have included the liberal human right theory and the social feminist theory. Human rights in the T&G industry have been the main focus of my thesis, and women represents a majority of these workers. The use of both of these theories therefore seemed natural as they fulfil each other. The outcome of each of the theories will be presented in the two following sections, before I will end my thesis with a final conclusion.

6.2.1 Human Rights Theory

Using liberal human rights theory in my paper enabled me to explore its two viewpoints: human rights as needs-based morality and human rights as political commitment to individual liberty. From the international spheres' perspective human rights are basic rights every human being is

born with, while it becomes clear in the thesis that India must politically commit to secure the human rights to the T&G workers. What is evident is that both of the viewpoints are reliant upon an external institution or agent that allows the human rights to be “given” or “ensured” to the T&G workers, and the viewpoint that they are “given by birth” is therefore naïve. There is no room to wait around until the T&G workers themselves claim their rights without any help from the state or from international organisations. In this way though, the workers are easily viewed in a position of “victimhood” or “powerless” due to their dependency on an external institution. This is one of the viewpoints of the liberal human rights theory: that human rights require moral intervention from a higher authority on behalf of the “powerless”. This is the picture of a classic liberal state: if a person is restricted from any human rights, an external actor must enter. Furthermore, the rights holder is seen as an individual and the states’ political commitment is organised around the conception of human rights and make the necessary changes to fulfil them. Based on this, one can say that institutions are only legitimate as long as they secure the liberty and freedom of the individual. Even though the classical liberal position would like to encourage more transparency, more individual liberty and less state intervention, it is clearly not possible in the T&G industry in India. State intervention is crucial in order to make any changes in the T&G sector (Clark 2010).

Seeing the lack of India’s alignment to UN’s Ruggie Framework, one can ask if it is partly because the framework, based on international human rights, is more suited to liberal states in the Western countries. *“The human rights system reflect a vision of good governance rooted in the common historical experiences of Western countries and that prevails in countries that enjoy wealth, security and order.”* (Posner 2014, 1.) This does not necessarily mean the vision is appropriate for other countries with different traditions and challenges. With the economic growth in India over the years and the continued violations of human rights in the T&G sector, the country seem to give priority to the economic growth over political liberalisation. Both a lack of monitoring and enforcement mechanisms are factors causing the failure of realising human rights in the industry.

However, moving away from a human rights-based approach in order to realise human rights in the T&G industry and proper operationalisation of the Ruggie Framework, does not seem to be the solution at this point. International pressure has had an effect in the past, e.g. the Nike incident presented in chapter 5, and can continue to work towards influencing the public opinion and push for T&G workers’ rights and awareness. Improvements have been made and the goal

should therefore be to continue to pressure India to make necessary changes in order to be in alignment to the guiding principles. It will be a time consuming challenge, and the pressure from international organisations and consumers will play a major role in the realisation of human rights in the T&G industry. If India wants to succeed in this realisation, there is a crucial need for a change in the cultural and social attitudes towards women.

6.2.2 Feminist Theory

Social feminism was the second theory I used in the thesis, because I found it necessary to elaborate on the position of women while engaging with international human rights law. The international law of human rights offers protection to women: the focus has been the rights to equal treatment and non-discrimination on the basis of sex. The UN was the first to establish such charter, and other institutions and organisations have since adopted a range of treaties and declarations that elaborate the principles of non-discrimination in certain context, as we have seen in India. In the thesis, I have briefly introduced some of the international instruments that focus on discrimination against women: e.g. CEDAW, etc. Further, I have tried to illustrate how discriminatory violations in the society in general have a particular effect in terms of human rights abuses on women in the T&G industry.

Recognition of women's rights has been taking place globally the past two decades. Despite this, discrimination on the grounds of sex justified by cultural values and perception, is still occurring in some countries. In these countries, the gap between declarations of rights and the actual practices is a common pattern. India represents one of these countries. Previously, many human rights activists were unwilling to recognise many culturally sanctioned abuses and instances neglecting women as violations of human rights. This perception has changed for most activists in the international sphere, but India still has a long way to go. Even though the government has attempted to reduce and eliminate human rights violations towards women, numerous violations are still carried out by individual men. Okin (1998) points out in her paper, "Feminism, Women's Human Rights, and Cultural Differences", that part of the reason for the common occurrence of gender-based violations are due to the neglect in talking about the violations in the private or domestic sphere. Another factor she points out is that women's freedom and equality are often understood as symbols of Western values, and that many inequalities between sexes are regarded by many people as invisible, insignificant, natural or culturally appropriate. She therefore further points to the need for looking at women's rights in

institutions of family, religion, culture and tradition, in a new light. With this in mind, the NGOs in the Asia-Pacific region have previously concluded that;

“Patriarchy which operates through gender, caste, class and ethnicity, is integral to the problems facing women. Patriarchy is a form of slavery and must be eradicated. Women’s rights must be addressed in both the public and private spheres of society, in particular in the family.” (Okin 1998, 45).

