

BIELEFELD UNIVERSITY

MASTER THESIS

Formalising the Informal

Food Street Vending and Human Rights in India

Max Harder, 2919411

max.harder@uni-bielefeld.de

World Studies: Orders, Politics, Cultures / Master of Arts

Module 22-WS-MT Master Thesis

Ms Prof. Dr Ulrike DAVY

ulrike.davy@uni-bielefeld.de

Ms Prof. Dr Alexandra KAASCH

alexandra.kaasch@uni-bielefeld.de

29 January 2023

Contents

1	Introduction	1
2	'Critical' Modernisation Theory	6
2.1	Classical Modernisation Theory	7
2.2	Criticisms of Classical Modernisation Theory	8
2.3	Modernisation and the Informal Economy	10
2.4	Modernisation and Human Rights	11
3	A Human Rights Approach	12
3.1	Three Socio-Economic Human Rights	14
3.1.1	The Right to Work	14
3.1.2	The Right to Livelihood	16
3.1.3	The Right to Food	17
3.2	The Human Rights Triangle	18
3.2.1	The Formalisation of the Rights of an Individual	19
3.2.2	The Obligation of the Government to Comply with Human Rights	19
3.2.3	The Enjoyment of a Human Right by Natural Persons	21
4	Policies and Acts to Formalise the Informal	21
4.1	The ILO and the Informal Economy	22
4.1.1	The ILC Resolution and Conclusions concerning Decent Work and the Informal Economy, 2002	22
4.1.2	The ILO Recommendation concerning the Transition from the Informal to the Formal Economy, 2015	24
4.2	The Regime Governing (Food) Street Vending in India	26
4.2.1	The National Policy for Urban Street Vendors, 2004	27
4.2.2	The National Policy on Urban Street Vendors, 2009	30
4.2.3	The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014	32
4.2.4	The Food Safety and Standards Act, 2006	35

5	Food Street Vending and Human Rights in India	37
5.1	The Right to Work	38
5.1.1	Informal Food Street Vending	38
5.1.2	Formalised Food Street Vending	39
5.1.3	Interim Conclusion	41
5.2	The Right to Livelihood	41
5.2.1	Informal Food Street Vending	42
5.2.2	Formalised Food Street Vending	43
5.2.3	Interim Conclusion	44
5.3	The Right to Food	45
5.3.1	Informal Food Street Vending	46
5.3.2	Formalised Food Street Vending	47
5.3.3	Interim Conclusion	49
6	Conclusion	49

Abstract

Approximately 20 per cent of India's 10 million street vendors are street food vendors, who sell ready-to-eat food. An even greater proportion are food street vendors, who also sell partially processed or unprocessed food. In this master thesis, I examine the role of food street vendors in India in terms of three socio-economic human rights: the right to work, the right to livelihood, and the right to food. I argue that the informal economy, of which food street vendors are a part, facilitates the enjoyment of these rights. Before doing so, I ask two questions: how does food street vending as part of the informal economy relate to human rights, and, more specifically, to what extent does the involvement in the informal economy in the form of food street vending sustain the 'enjoyment dimension' of human rights? To answer these questions, I present a total of six policies and acts to formalise the informal and contrast the informal setting of food street vending with its formalised setting. As a theoretical foundation, I use what I call 'critical' modernisation theory to explain the concept of 'formalising the informal' as a political project of the West.

1 Introduction

An estimated 10 million street vendors bustle on India's busy streets, most of them in the cities of Mumbai, Delhi, Kolkata, and Ahmedabad (MUEPA 2004). The majority of street vendors are migrants who typically work for 10 to 12 hours on average every day, mostly without a licence. In Mumbai, for example, there are 250 thousand street vendors but only 15 thousand licences (A 2020). As a result of the judicially imposed ceiling on licences, a lucrative black market for them emerged, reinforcing the injustices experienced by street vendors (te Lintelo 2017). Part of these injustices are weekly or monthly 'access'

payments, known as *hafta* or *mahina*, which find their way (through brokers) “to the police, politicians, local strongmen and civil servants in various government authorities” (te Lintelo 2017).

Approximately 20 per cent of the street vendors are street food vendors, who sell ready-to-eat food (FSSAI 2016). An even greater proportion are food street vendors, who also sell partially processed or unprocessed food. More precisely, food street vendor means a person engaged in vending of food items “to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place” (GOI 2014, p. 2). In Indian (legislative) terminology, food street vendors are part of the unorganised sector.¹ As a subset of the unorganised sector (NSSO 2000, p. 2), the informal sector in which (food) street vendors work “may be broadly characterised as consisting of units engaged in the production of goods or services with the primary objective of generating employment and incomes to the persons concerned.” (ILO 1993) Typically, these units “operate at a low level of organisation, with little or no division between labour and capital as factors of production and on a small scale.” (ibid.)

Following the International Labour Organization (ILO), the informal sector, together with informal employment, is part of the informal economy (ILO 2003).² More specifically, “the term ‘informal economy’ refers to all economic activities by workers and economic units that are—in law or in practice—not covered or insufficiently covered by formal arrangements” (ILO 2012). This means that their activities are either “operating outside the formal reach of the law” or they are operating within the formal reach of the law, but “the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs.” (ibid.) Altogether, the ILO states that “workers in the informal economy are not recognized, registered, regulated or protected under labour legislation and social protection”, and their work “is often characterized by small or undefined work places, unsafe and unhealthy working conditions, low levels of skills and productivity, low or irregular incomes, long working hours and lack of access to information, markets, finance, training and technology.” (ILO n.d.[a])

¹In legal terms, unorganised sector means an enterprise owned by individuals or self-employed workers engaged in the production or sale of goods or providing service of any kind whatsoever and employing less than 10 workers (GOI 2008). However, the National Sample Survey Organisation (NSSO) of India considers unincorporated proprietary or partnership enterprises, i.e. informal sector enterprises, as well as enterprises run by cooperative societies, trusts, private and public limited companies not covered by the Annual Survey of Industries as belonging to the unorganised sector (NSSO 2000, p. 2).

²Informal employment includes informal workers outside the informal sector (ILO n.d.[d]).

In order to formalise street vending as part of the informal economy, which accounted for 77.5 per cent in Indian cities between 2009 and 2010 (ILO 2013, p. 107), the Bellagio International Declaration of Street Vendors, 1995, set out nine elements of a national policy for hawkers and vendors, including giving legal status to vendors by issuing licences, enacting laws, and providing appropriate hawking zones in urban plans. As a signatory of the Declaration, India only took action nine years later with the National Policy for Urban Street Vendors, 2004, which was later revised as the National Policy on Urban Street Vendors, 2009. Another five years later, on 1 May 2014, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, came into force, which was enacted to regulate street vendors in public areas and protect their rights.

These developments raise two important questions: (1.) how does food street vending as part of the informal economy relate to human rights, and, more specifically, (2.) to what extent does the involvement in the informal economy in the form of food street vending sustain the ‘enjoyment dimension’ of human rights?³ In this master thesis, I examine the role of food street vendors in India in terms of three socio-economic human rights: (1.) the right to work, (2.) the right to livelihood, and (3.) the right to food. With reference to Davy et al. (2013), I argue that the informal setting of food street vending in India facilitates the enjoyment of the three socio-economic human rights and compensates weaknesses in the formal legal system. At the international level, these rights are enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and at the national level, they are underpinned in the Constitution of India (COI) as Fundamental Rights or Directive Principles of State Policy.

As a theoretical foundation, I use what I call ‘critical’ modernisation theory. This means that I maintain a modernisation theoretical perspective in terms of the formalisation of the informal, while criticising the assumptions of a hierarchical binarity, i.e. a traditional–modern dichotomy, and a “one-dimensional linear development path for all countries” (Williams 2019, p. 19). Even though the American sociologist Immanuel Wallerstein (1976) declared modernisation theory dead about 45 years ago, I argue that it is still relevant today as a “Western program of modernity.” (Eisenstadt 2000, p. 1) Furthermore, I follow Marsh (2014) in his observation that many processes that spread around the world are exactly what classical modernisation theory from the 1950s to the 1970s predicted: “the shift from agrarian to industrial and then to service/information

³The second question I ask with reference to Davy et al. (2013), who pointed out “how the life in informal settlements sustains the ‘enjoyment dimension’ of human rights”.

societies, urbanization, the expansion of mass education at all levels, advanced communications, social media, transportation technologies, political democratization, greater gender equality and the rise of youth culture.” (Marsh 2014, pp. 261–262)

More specifically, I use this theoretical approach to explain the modern concept of ‘formalising the informal’ anchored in both international policies as well as national policies and acts. For instance, Target 8.3 of the UN Sustainable Development Goals (SDGs), formulated in 2015, aims at the promotion of “development-oriented policies that [...] encourage the formalization and growth of micro-, small- and medium-sized enterprises” (UN n.d.[b]). In addition, the International Labour Conference (ILC) resolution and conclusions concerning decent work and the informal economy, 2002, identified as a specific priority area for the ILO’s work programme and technical assistance that member states should be helped “to formulate and implement [...] national policies aimed at moving workers and economic units from the informal economy into the formal economy” (ILO 2002). Furthermore, in the ILO Recommendation concerning the Transition from the Informal to the Formal Economy, 2015, the ILO member states recognised the need “to take urgent and appropriate measures to enable the transition of workers and economic units from the informal to the formal economy” (ILO 2015a).

In terms of street vending in India, the formalisation of the informal is embodied in the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, which mandates that every street vendor must be issued a certificate of vending by a specially constituted Town Vending Committee (TVC) (GOI 2014); and with regard to food street vending, the Food Safety and Standards Act, 2006, stipulates that food street vendors must register themselves with the competent authority (GOI 2006). In theory, this brings the informal economy in the form of food street vending within the scope of the law. To see if this is the case in reality, it is necessary to examine whether the law is successfully applied or enforced. I maintain that the formalisation of the informal only takes place to a limited extent, since, for example, five years after the enactment of the Street Vendors Act, 2014, four states—Arunachal Pradesh, Karnataka, Telangana and Nagaland—had not yet notified its rules, and only about a third of the towns in India had formed TVCs (CSS 2019, p. 17).

Before I take a closer look at the above-mentioned policies and acts of the ILO and the Government of India (GOI), I continue with a brief literature review. Overall, much research has been conducted on the informal economy (D’Souza 2020; Elgin 2020; Williams 2019; Peberdy 2016; Guha-Khasnobis et al. 2006; Portes et al. 1989) since the British anthropologist Keith Hart (1973) first introduced the concept of the

“informal economy” in his study on Ghana. In some research, this concept is equated with the “underground economy” (Venkatesh 2006; Schneider and Enste 2002), the “hidden economy” (Schneider 2008; Harding et al. 1989) or the “shadow economy” (Williams and Schneider 2016; Krstić et al. 2015), which I clearly distinguish from the informal economy, since, as the ILO (1993) puts it, “[a]ctivities performed by production units of the informal sector are not necessarily performed with the deliberate intention of evading the payment of taxes or social security contributions, or infringing labour or other legislations or administrative provisions.”

The issue of street vending also enjoys some popularity in academia. One of the most recent studies on street vendors is by Malefakis (2019), who examined the micro-politics of street vending in Tanzania’s informal economy. More in line with this master thesis, Saha (2017) studied street vendors in urban India and looked at “the strategies of survival and sustenance of the vendors in the urban informal economy.” (Saha 2017, p. 1) One year earlier, Anjaria (2016) explored the nexus between street food, rights, and public space in the Indian city of Mumbai. More generally, Graaff et al. (2015) edited a collection on street vending in the neo-liberal city and adopted a global perspective on the practices and policies of a marginalised economy. Of particular relevance in this book is Bandyopadhyay’s chapter on the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and “pedestrianism” in India. Furthermore, Bhowmik (2010) edited a collection on street vendors in the global urban economy, including chapters on street vending in the three Indian cities of Delhi, Mumbai, and Vadodara.

Despite the fact that a considerable number of studies on street (food) vendors have been published, none of them specifically address the group of food street vendors, who sell processed food, such as savoury snacks or *chaat*, or partially processed or unprocessed food, like vegetables or fruits. This group is particularly relevant as it provides basic food for the population at low prices. This allows me to make a connection not only with the right to work and the right to livelihood but also with the right to food. Building on this, I develop a rights-based approach in this master thesis, which, in conjunction with what I call ‘critical’ modernisation theory, sheds light on human rights issues associated with the process of formalisation. This helps me to expose the problems of formalisation, which, although promoted to protect human rights, also leads to human rights violations.

I will elaborate on my theoretical approach in the following chapter. This includes an outline of classical modernisation theory, followed by criticisms of classical modernisation theory. This is followed by a section on modernisation and the informal economy and a

section on modernisation and human rights. In Chapter 3, I describe my human rights approach, beginning with three socio-economic human rights: the right to work, the right to livelihood, and the right to food. I then introduce the human rights triangle, which includes the formalisation of the rights on an individual, the obligation of the government to comply with human rights, and the enjoyment of a human right by natural persons. This is followed by a section on state responsibility for human rights, covering the obligation to respect, the obligation to protect, and the obligation to provide. In Chapter 4, I study two policies of the ILO on the informal economy and four policies and acts of the GOI on urban (food) street vendors in two separate sections in order to outline existing formalisation efforts in more detail. In Chapter 5, I analyse food street vending in India in terms of the three socio-economic human rights described in Chapter 3 and look at each right in the light of informal and formalised food street vending. Finally, in Chapter 6, I summarise the main points of my work and draw a conclusion in which I underline that the informal economy facilitates the enjoyment of certain socio-economic human rights and compensates weaknesses in the formal legal system.

2 ‘Critical’ Modernisation Theory

A critical reading of modernisation theory forms the theoretical approach of this master thesis, which I call ‘critical’ modernisation theory. With this theoretical approach, I take up some basic ideas of modernisation theory because I believe that these basic ideas are deeply rooted in our minds and often form the basis for the actions of political decision-makers. However, I also reject many basic ideas of modernisation theory, as they do not adequately describe modernisation processes throughout the world. For example, I adopt the informal–formal dichotomy of classical modernisation theory, but I separate it from the traditional–modern dichotomy so that I can describe informality as part of modernity (in India). In the course of this chapter, I first provide an overview of classical modernisation theory. In a next step, I present criticisms of the classical theory of modernisation. This is followed by a section on modernisation and the informal economy and on modernisation and human rights.

2.1 Classical Modernisation Theory

In the 1950s, in the process of decolonisation, scholars of comparative politics increasingly turned their focus to the changes taking place in the “developing” non-Western world. This new development gave rise to the theory of modernisation, which was widely embraced by many political scientists from the West (Huntington 1971, p. 285). As a result, the concepts of tradition and modernity replaced many of the other typologies used by political analysts at the time. This traditional–modern dichotomy, as Huntington (1971) puts it, was “the latest manifestation of a Great Dichotomy between more primitive and more advanced societies which has been a common feature of Western social thought for the past one hundred years.” (ibid., p. 285) Examples of this evolutionary thinking can be found in Tönnies (1887), Weber (1920), and most pronounced in Parsons (1964), whose works formed the basis for the classical theory of modernisation, partly because Parsons interpreted Weber’s work, who in turn wrote in response to Tönnies, and, in 1958, he translated it into the English language (Dibua 2017, p. 20).

In modernisation theory, traditional society is “depicted as static, with [...] little differentiation or specialization, a predominance of mechanical division of labor and a low level of urbanization and literacy.” (Eisenstadt 1974, p. 226) Modern society, on the other hand, is presented as progressive and “seen as possessing a very high level of differentiation, a high degree of organic division of labor, specialization, urbanization, and literacy and exposure to mass media” (ibid., p. 226). Huntington (1971) adds that “[e]conomically, there is a diversification of activity as a few simple occupations give way to many complex ones; the level of occupational skill and the ratio of capital to labor are much higher than in traditional society.” (Huntington 1971, p. 287) On the whole, it can be said that modernisation is “a multifaceted process involving changes in all areas of human thought and activity” (Huntington 1968, p. 52).

Industrialisation, i.e. the shift from agrarian to industrial societies, is typically seen as the driving force of modernisation. Consequently, the operational definition of modernisation emphasises the level of economic development as measured by gross domestic product (GDP) per capita (Marsh 2014, p. 264). While GDP in general is useful for comparing economies in the international market, GDP per capita cannot be used to compare living standards between nations because it does not reflect differences in the cost of living and inflation rates of countries. To make up for this, a GDP per capita based on purchasing power parity (PPP) is used in more recent studies (ibid., p. 264). In the Global South, there is often a significant gap between GDP and GDP (PPP).

For instance, in 2020, India's GDP per capita was USD 1,927.7, while its GDP (PPP) per capita was USD 6,503.9 (WB 2022b,c). For comparison, the GDP per capita of the USA in the same year was USD 63,206.5 (WB 2022a). Gross national income (GNI) is an alternative to GDP that indicates the amount of money earned by the people and businesses of a country. GNI includes the sum of a country's GDP plus the net income it receives from overseas sources. With a GNI of USD 1,920 in 2020, India's GNI is lower than its GDP due to foreign direct investment, foreign corporate presence, and foreign aid (WB 2022d).

The World Bank uses GNI per capita to divide economies into four income groups: low, lower-middle, upper-middle, and high. These four levels of economic development are one way of measuring modernisation (Marsh 2014, p. 264), according to which India, a lower-middle income country, would be at its second level of modernisation. Another way of measuring modernisation is the Human Development Index (HDI). Felice et al. (2015) consider three key dimensions of human development "basic and different components of modernity" (Felice et al. 2015, p. 45). These dimensions include a long and healthy life, knowledge, and a decent standard of living as measured by life expectancy at birth, expected years of schooling, mean years of schooling, and GNI per capita (UNDP n.d.[a]). With an HDI value of 0.645, India has ranked 131 (out of 189 countries) on the HDI 2020 prepared by the United Nations Development Programme (UNDP n.d.[b]). Accordingly, India would fall into the medium modernisation category.

2.2 Criticisms of Classical Modernisation Theory

Central assumptions of the classical theory of modernisation are subject to considerable criticism. A main criticism concerns the traditional–modern dichotomy underlying classical modernisation theory. First of all, as Bendix (1967) pointed out, the view that tradition and modernity are mutually exclusive can be seriously misleading:

Kinship ties, religious beliefs, linguistic affiliations, territorial communalism, and others are typical forms of association in a traditional social order. None of these ties or associations have disappeared even in the most highly industrialized societies; to this day the relative decline of "traditional" and the relative ascendance of "modern" solidarities remain or recur as social and political issues. (Bendix 1967, p. 326)

Second, the author illustrated that the traditional–modern dichotomy forces all types of social change into the Procrustean bed of the European experience. This becomes

apparent when looking at post-colonial societies outside Europe, where at least two traditions existed: “the native tradition and the tradition of a dual society created by the colonizing country.” (Bendix 1967, p. 323) To contrast the past and the present social structures of these countries, more than one model of change is needed (*ibid.*, p. 323).

Another point of criticism concerns the evolutionary perspective of modernisation theory, which is closely connected to the traditional–modern dichotomy (Martinelli 2005, p. 58). From this perspective, modernisation is seen as a unilinear and irreversible process, according to which traditional societies “go through the same fixed phases already crossed by modern societies.” (*ibid.*, p. 58) As Martinelli (2005) rightly pointed out, this ignores that modernisation is a process that is open and continuous, as the examples of the incomplete or “uneven modernization” of Italian society between 1960 and 1995 and Middle Eastern societies between 1960 and 2012 show (Černý 2018; Martinelli et al. 1999). In more detail, the model of uneven modernisation, as conceived by Černý (2018), differentiates between three dimensions of social change: political modernisation, economic modernisation, and social and demographic modernisation. In this critical reading of modernisation theory, the modernisation process in each dimension can be fluctuating, stagnating or even regressing (Černý 2018, p. 56).

A major conceptual revision of the classical theory of modernisation was presented by Eisenstadt (2000). In a seminal essay, the author criticised modernisation theory for its homogenising and hegemonic assumptions of the “Western program of modernity.” (Eisenstadt 2000, p. 1) He countered this with the notion of “multiple modernities”, which “presumes that the best way to understand the contemporary world—indeed to explain the history of modernity—is to see it as a story of continual constitution and reconstitution of a multiplicity of cultural programs.” (*ibid.*, p. 2) One of these cultural programmes, the cultural programme of modernity, “entailed some very distinct shifts in the conception of human agency, and of its place in the flow of time. It carried a conception of the future characterized by a number of possibilities realizable through autonomous human agency.” (*ibid.*, p. 3) According to Eisenstadt (2000), this conception of human agency in relation to the future is the common core of all “unique expressions of modernity” that realise throughout the world (*ibid.*, p. 2).

In line with modernisation theory, Eisenstadt (2000) assumed that “the civilization of modernity” developed first in the West during the 19th century (*ibid.*, pp. 7, 16). In Asia, this development took place after World War II, and by the end of the 20th century, modernity encompassed nearly the entire world (*ibid.*, pp. 14, 16). However, although Western patterns of modernity “enjoy historical precedence and continue to be a basic

reference point for others”, the author emphasised that they “are not the only ‘authentic’ modernities” (Eisenstadt 2000, p. 3). This is contrary to modernisation theory, according to which (in some readings) modernisation and Westernisation are identical (Marsh 2014, p. 265). In fact, Eisenstadt (2000) even went a step further by claiming that within what may be defined as “the Western civilizational framework”, not only one modernity but multiple modernities have developed (Eisenstadt 2000, p. 13).

The critical reading of modernisation theory outlined above forms the basis for the theoretical approach of this master thesis, which I call ‘critical’ modernisation theory. This theoretical approach posits that classical modernisation theory fails to adequately describe modernisation processes throughout the world due to its misleading traditional–modern dichotomy and evolutionary perspective. According to my ‘critical’ modernisation theory, classical modernisation theory rather describes a “political project” of the West that encompasses the whole world (Wittrock 2017, p. 43). In the following two sections, I show that one aim of modernisation as a political project is the formalisation of the informal with regard to the economy and to human rights. While classical modernisation theorists argue that informality is premodern, i.e. rooted in tradition (Williams 2019, p. 17), I use the notion of multiple modernities to describe informality as one expression of modernity (in India). On the whole, this perspective underpins my argument that the informal setting of food street vending in India facilitates the enjoyment of certain socio-economic human rights and compensates weaknesses in the formal legal system.