NGOs and other organisations have helped many silent voices of women to speak up, and more are being included in decision-making processes that used to be made by men alone. However, with the highly patriarchal social system in India, many women are still not speaking up. Okin (1998) additionally included a statement from the Program of Action emanated from the Beijing Conference that rejected cultural justifications of violating women’s human rights:

“While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.” (Okin 1998, 45).

I agree with both of the statements included. Even though some argue that the women’s human rights are from a Western perspective and therefore might not be appropriate for other cultures, as in general with the human rights as pointed out in section 6.2.1, women in India are also in favour of the international women’s human rights. On the one hand, from my own liberal, Western perspective, I might be biased with this conclusion. On the other hand, however, India has already agreed to many of the international treaties and declarations protecting women’s rights as well as doing so in their own laws and legislations. With this in place, the main challenge relies on India. There is not much more the international sphere can do except from continue to demand that the declarations and treaties are being followed, and choose T&G factories that are not violating women’s human rights. However, most of the challenges have to be dealt with within India, and the following steps are, again, to increase awareness and enforce complaint mechanisms in the T&G factories. In addition to implementing this in the T&G sector, it is crucial to do similar implementations to the general society. As have become clear, discrimination towards women is a cultural challenge in India, and must therefore be dealt with at the national level for it to have proper effect in the T&G sector.

I have chosen the two theories because they are both the ones I found most suitable for examining the working conditions in the T&G industry. The feminist theory is not in itself adequate enough to address how the practices of the T&G industry are affecting women, and similar the human rights theory would be lacking without the feminist perspective. *“In short, liberal feminism on equality principles of human being upon which basic structure of international human right norms and framework is located. International human right mechanisms, though not adequate, has been playing a role to improve the particular violations of women’s rights whenever being brought to their notice.”* (Bari 2013, 1).

6.3 Discussion

When researching what the are challenges for realising human rights in the T&G industry in India and how the Ruggie Framework is operationalised, I came to the conclusion that India is facing numerous challenges that needs to be dealt with not only specifically for the T&G industry, but in general for the country, and that India is in poor alignment with the Ruggie Framework.

The global fashion market has changed over the years to becoming an industry where clothes are being produced in bulks at all times of the year. Corporations are interested in maximum sales, which translates to thousands of clothes being produced over short periods of time at the lowest possible prices. In order for the industry to meet this demand, the T&G workers are forced to work overtime and receive low payments because suppliers are more interested in ensuring production rather than improving the working conditions. Global economic structures combined with problematic policy decisions are therefore the main reasons for the poor working conditions in the T&G industry. What is clear from the issues presented in the thesis is the need for cooperation among actors involved in the T&G industry, in addition to changes within India to tackle the underlying causes of gender inequality in the social and economic structure. India needs to commit to their legislations by allocating sufficient resources, monitor implementations, spread information, and so on. Changing cultural perceptions that violates human rights are crucial in order for India to fulfil their obligations and to be in alignment to the Ruggie Framework, but it will be a time consuming challenge.

A majority of the workers in the T&G industry are informal workers and women. These are two groups of people that have limited representation in the society, and it is therefore crucial that they are more included in decision-making processes. India's legal framework already includes the protection of women, but there is a need for a change in order to integrate the informal sector to the formal in order to offer the same social security benefits for all. This is a huge challenge that I briefly touched upon in the thesis: the state will benefit with relevant knowledge for the direction of future policies, by including the T&G workers in the political processes, both from the formal and informal sector. However, the focus in the thesis has mostly been on women. Even though there is a legal framework in place for protecting women, they still face daily harassment at work and often do not receive benefits that they are entitled to: e.g. maternity leave, etc. Women in India have been victims of human rights abuses justified by the culture and perception, which is a crucial factor that has to be tackled in order for the women-related acts to be successfully implemented. Preventing and changing the social values and norms which are causing or negatively affecting human rights violations at workplace, can be achieved through education, training, consultations and exchange of information and good practices (Burton 2010). NGOs and other local organisations have helped to raise awareness around women's rights and develop non-judicial mechanisms to remedy, seeing that many do not believe anything will be done through the judicial mechanisms offered. Some improvement has been made, but India still has a long way to go.

In order to move forward, one of the crucial aspects is that T&G workers need to be aware of their rights. If the workers are not aware of their rights they will not claim them either, and strong trade unions is one of the most effective tools that can help to achieve this. Trade unions are apparent in India, but since they have a limited number of members their power is also limited. To increase the number of members, India needs to allocate sufficient resources, monitor implementations, spread information and so on. The ministries' responsibility should be to provide more safety officers, factory inspections, medical inspectors, in order to control the conditions of the factories.

In addition, policies regarding rights of informal workers must gain representation in rule-setting and policy making processes. Seeing that women and informal workers represents the majority of the workers in the T&G industry, their involvement in political processes is crucial in order to realise human rights in the industry. International NGOs and corporations can additionally play a vital role in demanding proper working conditions, seeing that India is

reliant upon international corporations in the T&G sector. A step further is for consumers to pressure corporations to demand these changes from suppliers if they have not already done so. Examples have illustrated that corporations were negative towards CSR to begin with, but after having their relationship with poor working conditions in their suppliers' factories exposed to the public, many corporations have changed their view. However, some corporations are still not illustrating enough commitment attempting to secure proper working conditions, and the consumers therefore have a powerful voice they should use.

Further, taking action to improve the current situation in the T&G industry requires concerted national and local action. India has already developed the legal framework for the labourers, and local organisations are encouraged to assist in the work towards realising human rights in the T&G industry. Local citizens taking action will push the political will to turn principles into practices.

Despite the different actors that can help to improve the working conditions of the T&G workers in India, the state is the main responsible actor. The pressure from the international sphere eventually influenced the development of the Ruggie Framework. The implementation of the Ruggie Framework was introduced as an attempt to divide the responsibilities between the state's duty to protect, the businesses responsibility to respect, and the possibility for demanding remedies, but the practices of the T&G industry have illustrated that India is far from being in alignment to the framework.

After introducing the Ruggie Framework in chapter 5, I presented an overview of the general practices in the T&G industry in India. The practices appear to include low payments, long working hours, short (or no) lunch and toilet breaks, lack of (or no) contracts and sexual harassment, especially towards women. Furthermore, the functioning complaint procedures are limited, meaning a lack of redressal mechanisms and trade unions. After the enlightenment of the general practices, I already had an idea of what the outcome would be when examining the practices' alignment with the framework. The following section of chapter 5 continued with an examination of a number of the guiding principles to find out if my suspicions would turn out to be valid.

India already has the legal framework in place, but it does not help when their policies and legislations are not properly operating. Preventing, investigating, and punishing human rights

abuses are almost absent in the country. According to an ILO report (2015), the government is aware of the human rights abuses but tend to close their eyes. The reasons for the poor enforcement of the laws and legislations in the T&G sector are because of the high number of informal workers, lack of information to workers, lack of guidance and inspectors. The state is not succeeding in its attempt to ensure policy awareness and fulfilment. This is due to the lack of convergence between the ministries' responsibility areas. Gaps occur when laws and legislations are not effectively enforced, which have occurred because of lack of awareness, poor planning and coordination, inadequate resources, to mention a few of the reasons. Convergence of policies between the ministries remains a serious challenge: e.g. there is a substantial gender gap between the workforce and the women not protected in the T&G sector. In relation to the workers of the T&G industry, there is a need to achieve better synergy between the policy areas of the Ministry of Labour and Employment and the Ministry of Women and Child Development.

The corporations' responsibilities were the next part of the Ruggie Framework that I examined. Corporate Social Responsibility (CSR) and code of conduct have been introduced a while back and are rules and regulations that both the corporations themselves as well as their suppliers, have to follow. By implementing CSR and code of conduct, the corporations commit to protect human rights in their supply chains. Some corporations use systems to gauge the human right risk in the different factories: e.g. the gold/silver/etc. partnership that H&M operates with. However, meaningful consultations seem to be missing seeing that many workers are not aware of their rights and have not received contracts, and so on. Lack of transparency in some corporations may be the reason why human rights violations are still highly present. Despite this, due to raised awareness over the years regarding the working conditions in the T&G factories, many corporations have realised the need for transparency, and the pressure from the international stage and consumers have led an increasing number of the corporations to reveal their supply chains to the public. Levi Strauss & Co., for instance, believes that releasing their supply chain will foster suppliers' performance and workplace conditions. Even though releasing supply chains have increased among corporations over the years, there are still some who choose not to follow in these footsteps. When corporations keep their supply chains hidden from the public, they disclaim responsibility for the working conditions and attempts to avoid critique towards their merchandise. Many of these corporations do not know what the working conditions are either. Revealing their supply lists is an important step for corporations not only

because of the demand from consumers and international organisations, but it will also make it easier to cooperate with other businesses sourcing from the same suppliers.