2.3 Modernisation and the Informal Economy

In 2018, an ILO report revealed that “[m]ore than 60 per cent of the world’s employed population earn their livelihoods in the informal economy.” (ILO 2018, p. v) The report also showed that 93 per cent of the world’s informal employment is in emerging and developing countries (ibid., p. 15). At first glance, this fact reinforces the view of classical modernisation theory that the informal economy is “a leftover from an earlier economic system which is disappearing with economic development and modernization.” (Williams 2019, p. 17) However, with a closer look at India, the ILO also noted that “[d]espite high levels of economic growth during the past two decades, the informal economy in India still accounts for more than 80 per cent of non-agricultural employment.” (ILO n.d.[f]) This is “[c]ontrary to the old forecasts” of classical modernisation theory, according to which informality should be diminishing over time (ILO n.d.[e]). Instead, informality “is even increasing in many countries.” (ibid.)

In India, too, the process of economic informalisation is a well-known phenomenon, as the example of the textile mill closures in Ahmedabad shows:

In the early 1980s, textile mills all over the country began to close down. In some places, such as Mumbai, the mills closed rapidly. In Ahmedabad, the process of closure was long drawn out and spread over 10 years. Over this period, approximately over 80,000 permanent workers and over 50,000 non-permanent workers lost their jobs and were driven to the informal sector. (Jhabvala 2003, p. 265)

This suggests that recent informalisation processes are linked to trends in the global economy rather than a traditional society (ILO 2014b, p. 4). Thus, I challenge the traditional–informal and modern–formal links with my ‘critical’ modernisation theory. According to this theoretical approach, classical modernisation theory describes a political project in which formalisation is “a tool to ease the integration of informal activities in the modernization process.” (Tokman 2001, p. 57)

In other words, I maintain that the concept of ‘formalising the informal’ is part of the political project of modernisation, which is still relevant today. In 2019, for instance, the Indian Prime Minister Narendra Modi stated in a speech to the Associated Chambers of Commerce and Industry of India (ASSOCHAM) that India’s economy is placed “on two important pillars” of formalisation and modernisation (Modi 2019). According to my theoretical approach, the suggested reality of this political statement must be distinguished from the reality on the ground in India, where informality is one expression of modernity. The point I am making is not that modernisation leads to informalisation in the Global South but that informality in the Global South is an integral part of the modern economy. In countries like India, “the resilience of informal petty production of goods and services for local markets” is a feature of the modern economy (ILO 2014b, p. 4). With regard to food street vendors in India, I will show in this master thesis that efforts to formalise the informal economy can have a negative impact on the human rights situation in India.

2.4 Modernisation and Human Rights

According to Miller (2006), the informal economy is “an impediment to fulfilling nearly every significant human right” (Miller 2006, p. 133). In his opinion, the human rights regime can only become a reality for those who need it most if they are “allowed into

the formal system.” (Miller 2006, p. 151) I connect this call for the formalisation of the informal to classical modernisation theory, which posits that modernisation in the form of economic development improves human rights outcomes (Cole 2017, p. 74), by arguing that in the political project of modernisation, the formalisation of the informal economy is essential for economic development (IMF 2021). This means that in classical modernisation theory, economic formalisation is *indirectly* a prerequisite for improving human rights outcomes. Drawing on Cole (2017), this “modernization thesis” can be further refined to better describe the reality: economic formalisation and economic development improve human rights outcomes among “developing countries” but have little effect on human rights outcomes among “developed countries” (Cole 2017, p. 75).

However, adopting the perspective of ‘critical’ modernisation theory, I follow Toppen (1996) who showed that modernisation in the form of economic development does not *directly* contribute to the enjoyment of human rights by individuals in “the less developed world” (Toppen 1996, p. 333). This does not mean that I challenge the finding of Poe et al. (1994) that “[e]fforts to improve economic conditions within a country [...] might at times successfully promote human rights, defined more broadly, by leading to the provision for basic human needs” (Poe et al. 1994, p. 867). Instead, I maintain that the informal economy—much like the formal economy—contributes to the enjoyment of human rights by individuals in countries like India. Beyond that, I contest the assumption of classical modernisation theory that there is only a single (Western) interpretation of human rights. I use the notion of multiple modernities to highlight that alternative interpretations of human rights exist (Roniger 2015). Thus, I argue in this master thesis that in the Indian context, the “vernacularization” of certain human rights—the right to work, the right to livelihood, and the right to food—means that the informal economy improves human rights outcomes (ibid.).

3 A Human Rights Approach

Modern human rights are relatively new to all societies. They can be traced back to the end of World War II, when the United Nations was established on 24 October 1945 (Donnelly 2013, pp. 24–25). The UN Charter lists as one purpose of the intergovernmental organisation to “achieve international co-operation [...] in promoting and encouraging

respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” (UN 1945, p. 3). With this, the UN introduced human rights to the international discourse (Donnelly 2013, p. 25). To bring the concept of human rights to life, the UN Commission on Human Rights was created in 1946, which in turn set up the Universal Declaration of Human Rights Drafting Committee. Between early 1947 and late 1948, the Committee drafted the UDHR, and on 10 December 1948, the final draft of the UDHR was adopted by the UN General Assembly (UN n.d.[a]). The UDHR is thus the foundational document of international human rights law.

On the same day that it adopted the UDHR, the UN General Assembly mandated the UN Commission on Human Rights to prepare a draft human rights covenant. In the following two years, the Commission examined and revised the draft human rights covenant. After the Assembly declared in 1950 that “the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent”, it decided to also include economic, social, and cultural rights in the human rights covenant (OHCHR 1996). However, at its 6th Session in 1951 and 1952, the Assembly reviewed its position and requested the Commission to draft two separate human rights covenants: one on civil and political rights and the other on economic, social, and cultural rights. The International Covenant on Civil and Political Rights (ICCPR) and the ICESCR were adopted by the Assembly during its 21st Session on 16 December 1966. The ICCPR and ICESCR entered into force on 23 March 1976 and 3 January 1976, respectively. The GOI ratified both Covenants about three years later, on 10 April 1979. Together with the UDHR, the two Covenants form the International Bill of Human Rights (ibid.).

At the national level, human rights are also enshrined in the COI. The COI, which was adopted by the Constituent Assembly of India on 26 November 1949 and became effective two months later, lists six Fundamental Rights: the right to equality, the right to freedom, the right against exploitation, the right to freedom of religion, cultural and educational rights, and the right to constitutional remedies.¹ All laws in India must be in harmony with these Fundamental Rights (GOI 2020, Art. 13). In addition to (justiciable) Fundamental Rights, the COI also specifies (non-justiciable) Directive Principles of State Policy. Even though the Directive Principles are not enforceable by any court, they are “fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.” (ibid., Art. 37) According to de Villiers (1992) the Directive Principles can be divided into five categories: socialist principles, Gandhian

¹Originally, the COI listed seven Fundamental Rights. However, the right to property was removed from Part III of the COI by the 44th Amendment in 1978.

principles, general welfare principles, international principles, and nature conservation principles. Acknowledging the constant need for nationwide socio-economic development, the Directive Principles represent “the spirit and soul of the Indian Constitution.” (de Villiers 1992, p. 38)

3.1 Three Socio-Economic Human Rights

In this master thesis, I focus on three socio-economic human rights enshrined at the international level in the UDHR and ICESCR and at the national level in the COI as Fundamental Rights or Directive Principles of State Policy: the right to work, the right to livelihood, and the right to food. Table 3.1 shows the relevant human rights articles in the UDHR, ICESCR, and COI. Articles of the COI marked with an asterisk are Directive Principles of State Policy. In contrast to Fundamental Rights, they are legally not enforceable. However, based on judgments of the Supreme Court of India (SCI), the three socio-economic human rights mentioned above are all interpreted as Fundamental Rights in India, as they derive from the fundamental right to life, which is found in Article 21 of the COI. In this section, I first describe where these rights are found in the UDHR, ICESCR, and COI and quote the most important passages. Second, I present cases in the SCI that have established these rights, which are mostly part of the Directive Principles of State Policy, as Fundamental Rights. Third, I outline recent acts that guarantee these rights in India.

	Right to Work	Right to Livelihood	Right to Food
UDHR	Art. 23	Art. 25	Art. 25
ICESCR	Arts 6, 7	Art. 11	Art. 11
COI	Art. 41*	Arts 19(1)(g), 21, 39(a)*	Art. 47*

Table 3.1: Relevant human rights articles. *Directive Principles of State Policy

3.1.1 The Right to Work

The right to work is found at the international level in Article 23 of the UDHR and in Article 6 and 7 of the ICESCR and at the national level in Article 41 of the COI. Article 23(1) of the UDHR, for example, states that “[e]veryone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.” (UN 1948, Art. 23) Article 6(1) of the ICESCR establishes “the

right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts” (UN 1966, Art. 6). In addition, Article 7 of the ICESCR provides for “the right of everyone to the enjoyment of just and favourable conditions of work” (ibid., Art. 7).² In India, the right to work is part of the Directive Principles of State Policy. Article 41 of the COI states that “[t]he State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.” (GOI 2020, Art. 41)

Additionally, in India, the right to work is read as a part of the fundamental right to life. This reading can be traced back to the 1985 case *Olga Tellis v. Bombay Municipal Corporation* in the SCI, which came about through writ petitions in 1981. The case dealt with the forcible eviction of “[p]avement and slum dwellers” and the removal of their hutments in Bombay (Mumbai) under Section 314 of the Bombay Municipal Corporation Act, 1888 (SCI 1985, p. 1). The issue was whether the forcible eviction deprived them of their means of livelihood and consequently of their right to life. The petitioners urged that “[t]he right to live and the right to work are integrated and interdependent and, therefore, if a person is deprived of his job as a result of his eviction from a slum or a pavement, his very right to life is put in jeopardy.” (ibid., p. 17) The SCI agreed with the petitioners and emphasised that they “live in slums and on pavements because they have small jobs to nurse in the city and there is nowhere else to live. [...] To lose the pavement or the slum is to lose the job.” (ibid., p. 5) Hence, the fundamental right to life must include the right to work.

To ensure the right to work in rural India, the Parliament of India enacted the National Rural Employment Guarantee Act, 2005, later renamed as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) in 2009. The MGNREGA provides a “legal guarantee for at least 100 days of employment every year at minimum wages for at least one able-bodied person in every rural poor household.” (GOI 2005, p. 1) According to the Act, “at least one-third of the beneficiaries shall be women who have registered and requested for work.” (GOI 2005, p. 32) Beyond that, the state is obliged to increase the participation of single women and disabled people. Moreover, if an applicant is not provided with work within 15 days, a daily unemployment allowance must be paid to the household of the applicant. For urban areas, however, there is no comparable Act at

²I consider Article 7 of the ICESCR to be part of the right to work because, according to the Committee on Economic, Social and Cultural Rights, the right to just and favourable conditions of work is “the corollary of the right to work as freely chosen and accepted.” (UN 2016, p. 2)

the national level, but some states, such as Kerala, Odisha, Himachal Pradesh, Madhya Pradesh, and Jharkhand, introduced urban versions of the MGNREGA.³

3.1.2 The Right to Livelihood

The right to livelihood is found at the international level in Article 25 of the UDHR and in Article 11 of the ICESCR and at the national level in Article 19(1)(g), 21, and 39(a) of the COI. Article 25(1) of the UDHR, for example, states that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family” (UN 1948, Art. 25). Article 11(1) of the ICESCR states that “[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” (UN 1966, Art. 11) In India, the right to livelihood is a Fundamental Right and part of the Directive Principles of State Policy. Article 19(1)(g) of the COI establishes the fundamental right “to practise any profession, or to carry on any occupation, trade or business.” (GOI 2020, Art. 19) Article 21 of the COI provides that “[n]o person shall be deprived of his life or personal liberty except according to procedure established by law.” (ibid., Art. 21) Article 39(a) of the COI states that “[t]he State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood” (ibid., Art. 39).