There are variations among the corporations' commitment towards bettering working conditions in the T&G industry. Therefore, the practices are partly in alignment to the Ruggie Framework. Violations still occur in H&M, Levi Strass & Co., but their openness indicate their willingness to better the situation.

Access to remedy is the third and final part of the Ruggie Framework addressing both the states' and corporations' responsibility to corporate-related abuse. The state should ensure access to remedy through judicial and non-judicial means, and corporations should attempt to prevent and remediate any infringement of human rights they can contribute to. Again, corporations' linkage to human rights violations differ: e.g. the incident with Nike, who were able to change their poor reputation because they responded with several remedies by raising minimum wage of workers, significantly increased monitoring, adapting to US OSHA clean air standards, creating the Fair Labour Associations, and started performing factory audits. In addition to all of these initiatives, Nike was the first corporation to publish their supply list and they have regularly published reports on working conditions and acknowledge the issues in the factories. Despite Nike's commitment and the fact that they changed a bad reputation around to becoming a positive influencer to other corporations, human rights still occur in their suppliers' factories, but they are open about it. They therefore represent an image of concern and actively make an effort to better the situation.

Furthermore, concerning the state's responsibility to ensure access to remedy, India has established proper judicial mechanisms: "Minimum Wage Act", "Sexual Harassment of Women at Workplace Act", etc. Plus, Cividep India has partnered with SOMO's Human Rights & Grievance Mechanisms Programme to strengthen the country's non-judicial grievance mechanism. The project was developed from the context of the Ruggie Framework and it offer possibilities for addressing human rights abuses and practices of corporations without having to do it through legal forms, which are often more expensive and time consuming. The objectives of the program include providing the tools and information needed, advocate for new mechanisms guaranteeing access to remedies, and "*strengthening the capacity of individuals, workers, communities, and civil society organisations to prevent and stop human rights abuses caused by corporations*" (SOMO 2015, 1). However, it does not always work properly due to,

again, lack of awareness of rights among workers and absent of complaint procedures. The aim of the program is to address these issues, because at present, OECD Watch (2015) reports that there are few examples of complaints leading to results that provide measures of remedy. The government therefore needs to strengthen their commitment and implementation in order to increase access to remedy.

John Ruggie got a good response on the framework since it is a general framework that includes all industrial sectors, and it was therefore supported by a broad range of Human Rights Council member states. Despite this, there were also concerns regarding the Ruggie Framework. One of the concerns was the fear that it would end up as another voluntary code of conduct, which has proven not to be sufficient. Another concern was regarding extending human rights obligations to corporations, since they are written for and by states. As pointed out, the human rights are not a set of principles that needs to be followed, but it is a whole system. On the one hand this can be a distraction from the governments' duty, however, this is not the case for India. Allocating responsibility of protecting the human rights to corporations might "lesser" the pressure on the government, but the outcome of this allocation has proven to be positive. In addition to the state and corporations, the community should be more involved. In the T&G industry in India, the community is for the most part not included. Discrimination being a main issue points to the importance of including citizens to change the attitudes and perceptions. To summarise, the main concerns of the Ruggie Framework is the fear that it is too opportunistic, and that it avoids the necessary challenge of getting to the root causes of human rights abuses in the T&G industry. This might be accurate to some extent, but even so, the positive impact from companies should rule out the challenges that can occur.

Despite the fact that India is not in alignment with the guiding principles, some positive improvements have been made. Some corporations have taken the consumers' demands seriously, which have led to progress in factories concerning better working conditions. However, more corporations need to follow through with the same demands. Poor alignment of India's practices in the T&G industry to the guiding principles is the current situation, but the Ruggie Framework has had an effect in representing a changing point in the T&G industry. Dividing the responsibilities makes it easier to demand the necessary changes when human rights violations occur.