The interpretation of Article 21 of the COI to include the right to livelihood can also be traced back to the 1985 case *Olga Tellis v. Bombay Municipal Corporation* in the SCI, which I outlined in the previous subsection (Kothari 2014, p. 13). In sum, the SCI held that the right to life does not only mean that life cannot be extinguished or taken away except according to procedure established by law. It also implies the right to livelihood because “no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to live, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation.” (SCI 1985, p. 4) Further, the SCI noted that “any person who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life

³At the state level, the urban versions of the MGNREGA are the Ayyankali Urban Employment Guarantee Scheme (Kerala), the Urban Wage Employment Initiative (Odisha), the Mukhya Mantri Shahri Ajeevika Guarantee Yojna (Himachal Pradesh), the Mukhyamantri Yuva Swabhiman Yojana (Madhya Pradesh), and the Mukhyamantri SHRAMIK Yojana (Jharkhand).

conferred by Article 21.” (SCI 1985, p. 4)

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, for instance, aims to ensure the right to livelihood for urban street vendors in India. Under this Act, every street vendor who has no other means of livelihood is entitled to a certificate of vending, and every street vendor has “the right to carry on the business of street vending activities in accordance with the terms and conditions mentioned in the certificate of vending.” (GOI 2014, Sec. 12) In addition, any street vendor who has been issued a certificate of vending cannot be relocated or evicted without the local authority giving 30 days’ notice. In the case of relocation, street vendors who possess a certificate of vending are entitled to a new site or area, and they are to “be relocated so as to improve their livelihoods and standards of living or at least to restore them, in real terms to pre-evicted levels” (ibid., p. 14). Moreover, when street vendors are displaced for new infrastructure development projects, they must be allowed to make use of the livelihood opportunities created by the new infrastructure.

3.1.3 The Right to Food

The right to food is found at the international level in Article 25 of the UDHR and in Article 11 of the ICESCR and at the national level in Article 47 of the COI. Article 25(1) of the UDHR, for example, states that the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family” includes, in particular, food (UN 1948, Art. 25). Similarly, Article 11(1) of the ICESCR stipulates that “the right of everyone to an adequate standard of living for himself and his family” includes adequate food. In addition, Article 11(2) establishes “the fundamental right of everyone to be free from hunger” (UN 1966, Art. 11). In India, the right to food is part of the Directive Principles of State Policy. Article 47 of the COI states that “[t]he State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties” (GOI 2020, Art. 47).

Moreover, the SCI has held that the right to food also derives from the fundamental right to life. On 26 May 2020, the SCI took *suo motu* cognisance of problems and miseries of migrant labourers who had been stranded in different parts of the country, often without food and water. One year later, on 29 June 2021, the SCI delivered its landmark judgment in *Suo Motu Writ Petition (Civil) No. 6 of 2020* entitled *In Re: Problems And Miseries Of Migrant Labourers* with Writ Petition (C) No. 916 of 2020: “[t]he fundamental right to life enshrined in Article 21 of the Constitution may be interpreted to include right to live with human dignity, which may include the right

to food and other basic necessities.” (SCI 2021, p. 28) Moreover, the SCI made special reference to unorganised workers and said that it was the duty of the GOI to provide food security to them (PTI 2021).

To achieve this, the Parliament of India enacted the National Food Security Act, 2013 (NFSA), also called Right to Food Act, already eight years earlier, which legally entitles up to 75 per cent of the rural population and 50 per cent of the urban population to receive subsidised foodgrains. Out of a maximum coverage of 813.4 million persons, around 800 million persons are covered under the NFSA (NFSP n.d.). In its 2021 judgment, the SCI directed the GOI “to take steps to undertake exercise under Section 9 of the National Food Security Act, 2013, to re-determine the total number of persons to be covered under the Rural and Urban areas of the State, which shall be beneficial to large number of persons.” (SCI 2021, p. 34) Beyond that, the SCI directed the states who have not implemented the One Nation One Ration Card (ONORC) scheme to implement the scheme by not later than 31 July 2021. The ONORC scheme was launched in 2019 to benefit migrant NFSA beneficiaries in particular by empowering them “to access foodgrains from any Fair Price Shop (FPS) of their choice anywhere in the country” (Rajagopal 2021).

3.2 The Human Rights Triangle

Figure 3.1 shows the human rights triangle adapted from Davy et al. (2013). It illustrates the mutual relations between the (formal) individual claims, the state obligations and the enjoyment associated with human rights. The area of the triangle represents all situations in which the three elements are sufficiently present. According to the authors, each element—individual claim, state obligation, and enjoyment—is indispensable in the realisation of human rights. This means, for example, that (formal) individual claims are far from sufficient to realise human rights, as courts alone cannot provide the social, economic, and political resources necessary for their realisation. Therefore, policy makers should pay attention to each of the three elements in the policy making process (Davy et al. 2013, p. S73). In this section, I first describe the formalisation of the rights of an individual. Second, I outline the obligation of the government to comply with human rights. Third, I delineate the enjoyment of a human right by natural persons.

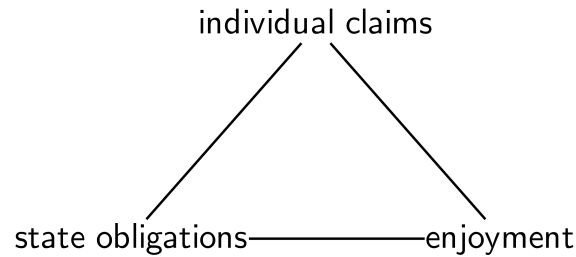


Figure 3.1: The human rights triangle adapted from Davy et al. (2013)

3.2.1 The Formalisation of the Rights of an Individual

The first element in the realisation of human rights is the formalisation of the rights of an individual through acts of the parliament. In the ideal world of policy makers, formalised rights empower the individual to raise a (formal) individual claim with a court or a tribunal (Davy et al. 2013, p. S72). Street vendors in India, for example, have the formalised right to carry on their business under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Formalised rights require exogenous enforcement by a third party organisation, such as the state. In reality, however, informal rights in the form of norms and customs play an important role.⁴ These may be legitimate in the eyes of street vendors, but they are illegitimate in the eyes of the state (Leach et al. 1999, p. 238). An example of this is the informal right of street vendors to use public spaces for street vending. Informal rights are endogenously enforced and “upheld by mutual agreements among the social actors involved, or by relations of power and authority between them.” (ibid., p. 238)

3.2.2 The Obligation of the Government to Comply with Human Rights

The second element in the realisation of human rights is the obligation of the government to comply with human rights.⁵ Following Eide (1987; 2001), I examine state responsibility

⁴The term ‘informal rights’ is usually used in the context of indigenous land rights, such as in South Africa’s Interim Protection of Informal Land Rights Act, 1996. Another use of the term is in the context of informal settlements in cities like Jakarta, Indonesia (Zhu et al. 2015). Here, informal (land) rights are based on extralegal claims of the urban poor. These claims become informal rights as a result of decades of de facto toleration of informal settlements by the state. I extend the use of the term to informal street vendors in India and their extralegal claims to use public spaces.

⁵This is because, under international law, obligations for human rights are primarily held by states (Eide 2001, p. 22). They must ensure that their own domestic laws and practices are consistent with what is required by treaties like the ICESCR.

for human rights at three levels: (1.) the obligation to respect, (2.) the obligation to protect, and (3.) the obligation to fulfil. The latter, in turn, incorporates both an obligation to facilitate and an obligation to provide. However, the obligation to fulfil (provide) can be disregarded for the moment, as this obligation only arises when (food) street vending is no longer possible. In a more general context, the above-mentioned MGNREGA, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and the NFSA are examples of how the Indian state provides the right to work, the right to livelihood, and the right to food, respectively.

First, the obligation to respect means that states must “respect the resources owned by the individual, her or his freedom to find a job of preference and the freedom to take the necessary actions and use the necessary resources—alone or in association with others—to satisfy his or her own needs.” (Eide 2001, p. 23) For the latter, collective or group rights are of particular importance: the resources belonging to a group of people, such as street vendors, must be respected so that they can satisfy their needs. This refers, for example, to the (informal) right of street vendors to use public spaces like streets and pavements to sell their goods. States must also respect the resources that individual street vendors own, such as stalls or carts, and not let them be demolished during raids by local authorities. Furthermore, states must respect street vendors’ choice of profession and their freedom to operate their business. Last but not least, states must respect food street vendors as a source of adequate food for the population and not take any measures that result in preventing access to them.

Second, the obligation to protect consists “of, for example, the protection of the freedom of action and the use of resources against other, more assertive or aggressive subjects” with the aim to protect individuals and groups against human rights abuses (ibid., p. 24). This obligation also includes the prevention of infringement of the enjoyment of the material resources of individuals or groups (Eide 1987, p. 15). In the context of street vendors, states must protect them against “more powerful economic interests” (Eide 2001, p. 24). For instance, new infrastructure development projects must be implemented in such a way that street vendors do not lose their livelihoods. Moreover, states must ensure that street vendors in particular are not hindered from enjoying their material resources, including carts and stalls, so that they can practise their profession. States must also ensure that individuals or groups are not deprived of their access to adequate food, which includes access to food street vendors.

Third, the obligation to fulfil (facilitate) means that states “must proactively engage in activities intended to strengthen people’s access to and utilization of resources.” (Eide

et al. 2001, p. 661) As far as the right to food is concerned, the obligation to fulfil (facilitate) is spelled out in the ICESCR: states shall

improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources (UN 1966, Art. 11).

With regard to street vendors' right to work and right to livelihood, the obligation to fulfil (facilitate) takes the form of positive measures that enable and assist them to enjoy these rights through, for example, capacity building programmes and research, education, and training programmes.

3.2.3 The Enjoyment of a Human Right by Natural Persons

The third element in the realisation of human rights is the actual enjoyment of a human right by natural persons. In the context of street vendors, the enjoyment (or exercise) of the right to work means, for instance, that they can work under just and favourable conditions as spelled out in Article 7 of the ICESCR. The enjoyment of the right to livelihood means that street vendors and their families have an adequate standard of living. Following Article 11 of the ICESCR, this includes adequate food, clothing, and housing. It also means that street vendors can carry on their business without fear of being forcefully evicted without prior notice and court hearing. The enjoyment of the right to food means that food is available, accessible, and adequate for all persons (OHCHR 2010, pp. 2–3). In India, food street vendors make food available to others by selling it from their stalls and carts. They also make food economically accessible, i.e. affordable, by keeping costs to a minimum, and physically accessible in all neighbourhoods. Last but not least, they (ideally) provide safe food that satisfies dietary needs.

4 Policies and Acts to Formalise the Informal

This chapter covers a total of six policies and acts of the ILO and GOI aimed at the formalisation of the informal. As a first step, I look at the ILO and its approach to the

informal economy and discuss the two main policies in this area: the ILC resolution and conclusions concerning decent work and the informal economy, 2002, and the ILO Recommendation concerning the Transition from the Informal to the Formal Economy, 2015. As a second step, I look at the GOI and its regime governing (food) street vending in India and discuss four main policies and acts in this area: the National Policy for Urban Street Vendors, 2004, the National Policy on Urban Street Vendors, 2009, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and the Food Safety and Standards Act, 2006.

4.1 The ILO and the Informal Economy

Two years before Keith Hart first introduced the concept of the ‘informal economy’ in his 1971 study on Ghana, the ILO launched the World Employment Programme (WEP) to mark its 50th anniversary in 1969. At the heart of the WEP was a series of comprehensive Employment Missions to various countries (Singer et al. 2012, p. 121). The first three Employment Missions were to Colombia (1970), Ceylon (1971), and Kenya (1972) (ILO 2020, p. 5). Building on Hart’s 1971 study, the 1972 Employment Mission first analysed economic activities outside the formal economy using the term ‘informal sector’. The term gained widespread acceptance after the ILO used it in its analysis (ILO n.d.[c], pp. 2, 3). In 2002, the ILC “broke new ground in the debates surrounding informality, broadening it’s conceptual from a ‘sector’ to an economy wide phenomenon” (ibid., p. 4).

4.1.1 The ILC Resolution and Conclusions concerning Decent Work and the Informal Economy, 2002

In June 2002, the ILC held a general discussion on decent work and the informal economy at its 90th Session in Geneva, Switzerland. As a result, it adopted the resolution concerning decent work and the informal economy. Its main component is the adoption of the conclusions concerning decent work and the informal economy, which are set out in a total of 37 paragraphs. The Governing Body of the International Labour Office was invited “to give due consideration to them in planning future action on reducing decent work deficits in the informal economy”, and the ILO Director-General was requested to take them into account when preparing the programme and budget for the 2004–2005 biennium and in allocating available resources during the 2002–2003 biennium (ILO 2002, p. 52).

In its conclusions, the ILC first linked the commitment of the ILO and its constituents

to decent work to the informal economy. In this context, it defined decent work as a four-dimensional agenda, which includes the realisation of fundamental principles and rights at work, the creation of greater and better employment and income opportunities, the extension of social protection, and the promotion of social dialogue (ILO 2002, par. 2). The ILC definition of the informal economy corresponds to the ILO definition that I introduced in the first chapter of this master thesis. The ILC noted that “decent work deficits are most pronounced in the informal economy.” (ibid., par. 9) Therefore, it stated that “it is necessary to eliminate the negative aspects of informality” (ibid., par. 13). It further pointed out that livelihood and entrepreneurship opportunities must be preserved in this process and workers and economic units in the informal economy must be protected and incorporated into the “mainstream economy” (ibid., par. 13).

According to the ILC, decent work deficits and informality often have the same root cause, namely poor (national) governance (ibid., pars 14, 21). This means that the ILC considered inappropriate or misguided macroeconomic and social policies, uncondusive legal and institutional frameworks, and the improper and ineffective implementation of policies and laws to be the growth drivers of the informal economy and related indecent work (ibid., par. 14). Besides, the ILC emphasised the need for policies and programmes that specifically address the informal economy. These “should be designed and implemented with the main objective of bringing workers or economic units in the informal economy into the mainstream, so that they are covered by the legal and institutional framework.” (ibid., par. 25) In addition, the ILC stressed the need for ILO member states to implement the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its follow-up procedure and the core labour standards (ibid., par. 16). It also pointed out the need to support and implement the conclusions concerning social security adopted at the 89th Session of the ILC in 2001 (ibid., par. 29).

The ILC recognised that “[m]ost people enter the informal economy not by choice but out of a need to survive.” (ibid., par. 6) It observed that socio-economic factors, such as the lack of livelihood opportunities in rural areas, drive people into informal activities, particularly in urban areas (ibid., par. 19). The ILC pointed out that, as a result, the most vulnerable and marginalised groups are found in the informal economy (ibid., par. 20). Further, it found that “workers and economic units in the informal economy are generally characterized by poverty, leading to powerlessness, exclusion, and vulnerability” and that they often remain trapped in poverty due to the lack of protection, rights, and representation (ibid., pars 11, 4) However, the ILC also found that the informal economy “helps to meet the needs of poor consumers by providing accessible

and low-priced goods and services.” (ILO 2002, par. 6) In addition, it underlined that workers and economic units in the informal economy can have “a large entrepreneurial potential” and “a reservoir of skills” (ibid., par. 7). Therefore, the ILC emphasised the need for a “programme to transfer jobs from the informal to the economic mainstream.” (ibid., par. 23)

In sum, the ILC linked decent work to formality and presented decent work deficits as a problem of informality. In the view of the ILC, informality, in turn, results from poor (national) governance. Accordingly, it placed the responsibility on countries to properly and effectively implement policies and programmes that specifically address the informal economy. These should aim to bring workers and economic units in the informal economy into ‘the mainstream’. However, while the ILC used the term ‘mainstream economy’ throughout the document, it did not define it anywhere. Yet, as the term was consistently used in contrast to the informal economy, it can be assumed that it stands for the formal economy. In general, the ILC’s view of the informal economy as something that needs to be overcome is in contrast to my ‘critical’ modernisation theory, according to which informality is one expression of modernity (in India). I would counter the ILC that there is no need for “moving workers and economic units from the informal economy into the formal economy” (ibid., par. 37). Instead, countries should take measures to ensure that their citizens enjoy all socio-economic human rights in the informal economy as well.

4.1.2 The ILO Recommendation concerning the Transition from the Informal to the Formal Economy, 2015

At its 317th Session in Geneva in March 2013, the Governing Body of the ILO decided to place a standard-setting item on the agenda of the 103rd Session of the ILC in Geneva in June 2014 on facilitating transitions from the informal to the formal economy. This was done under the double discussion procedure, which means that this item was also dealt with at the 104th Session of the ILC in Geneva in June 2015. At its 103rd Session, the ILC adopted the resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Facilitating transitions from the informal to the formal economy” (ILO 2014a). The 104th Session of the ILC followed up with the resolution concerning efforts to facilitate the transition from the informal to the formal economy (ILO 2015b). In addition, the Committee on the Transition from the Informal to the Formal Economy was established at this session (ILO n.d.[b]).

Also at its 104th Session, the ILC adopted the Recommendation No. 204 concerning

the Transition from the Informal to the Formal Economy. As a non-binding guideline, the Recommendation “is the first international instrument dealing specifically with the informal economy” (ILO 2017, p. 1). It provides guidance to the ILO’s tripartite constituents (governments, workers’ and employers’ organisations) by presenting ways to “facilitate the transition of workers and economic units from the informal to the formal economy” (ILO 2015a, par. 1). In nine sections and a total of 42 paragraphs, the Recommendation set out a “rights-based approach to formalization.” (ILO 2017, p. 1) As a whole, it aimed to ensure “decent work for all” (ILO 2015a, p. 2). The Recommendation is thus directly linked to the 2002 ILC resolution and conclusions concerning decent work and the informal economy, which it also recalls in the preamble.

The Recommendation used the same definition of the informal economy as the 2002 ILC resolution and conclusions. In addition, it defined the term “economic units” in the informal economy. In the context of this master thesis, these are “units that are owned by individuals working on their own account, either alone or with the help of contributing family workers” (ibid., par. 3). The Recommendation applies to all workers and economic units in the informal economy (ibid., par. 4), whose “diversity of characteristics, circumstances and needs” is emphasised (ibid., par. 7). According to the ILO, the “diversity of the informal economy across member States” calls for different and multiple strategies to facilitate the transition to the formal economy (ibid., pars 6, 7). In this process, special attention should be paid “to those who are especially vulnerable to the most serious decent work deficits in the informal economy” (ibid., par. 7).

Not only the 2002 ILC resolution and conclusions, but also the 1998 ILO Declaration on Fundamental Principles and Rights at Work is central to the Recommendation. These fundamental principles and rights at work, which should be respected, promoted and realised, include “(a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.” (ibid., par. 16) At the 110th Session of the ILC in Geneva in 2022, a fifth obligation or commitment was added to the Declaration, namely “(e) a safe and healthy working environment.” In its Recommendation, the ILO stated that respect for these fundamental principles and rights at work, in law and practice, was necessary for the fulfilment of decent work for all (ibid., par. 7). Thus, the 2002 ILC resolution and conclusions are linked to the 1998 ILO Declaration through the Recommendation.

On the whole, the Recommendation placed the responsibility for the transition from the

informal to the formal economy on ILO member states. First of all, ILO member states should properly assess and diagnose “factors, characteristics, causes, and circumstances of informality in the national context” (ILO 2015a, par. 8). This should be done so that “laws and regulations, policies and other measures aiming to facilitate the transition to the formal economy” can be designed and implemented in an informed manner (ibid., par. 8). Second, national laws and regulations or other measures should be adopted, reviewed, and enforced by ILO member states “to ensure appropriate coverage and protection of all categories of workers and economic units.” (ibid., par. 9) Third, an integrated policy framework to facilitate the formalisation of the informal economy should be included in national development strategies or plans and in poverty reduction strategies and budgets (ibid., par. 10). Fourth, this integrated policy framework should take into account all three levels of government (e.g. federal, state, and local) and cooperation between relevant bodies and authorities (ibid., par. 12). Last but not least, opportunities of workers and economic units for income security should be safeguarded by ILO member states in the transition to the formal economy (ibid., par. 13).

Altogether, the Recommendation was an explicit call to ILO member states to advance the formalisation of the informal economy. This made it fundamentally different from the 2002 resolution and conclusions, which only sought to eliminate the negative aspects of informality and eventually bring workers and economic units in the informal economy into ‘the mainstream’. The title and the wording of the Recommendation were thus revolutionary for the ILO’s approach to the informal economy. Apart from that, the Recommendation also took up large parts of the 2002 resolution and conclusions. It complemented, however, the strong focus on decent work with a rights-based approach to formalisation. This is to effectively promote and protect the human rights of all those operating in the informal economy (ibid., par. 7). Thus, the ILO concluded by stating that “[n]othing in this Recommendation should be construed as reducing the protections afforded to those in the informal economy by other instruments of the International Labour Organization.” (ibid., par. 41)

4.2 The Regime Governing (Food) Street Vending in India

The first national policy for (urban) street vendors in India was formulated by the Ministry of Urban Employment and Poverty Alleviation (MUEPA) of the GOI under the National Democratic Alliance (NDA). The big tent political alliance, formed in May 1998 and led by the right-wing Bharatiya Janata Party (BJP), had won an outright majority in

the 1999 Indian general election. In 2001, the NDA made a first step towards a national policy by forming a National Task Force on Street Vendors. Three years later (and three months before the 2004 Indian general election), the GOI approved the National Policy for Urban Street Vendors. This statement of intent by the government was continued by the United Progressive Alliance (UPA), which was formed soon after the 2004 Indian general election. The centre-left political alliance of predominantly left-leaning political parties in India stated in its National Common Minimum Programme of May 2004 that it was “firmly committed to ensure the welfare and well-being of all workers, particularly those in the unorganized sector” (GOI 2004). Underpinning this commitment, the UPA not only revised the National Policy in 2009 but also developed a Street Vendors Act in 2014. The Act came into force in March 2014, one month before the 2014 Indian general election, which was won by the rival BJP and NDA.