With the scope of the challenges in mind, changing the working conditions in the T&G industry in India will not occur over night. The different actors involved must commit to improve the conditions, and value the health and welfare of the T&G workers to the same extent that they value the economic benefits the industry is providing. The liberal human rights- and feminist theories might have arisen from a Western values and perspectives, but India has committed to the international treaties and conventions, and more Indian women are starting to speak up and wanting to be part of decision-making processes.

It is difficult to conclude with an answer on how to direct future policies. NGOs and other local organisations need to continue to raise awareness and pressure the government to follow through with their national and international commitments protecting the human rights in the T&G industry. Consumers can also continue to pressure for better working conditions, but there is an additional need for the global fashion market to change. In order to achieve this, consumers should move away from the cheap, fast fashion industry. Furthermore, they should be more considered of which merchandises they buy clothes from to ensure they choose the companies that are sourcing from the best suppliers. As pointed out in the thesis, according to a report, consumers want better working conditions, but at the same time they are not willing to pay more for their clothes. I believe there is a chance this perception will change among some consumers. It already seems to have started to change due to the increasing number of reports and documentaries on the working conditions.

Even though I entered the study with a pre-assumption on the effect of the Ruggie Framework, some of the findings did surprise me. India has developed a strong legal framework over the years, including at the national and international level. They are committed on paper to ensure proper working conditions in the T&G industry and protect against any human rights violations. Seeing how large the industry is and how many workers it includes, it is likely impossible to operate without any human rights violations. The industry has offered India with a growing economic profit and represents an important part of their national GDP. It is understandable that the economic aspect is a priority, but the same priority should also be given to the working conditions. Proper working conditions will not only benefit the health and wellbeing of the workers, but it is an investment in the effectiveness and capabilities of the workers, and can result in them better performing their tasks. However, due to the cultural perception that is still present among many Indians, and the fact that most people employed in the industry in a higher position than at the factory level, are all men, makes women especially vulnerable to human

rights abuses. Therefore, it will not be enough for the state to make changes in the T&G factories, but there is a need to challenge the perception on women in general in India. The necessity to address this challenge is where I became aware of the scope of the problem of realising human rights in the T&G industry. Consumers and corporations demanding proper working conditions has had an effect and they should continue with this demand, but it alone is evidently not sufficient if the goal is to eliminate human rights abuses in the T&G industry. The challenge is rooted much deeper in India than I first assumed when I started examining the issue. The same goes for attempting to improve India's alignment to the Ruggie Framework. It is clearly not enough to develop a proper legal framework as India has done, because the issues need to be tackled on a larger scale.

India's legal framework and the development of the Ruggie Framework have provided a solid foundation for improving the working conditions in the T&G industry. Some improvements have been made, e.g. raised awareness on the issues in the industry. However, there is a long way to go in India. International NGOs and other local organisations, as well as consumers, have raised their voice and demanded changes, which have occurred. Even though improvements have been made, they have not affected most of the T&G workers. All the reports I read for this thesis concluded that the industry is still facing severe human rights issues. As I have mentioned multiple times in this thesis, changes need to occur on all levels included in the T&G industry: consumers need to change their perception on the fashion industry and demand changes from corporations, corporations should continue/start demanding proper conditions from the suppliers they choose, NGOs and other organisations continue to raise awareness and push for changes, and India needs to ensure their legal framework and international obligations are properly operating if they are to achieve alignment with the Ruggie Framework, by raising awareness among the T&G workers and ensure implementation of proper functioning complaint procedures, etc. Realising human rights in the T&G industry and proper operationalisation of the Ruggie Framework are dependent on time-consuming changes and might not occur during my life time. However, I choose to be optimistic and believe that it can be achieved if all sectors involved cooperate and agree on the same goal. John Ruggie has developed a strong framework that should continue to be used for future directions. For now, the best solution is to continue to raise awareness and demand that the people producing our clothes shall work under proper conditions without any human rights violations.

My suspicion regarding poor alignment between the practices of the T&G industry and the Ruggie Framework has proven to be somewhat valid. Most practices appear not to be, or partially be, in alignment with the guiding principles. Despite this, the Ruggie Framework has had an effect in representing a changing point in the T&G industry. Actors involved are urged to take their part in protecting human rights. Dividing the responsibilities makes it easier to demand the necessary changes when human rights violations occur. John Ruggie has stated that the framework itself is not adequate to solve the issues, and I would like to end my thesis with a quote from Ruggie: “*no single silver bullet can resolve the business and human rights challenge.*” (Ruggie 2013, 77).

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