4.2.1 The National Policy for Urban Street Vendors, 2004

Very few countries have developed a national policy that addresses urban street vendors, but one of them is India. In 2004, the MUEPA proposed the National Policy for Urban Street Vendors, which was adopted by the GOI in the same year. The genesis of the National Policy can be traced back to the inaugural meeting of the International Alliance of Street Vendors in Bellagio, Italy, in November 1995, where the Bellagio International Declaration of Street Vendors was signed by representatives at that meeting. As a result, the National Association of Street Vendors of India (NASVI) was launched in September 1998 and registered in 2003 under the Indian Societies Registration Act, 1860. Already in 2001, NASVI published a comprehensive study conducted by the sociologist Sharit K. Bhowmik on urban street vendors in seven cities across India (WIEGO 2011, pp. 1, 2).¹

In the conclusion of the study, Bhowmik (2001) emphasised that “places [like hospitals, parks, markets, bus and rail terminuses etc.] usually develop as natural markets for hawkers”, and that “[o]ne forgets that hawkers selling their wares at the areas that become natural markets are in fact providing essential services to the people at low costs.” In May 2001, NASVI presented the findings of the study to the Ministry of Urban Development of the GOI. Three months later, in August 2001, the GOI formed a National Task Force on Street Vendors to come up with a national policy. NASVI and the Self-Employed Women’s Association (SEWA) were invited by the GOI to be members

¹The 2001 study is titled “Hawkers and the Urban Informal Sector: A Study of Street Vending in Seven Cities” and was conducted in Mumbai, Ahmedabad, Calcutta, Imphal, Patna, Bhubaneshwar, and Bangalore with the help of 10 researchers.

of the National Task Force and its Drafting Committee (WIEGO 2011, p. 3). This step was consistent with the 1995 Bellagio Declaration, which called for “appropriate, participative, non-formal mechanisms with representation by street vendors and hawkers, NGOs,” and others (IASV 1995). Less than two and a half years later, the national policy was finalised, and on 20 January 2004, the GOI approved the National Policy for Urban Street Vendors.

Divided into 11 sections on 13 pages (plus annexure), the National Policy tried to “[p]rovide and promote a supportive environment for earning livelihoods” to urban street vendors and to “ensure absence of congestion and maintenance of hygiene in public spaces and streets.” (MUEPA 2004, p. 2) In addition to this overarching objective, the National Policy had nine basic objectives: to give legal status to urban street vendors through appropriate laws and legitimate hawking zones; to provide facilities for appropriate use of identified space, which includes the creation of hawking zones in urban development plans; to move to nominal fee-based regulation of access to public spaces; to treat street vendors “as an integral and legitimate part of the urban distribution system”; to promote self-compliance among street vendors; to promote organisations of street vendors to facilitate their empowerment; to set up participatory mechanisms of representation “for orderly conduct of urban vending activities”; to rehabilitate child vendors; and to facilitate and promote social security and access to credit for street vendors (*ibid.*, p. 3).

Similar to Bhowmik in his 2001 study, the MUEPA also highlighted the formation of natural markets in its National Policy. It called for city- or town-specific demarcations of vending zones that take into account the patterns of demand for street vendors’ goods or services. City authorities should be able to establish not only vendors’ markets but also no-vending zones through a participatory process involving the local TVC.² The TVC should include the municipal authority, the traffic police and the local police, the public land owning authority, associations, representatives of street vendors’ associations, and representatives of the lead nationalised bank or commercial bank. The representatives of street vendors’ associations should preferably constitute at least 25 per cent to 40 per cent of the total number of members of the TVC, and at least one-third of them should be women. The TVC should ensure that its provisions are pragmatic, consistent with the formation of natural markets, sufficient for the existing demand for street vendors’ goods and services, and increase in line with anticipated population growth (*ibid.*, pp. 4, 5).

Furthermore, the MUEPA pointed out the inadequacies of the licencing system, which

²The MUEPA stressed that locations should not be designated as no-vending zones for “frivolous reasons” (MUEPA 2004, p. 4).

has given rise to an “elaborate regime of rent seeking” (MUEPA 2004, p. 6). First, the numerical limitation of licences led to rents being derived from the issuance of licences. Second, the presence of unlicensed street vendors resulted in rent extraction by local authorities who allow them to operate without licences. To prevent rent seeking, the MUEPA called for a system of registration of street vendors and a non-discretionary regulation of access to public spaces. The power to register should be vested in the TVCs. All street vendors should be registered at a nominal fee, and all registered street vendors should be charged a monthly fee for access to various services. There should preferably be no numerical restrictions or quotas and no prior residential requirements of any kind, and identity cards should be issued to the street vendors. The registration should be renewed every three years (*ibid.*, pp. 6, 7).

According to the MUEPA, no street vendor should be forcefully evicted, and street vendors should be relocated with adequate rehabilitation only where the land is needed for a “public purpose of urgent need” (*ibid.*, p. 8). Where relocation is absolutely necessary, the street vendor concerned should be given at least 30 days’ notice. The National Policy also provides for amendments to the Indian Penal Code, 1860 (IPC), and the Police Act, 1861. In particular, Section 283 of the IPC, which regulates danger or obstruction in public way or line of navigation, and Section 34 of the Police Act, which regulates punishment for certain offences on roads, etc., should be amended by the GOI and all states so that the two provisions do not result in the physical eviction of even licensed vendors. The amendment should also resolve the contradiction between a ‘legal’ licensed vendor and an ‘illegal’ obstruction, which is created by the two provisions by adding a rider to them stating that street vendors are exempt from the two provisions (*ibid.*, p. 9).

Another section in the National Policy is dedicated to self-regulation. This is the only section that deals specifically with food street vending. (Food) street vendors should practice self-regulation, especially with respect to hygiene and quality control, particularly in “sensitive areas” where there is considerable exposure to children (*ibid.*, p. 10). More general aspects of self-regulation are cleanliness and scale of operation; street vendors should take responsibility for the cleanliness of the environment and adhere to quantitative norms for the number of street vendors in a given area. Overall, self-regulation should complement monitoring by external authorities, but the MUEPA also noted that “the practice of ‘health inspector’ may not necessarily be suitable or productive.” (*ibid.*, p. 10)

As the National Policy was conceived by the MUEPA as a major initiative for urban poverty alleviation, the authors also addressed street vendors’ access to credit and insur-

ance. Street vendors' associations should be assisted by non-governmental organisations (NGOs) in organising self-help groups (SHGs) of street vendors, and banks should be encouraged to extend credit to these SHGs. The MUEPA also called for special insurance schemes for street vendors offered by banks or SHGs. Beyond that, street vendors should be provided with training to upgrade their technical and business skills so that they can increase their income and look for alternatives to street vending (MUEPA 2004, pp. 10–12). In sum, in its National Policy, the MUEPA recognised not only the contribution of street vendors to India's urban societies but also that it is the duty of the state to protect the right of street vendors to earn their livelihood.

4.2.2 The National Policy on Urban Street Vendors, 2009

In September 2004, eight months after the approval of the National Policy for Urban Street Vendors, the GOI set up a National Commission for Enterprises in the Unorganised Sector (NCEUS), which was mandated by the Prime Minister's Office to review the new National Policy. In May 2006, the NCEUS issued a report drawing attention to the special role of TVCs and offering recommendations for revising the National Policy. About three years after the 2006 report, the Ministry of Housing and Urban Poverty Alleviation (MHUPA) of the GOI published a revised policy, and on 23 February 2009, the Union Cabinet of the GOI approved the National Policy on Urban Street Vendors (WIEGO 2011, p. 4). On the same day, the Union Cabinet of the GOI also approved the Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009, which formed the basis for a legislative framework that was already called for by the first National Policy.

The revised National Policy was divided into nine sections on 19 pages. Similar to its predecessor, the revised National Policy tried to resolve the livelihood–congestion trade-off by providing for and promoting “a supportive environment for the vast mass of urban street vendors to carry out their vocation while at the same time ensuring that their vending activities do not lead to overcrowding and unsanitary conditions in public spaces and streets.” (MHUPA 2009, p. 5) In addition to this overarching objective, the revised National Policy had seven specific objectives: to give legal status to urban street vendors; to provide civic facilities; to implement transparent regulations; to promote organisations of street vendors; to set up participatory processes; to promote self-regulation; and to offer promotional measures. The two basic objectives of treating street vendors “as an integral and legitimate part of the urban distribution system” and of rehabilitating child vendors were thus deleted from the revised National Policy (MUEPA 2004, p. 3).

Furthermore, the revised National Policy had seven key elements: spatial planning norms should include what Bhowmik (2001) has called “natural markets” in all types of development plans; the demarcation of vending zones (restriction-free, restricted or no-vending zones) should be city- or town-specific, and the municipal authorities should allocate sufficient space for temporary vendors’ markets; quantitative space norms should follow the principle of ‘natural markets’, especially when maximum holding capacities are determined; the provision of (basic) civic facilities, such as public toilets or parking areas, should be the responsibility of the municipal authorities; for the organisation and participative processes, TVCs should be established to perform various functions, like registering street vendors and ensuring the issuance of identity cards; the collection of revenue from street vendors through TVCs should fall under the jurisdiction of the municipal authorities; and, last but not least, there should be overall confidence in the self-management and regulation of street vendors (MHUPA 2009, pp. 7–13).

Another section in the revised National Policy was dedicated to the eviction and relocation of street vendors and to the confiscation of their goods. According to the MHUPA, the eviction or relocation process should involve three steps: first, the street vendors should be informed or warned by way of notice; second, if the space is not cleared within the notified time, a fine should be imposed; third, if the space is not cleared even after the notice and imposition of a fine, physical eviction may be resorted to. If the authorities come to the conclusion that street vendors need to be relocated, adequate compensation or reservation in allotment of new vending site should be provided to the registered street vendors. With regard to the confiscation of their goods, the revised National Policy stated that this “should happen only as a last resort rather than routinely” and that the street vendors should be entitled to get their goods back within a reasonable time on payment of a prescribed fee determined by the relevant TVC (*ibid.*, p. 14).

Lastly, a wide range of promotional measures were included in the revised National Policy: the GOI, state governments and municipal authorities should provide financial assistance to promote public health and hygiene among street vendors; state governments and the municipal authorities should take special steps to make street vendors and their families eligible for preventive and curative health care programmes; street vendors should be provided with vocational education and training and entrepreneurial development skills; street vendors should be assisted in obtaining credit and insurance through SHGs and street vendors’ associations or micro-insurance and other agencies; efforts of the GOI to extend social security cover to the unorganised sector should be supplemented by efforts of state governments, municipal authorities and street vendors’ associations to

facilitate protective social security for street vendors; stationary street vendors should be allowed space or stalls on licence basis for an initial period of 10 years; state governments and municipal authorities should take measures to rehabilitate child vendors; TVCs should take steps to facilitate the formation and smooth functioning of street vendors' associations; and the GOI should enact legislation for the promotion of livelihoods of the workers engaged in the unorganised sector in general and of street vendors in particular (MHUPA 2009, pp. 14–17).

4.2.3 The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014

The next step towards a legislative framework for urban street vending was taken on 17 August 2012, when the Union Cabinet of the GOI approved the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012, which was based on the 2009 Model Bill. The 2012 Bill was introduced in the Lok Sabha (the lower house of India's bicameral Parliament) on 6 September 2012. Exactly one year later, on 6 September 2013, the Lok Sabha passed the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2013, and on 19 February 2014, the Rajya Sabha (the upper house of India's bicameral Parliament) passed the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2014 (MHUPA 2014). The 2014 Bill received the assent of the President of India on 4 March 2014 (GOI 2014, p. 1). On the following day, on 5 March 2014, the Ministry of Law and Justice of the GOI published the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, in the Gazette of India. The Act came into force on 1 March 2014.

Divided into 10 chapters and a total of 39 sections (plus two schedules), the Act aims “to protect the rights of urban street vendors and to regulate street vending activities” (ibid., Sec. 1). Following the first preliminary chapter, which contains the short title, the extent, the commencement, and the provisions as well as the definitions of the Act, the second chapter deals with the regulation of street vending. First, it lays down that the TVCs should conduct surveys of all existing street vendors, and subsequent surveys should be carried out at least once in every five years. All existing street vendors identified in the surveys should be accommodated in vending zones, but they are subject to a norm conforming to 2.5 per cent of the population of the ward or zone or town or city, which means a de facto ceiling on licences. Moreover, no street vendors should be evicted or relocated until the surveys have been completed and the certificates of vending are issued to all street vendors (ibid., Sec. 3). A prerequisite for the issuance of certificates of

vending is that the street vendors are at least 14 years of age (GOI 2014, Sec. 4). Other conditions include that the street vendors have no other means of livelihood (*ibid.*, Sec. 5).

For the certificate of vending, there should be at least two categories: a stationary vendor, a mobile vendor, and any other category as may be specified in schemes for street vendors framed by the appropriate governments. According to the Act, every street vendor who has been issued a certificate of vending should also be issued identity cards (*ibid.*, Sec. 6). The criteria to be followed by the TVCs for issuing certificates of vending to street vendors should be specified in the schemes for street vendors (*ibid.*, Sec. 7). The schemes should also specify vending fees to be paid by all street vendors with a certificate of vending and the validity and renewal of certificates of vending (*ibid.*, Secs 8, 9). Finally, the second chapter regulates the cancellation or suspension of certificates of vending (*ibid.*, Secs 10, 11).

The third chapter deals with the rights and obligations of street vendors. More specifically, the Act gives every street vendor “the right to carry on the business of street vending activities” (*ibid.*, Sec. 12). However, this must be done in accordance with the terms and conditions mentioned in the certificate of vending. Moreover, the Act gives every registered street vendor the right for a new site or area in case of relocation (*ibid.*, Sec. 13). It also imposes a duty on street vendors to remove their goods and wares at the end of the time-sharing period allowed to them if they occupy space on a time sharing basis (*ibid.*, Sec. 14). In addition, every street vendor should maintain cleanliness and public hygiene in the vending zones and the adjoining areas and civic amenities and public property in the vending zone in good condition (*ibid.*, Secs 15, 16). Last but not least, the Act requires every street vendor to pay periodic maintenance charges for the civic amenities and facilities provided in the vending zones (*ibid.*, Sec. 17).

Chapter 4 deals with the relocation and eviction of street vendors. Together with the TVC, the local authority can declare a zone or a part of it to be a no-vending zone for any public purpose and relocate the street vendors in that area. Street vendors without a valid certificate of vending should be evicted. In any case, street vendors should be given 30 days’ notice for the relocation or eviction (*ibid.*, Sec. 18). The chapter also regulates the seizure and reclaiming of goods of a street vendor who has been evicted by the local authority (*ibid.*, Sec. 19). Chapter 5 then provides for a dispute redressal mechanism for the redressal of grievances or resolution of disputes of street vendors (*ibid.*, Sec. 20). Chapter 6 provides for a plan for street vending: together with the TVC, every local authority should, once in every five years, prepare a plan to promote the vocation of

street vendors (GOI 2014, Sec. 21).

The seventh chapter covers the TVC. In general, the appropriate government can provide for the constitution of more than one TVC, or a TVC for each zone or ward, in each local authority. Each TVC should consist of a Municipal Commissioner or Chief Executive Officer as the Chairperson and other members representing the local authority, medical officer of the local authority, the planning authority, traffic police, police, associations of street vendors, market associations, traders associations, NGOs, community based organisations, resident welfare associations, banks, etc. The number of members representing the NGOs and the community based organisations should not be less than 10 per cent, and the number of members representing the street vendors should not be less than 40 per cent. In addition, one-third of the members representing the street vendors should be women, and due representation should be given to Scheduled Castes, the Schedules Tribes, Other Backward Classes, minorities, and persons with disabilities (*ibid.*, Sec. 22).

Chapter 8 then addresses the prevention of harassment of street vendors by the police and other authorities: “no street vendor who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending shall be prevented from exercising such rights by any person or police or any other authority” (*ibid.*, Sec. 27). Chapter 9 contains penal provisions, and Chapter 10 deals with miscellaneous matters. For example, the appropriate government, together with the TVC, local authority, planning authority, and street vendors’ associations or unions, can undertake promotional measures to provide credit, insurance, and other welfare schemes of social security for the street vendors (*ibid.*, Sec. 31). Other matters include, research, training, and awareness or the schemes for street vendors that should be framed by the appropriate governments within six months from the date of commencement of the Act (*ibid.*, Secs 32, 38).

In August 2021, the Standing Committee on Urban Development submitted its report on the implementation of the Act. The Committee noted that many provisions of the Act are yet to be implemented by several states and union territories, that identity cards and vending certificates have not been issued to all street vendors, and that TVCs have not been constituted in several states. Furthermore, it criticised that typically 60 per cent of a TVC’s membership is made up of official representatives nominated by the state governments, which “may override genuine concerns raised by vendor representatives.” (Gupta 2021) The Committee then noted that since the enactment of the Act, only 31 per cent of the towns in states which have notified a scheme for street vendors under the Act have framed plans for street vending, nine states have not made any plans for street

vending, and certain states have notified vending zones without formulating the plans for street vending. The Committee also noted that many cities are being developed as smart cities or are formulating master plans without consideration of the street vendors. Last but not least, it noted that only nine states have constituted Grievance Redressal Committees (Gupta 2021).

4.2.4 The Food Safety and Standards Act, 2006

The Food Safety and Standards Bill, 2005, was introduced in the Lok Sabha by the Ministry of Food Processing Industries on 25 August 2005 and referred to the Standing Committee on Agriculture on 30 August 2005. On 21 February 2006, the Standing Committee presented a report on the Bill to the Lok Sabha. On 26 July 2006, the Bill was passed by the Lok Sabha, and on 2 August 2006, by the Rajya Sabha (PRS Legislative Research n.d.). The Food Safety and Standards Act, 2006, received the assent of the President of India on 23 August 2006 and was published for general information by the Ministry of Law and Justice of the GOI on the following day. The Act consolidated the laws relating to food and established the Food Safety and Standards Authority of India (FSSAI) “for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.” (GOI 2006, p. 1)

The Act is divided into 12 chapters and a total of 101 sections (plus two schedules). Following the first preliminary chapter, the second chapter deals with the FSSAI. The third chapter addresses general principles of food safety and the fourth chapter general provisions as to articles of food. Chapter 5 lays down provisions relating to import. Chapter 6 then deals with special responsibilities as to food safety. The seventh chapter covers the enforcement of the Act and the eighth chapter the analysis of food. Chapter 9 deals with offences and penalties, Chapter 10 with the adjudication and Food Safety Appellate Tribunal, and Chapter 11 with finance, accounts, audit, and reports. Finally, the twelfth chapter is about miscellaneous matters.

Central to the Act is the establishment of the FSSAI, whose duty is “to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.” (ibid., Sec. 16) It thus has a direct impact on the work of food street vendors, who manufacture, process, and distribute food and sell it to the public. The Act requires them to ensure that the articles of food within the businesses under their control “satisfy the requirements of this Act and the rules and regulations

made thereunder at all stages of production, processing, import, distribution and sale” (GOI 2006, Sec. 26). It holds food street vendors liable for articles of food which are handled or kept in unhygienic conditions, for instance, or received by them with the knowledge of being unsafe (ibid., Sec. 27). Moreover, the Act requires all food street vendors to register themselves with the relevant authority (ibid., Sec. 31).

The Act also provides for penalties for selling food not of the nature or substance or quality demanded. Accordingly, food street vendors are liable to a penalty of up to INR 25 thousand³ (ibid., Sec. 50). In addition, the Act provides for penalties for sub-standard food: food street vendors who manufacture, sell or distribute articles of food for human consumption which are sub-standard are liable to a penalty of up to INR 500 thousand⁴ (ibid., Sec. 51). Also relevant to food street vendors are penalties for unhygienic or unsanitary processing or manufacturing of food, which can be as high as INR 100 thousand⁵ (ibid., Sec. 56). Other penalties exist for misbranded food, misleading advertisements, food containing extraneous matter, and unsafe food, among others. Furthermore, the Commissioner of Food Safety can empower the Designated Officer to accept payment of a sum of money from food street vendors against whom a reasonable belief exists that they have committed an offence or contravention against the Act (ibid., Sec. 69). In sum, the fines can be debilitating for food street vendors and at the same time too small to be an effective deterrent for large companies (Madhavan et al. 2006, p. 4).

Following the criticism of Madhavan et al. (2006), “[t]here could be a case for a separate regulation for the unorganised sector. Given that the unorganised sector includes a large number of street food vendors, hawkers, temporary stall holders etc., application of the same law as for the large scale industries may be unrealistic, especially in the short term.” (ibid., p. 4) They also pointed out the risk of corruption arising from the “requirement of registration and powers given to local level officials to penalise infringement of required standards” (ibid., p. 4). Moreover, the authors found that food street vendors in India are usually unaware of food regulations and have no training in “food-related matters” (ibid., p. 4). They also generally lack support services such as water supply of adequate

³On 22 December 2022, at 6:30 a.m., the exchange rate was such that INR 25 thousand were worth approximately USD 302. Note that India’s annual per capita income at current prices was INR 150 thousand (approximately USD 1,814) between 2021 and 2022 (PTI 2022).

⁴At the above-mentioned time, the exchange rate was such that INR 500 thousand were worth approximately USD 6,045.

⁵At the above-mentioned time, the exchange rate was such that INR 100 thousand were worth approximately USD 1,209.

quality and waste disposal systems. Providing such facilities for food street vendors could ensure that they are able to maintain acceptable standards of hygiene and cleanliness (Madhavan et al. 2006, p. 4).

5 Food Street Vending and Human Rights in India

In this chapter, I examine the relationship between food street vending and three socio-economic human rights in India: the right to work, the right to livelihood, and the right to food. First, I take a closer look at the right to work and contrast informal food street vending with formalised food street vending, before drawing an interim conclusion. Here, informal food street vending describes street vending activities by workers and economic units in the food sector that are part of the informal economy and thus (in law or in practice) “not covered or insufficiently covered by formal arrangements” (ILO 2012). Formalised food street vending, in contrast, describes street vending activities by workers and economic units in the food sector that are part of the formal economy and thus (in law or in practice) covered by formal arrangements. In the context of this master thesis, these formal arrangements include the policies and acts of the ILO and GOI to formalise the informal, examined in Chapter 4. Second, I take a closer look at the right to livelihood. Again, I contrast informal food street vending with formalised food street vending and draw an interim conclusion. I use the same structure in the third and final section of this chapter, which deals with the right to food.

Altogether, this helps me to answer the questions of how food street vending as part of the informal economy relates to human rights, and, more specifically, of the extent to which the involvement in the informal economy in the form of food street vending sustains the ‘enjoyment dimension’ of human rights. In light of my argument that the informal setting of food street vending in India facilitates the enjoyment of certain socio-economic human rights and compensates weaknesses in the formal legal system, I explore in this chapter whether the above-mentioned policies and acts of the ILO and GOI to formalise the informal can ensure the right to work, the right to livelihood, and the right to food in India, or whether they risk undermining them. In doing so, I draw on my ‘critical’ modernisation theory, according to which the informal economy improves human rights outcomes, and show that efforts of the ILO and GOI to formalise the informal can have

a negative impact on the human rights situation in India.

5.1 The Right to Work

The right to work, which is enshrined at the international level in Article 23 of the UDHR and Articles 6 and 7 of the ICESCR and at the national level in Article 41 of the COI, is part of the fundamental right to life in India. This was explained in detail in Chapter 3 of this master thesis. In this section, I connect the right to work with food street vending in India. In doing so, I first contrast informal food street vending with formalised food street vending and then draw an interim conclusion. The following subsection is about informal food street vending in India and the right to work. I explore how informal food street vending contributes to food street vendors' ability to enjoy (or exercise) their right to work. Subsection 5.1.2 is then about formalised food street vending in India and the right to work. I examine how the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, formalises food street vending in India and the impact of this formalisation on the right to work. In the subsequent interim conclusion, I summarise the findings from the previous subsections and conclude that informal food street vending is more in line with the right to work than formalised food street vending.

5.1.1 Informal Food Street Vending

The relationship between informal food street vending and the right to work in India is ambivalent: on the one hand, the informal setting of food street vending offers food street vendors in India the opportunity to pursue their business model even with minimal (socio-economic) resources. On the other hand, the informal setting poses a threat to their business model, as food street vendors without a licence (or 'certificate of vending') can be evicted at any time. In this subsection, I focus on the relationship between informal food street vending and the right to work. First, I explain how the informal setting of food street vending facilitates the enjoyment of the right to work. Second, I examine how the informal setting makes the work of food street vendors more difficult.

According to my 'critical' modernisation theory, the informal economy improves human rights outcomes. In the context of this subsection, this means that informality has a positive impact on the right to work, in the sense that the informal economy serves as a catch basin for those "who cannot find jobs in the formal economy and who are therefore pushed to take any work or create their own employment through small, even marginal,

economic activities.” (ILO n.d.[c], p. 6)¹ Against the background that the GOI does not guarantee the right to work in urban areas in the same way as it does, for example, with the MGNREGA in rural areas, the informal economy offers opportunities for work to many people who would otherwise remain unemployed.

However, the argument that the right to work can be realised through informal food street vending because informal food street vending offers opportunities for work is in some ways deficient. I indicated in Chapter 3 of this master thesis that the right to work in the UDHR and ICESCR has another dimension: it is also closely connected to just and favourable conditions of work. As already pointed out in the introduction of this master thesis, work in the informal economy “is often characterized by small or undefined work places, unsafe and unhealthy working conditions, low levels of skills and productivity, low or irregular incomes, long working hours and lack of access to information, markets, finance, training and technology.” (ILO n.d.[a]) This also applies to informal food street vending, which is part of the informal economy. From this perspective, the second dimension of the right to work cannot be fully realised through informal food street vending.

Given the predominantly informal setting of food street vending in India, unlicensed food street vendors work in constant fear of eviction. The issue of forced evictions of unlicensed food street vendors is of particular importance because these evictions are direct violations of both dimensions of the right to work. First, in the case of eviction, informal food street vendors are prevented from carrying out their freely chosen and accepted work. Second, the constant fear of eviction is contrary to just and favourable conditions of work. It is important to emphasise, however, that forced evictions and related violations of the right to work are the result of decisions made by local authorities. They are not a natural part of the informal setting of food street vending in India. Rather, they echo “neoliberal-sounding development narratives” in which informal food street vendors are a (double) public nuisance (Anjaria 2016, p. 18): “hawkers not only obstruct pedestrians; they also obstruct the flourishing of political modernity itself.” (ibid., p. 3).

5.1.2 Formalised Food Street Vending

The formalisation of food street vending in India has multiple implications for the right to work in that country. One implication is that formalised food street vending provides safer and more secure workplaces to licensed food street vendors, as food street vendors with a

¹This is not to say that everyone in the informal economy is poor, but that most do not operate in informality by choice (ILO n.d.[c], p. 6).

licence cannot be arbitrarily evicted. Another implication is that formalised food street vending imposes restrictions on food street vendors, for example through no-vending zones. In addition, the ceiling on licences means that not every food street vendor can become part of the formalised system of food street vending. In this subsection, I focus on the relationship between formalised food street vending and the right to work. First, I look at how the formalised setting of food street vending facilitates the enjoyment of the right to work. Second, I explore how the formalised setting complicates the everyday working lives of food street vendors and creates tensions due to a system of inclusion and exclusion.

As indicated in the previous paragraph, formalised food street vending facilitates the enjoyment of the right to work in the sense that it provides safer and more secure workplaces to licenced food street vendors. First, formalised food street vending is safer because food street vendors with a licence benefit from, for example, civic amenities and facilities provided in the vending zones. Second, formalised food street vending is more secure because food street vendors with a licence can only be relocated or evicted from a no-vending zone for a public purpose after a 30-day notice period. It is also safer and more secure because food street vendors with a licence are less likely to be harassed by the police and other authorities. Moreover, licenced food street vendors have better access to credit, insurance, and other welfare schemes for social security.

Formalised food street vending also goes hand in hand with restrictions on food street vendors. The most important restrictions are no-vending zones, which can be declared by TVCs for any public purpose. This means that while (food) street vendors have “the right to carry on the business of street vending activities” (GOI 2014, Sec. 12), they cannot carry on this business in every location. I argue that the relocation or eviction of food street vendors from a no-vending zone violates the right to work if the relocation site is far from the original vending site. This is due to the fact that long commutes can be a barrier to work because they are both time-consuming and costly. Another restriction on food street vendors is the judicially imposed ceiling on licences, which is 2.5 per cent of the population of the ward or zone or town or city. According to the 2021 report of the Standing Committee on Urban Development, this ceiling is “grossly inadequate” in large and heavily populated cities like Mumbai or Delhi (Pal 2021, p. 52).

In addition, the ceiling on licences creates a system of inclusion and exclusion. In cities like Mumbai or Delhi, where the number of street vendors exceeds 2.5 per cent of the population of the ward or zone or town or city, many (food) street vendors cannot get a licence. This drives a lucrative black market for licences (te Lintelo 2017), which

reinforces the injustices experienced by (food) street vendors. The ceiling on licences also means that unlicensed food street vendors are likely to be forcibly evicted. These evictions are direct violations of the right to work, as they prevent food street vendors from carrying on their business. In sum, formalised food street vending means that food street vendors cannot carry on their business anywhere without a licence.

5.1.3 Interim Conclusion

Altogether, food street vending in India has an interesting relationship with the right to work. In its informal manifestation, food street vending can realise the first dimension of the right to work: “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts” (UN 1966, Art. 6). At the same time, it violates the second dimension of the right to work: “the right of everyone to the enjoyment of just and favourable conditions of work” (ibid., Art. 7). In its formal manifestation, food street vending can realise only the second dimension of the right to work, but it violates the first dimension of the right to work. This means that both informal and formalised food street vending have their pros and cons, but the violation of the first dimension can be considered more serious, as it is at the core of the right to work. Therefore, informal food street vending is more in line with the right to work than formalised food street vending.

5.2 The Right to Livelihood

The right to livelihood, which is enshrined at the international level in Article 25 of the UDHR and Article 11 of the ICESCR and at the national level in Articles 19(1)(g), 21, and 39(a) of the COI, is a Fundamental Right in itself and also part of the fundamental right to life in India. This was explained in detail in Chapter 3 of this master thesis. In this section, I connect the right to livelihood with food street vending in India. In doing so, I first contrast informal food street vending with formalised food street vending and then draw an interim conclusion. The following subsection is about informal food street vending in India and the right to livelihood. I explore how informal food street vending contributes to food street vendors’ ability to enjoy (or exercise) their right to livelihood. Subsection 5.2.2 is then about formalised food street vending in India and the right to livelihood. I examine how the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, formalises food street vending in India and the impact of this formalisation on the right to livelihood. In the subsequent interim conclusion, I

summarise the findings from the previous subsections and conclude that informal food street vending is marginally more in line with the right to livelihood than formalised food street vending.

5.2.1 Informal Food Street Vending

Informal food street vending in India has multiple links to the right to livelihood in the country. Most importantly, it allows food street vendors to achieve a standard of living adequate for the health and well-being of themselves and their families. Ideally, this standard of living includes adequate food, clothing, and housing and the continuous improvement of living conditions. Moreover, informal food street vending is linked to the fundamental right “to practise any profession, or to carry on any occupation, trade or business.” (GOI 2020, Art. 19) It is also linked to the right to life and personal liberty of food street vendors. This is particularly interesting in light of the fact that the Indian state “shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood” (ibid., Art. 39). In this subsection, I focus on the links between informal food street vending and the right to livelihood. First, I explain how the informal setting of food street vending facilitates the enjoyment of the right to livelihood. Second, I examine how the informal setting may cause livelihood difficulties for food street vendors.

The links between informal food street vending and the right to livelihood overlap with the links between informal food street vending and the right to work. As already stated in Subsection 5.1.1 of this master thesis, I use my ‘critical’ modernisation theory to argue that the informal economy improves human rights outcomes, which means that informality has a positive impact on the right to livelihood, among others. The same argument I made in Subsection 5.1.1 also applies here: the informal economy serves as a catch basin for those who cannot find jobs in the formal economy. As one of the most important economic activities of the informal economy, informal food street vending allows many people to participate in economic life and to achieve a standard of living adequate for the health and well-being of themselves and their families. The income that food street vendors generate is ideally enough for adequate food, clothing, and housing and the continuous improvement of living conditions.

The fundamental right “to practise any profession, or to carry on any occupation, trade or business” is linked to informal food street vending because, at first glance, it gives all citizens the right to carry on the business of (food) street vending activities, regardless of whether it is in the informal or formal economy (ibid., Art. 19). However,

Section 283 of the IPC states: “[w]hoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.”² (GOI 1860, Sec. 283) Therefore, the right to engage in informal activities is restricted. This applies in particular to (food) street vending, which takes place in public spaces and is thus within the scope of Section 283 of the IPC (Patel 2019, p. 5162). This means that the informal setting of food street vending puts the livelihood of food street vendors at risk.

Nevertheless, informal food street vending is part of the right to life (and personal liberty) of food street vendors. This is because the right to life implies the right to livelihood, as explained in Subsection 3.1.2 of this master thesis. Food street vendors in particular cannot be deprived of their means of livelihood to the point of abrogation, as this would deprive them of their right to life. Thus, informal food street vendors also have the right to carry on their business. The reality, however, is different because food street vendors without a licence can be forcefully evicted at any time without prior notice and court hearing. This de facto deprives them of their means of livelihood and therefore of their right to life. Hence, in practice, informal food street vending does not facilitate the right to livelihood. But again, forced evictions are not a natural part of informal food street vending, as they are the result of decisions made by local authorities.

5.2.2 Formalised Food Street Vending

The relationship between formalised food street vending in India and the right to livelihood is similar to the relationship between formalised food street vending in India and the right to work. This is because work and livelihoods are “interrelated features of individual lives”, with work being an important part of livelihoods (Goddard 2017, p. 12). Thus, the arguments I can make here are similar to the arguments I made in Subsection 5.1.2: formalised food street vending, while providing safer and more secure workplaces to licenced food street vendors, also imposes restrictions on them and creates a system of inclusion and exclusion that further marginalises unlicenced food street vendors. In this subsection, I focus on the relationship between formalised food street vending and the right to livelihood. First, I look at how the formalised setting of food street vending facilitates the enjoyment of the right to livelihood. Second, I explore how the formalised setting makes it more difficult for food street vendors to make a living.

²On 22 December 2022, at 6:30 a.m., the exchange rate was such that INR 200 were worth approximately USD 2.4. Note that INR 200 were worth considerably more in 1860.

The formalised setting of food street vending facilitates the enjoyment of the right to livelihood not only by providing safer and more secure workplaces to licenced food street vendors but also by giving them better access to credit, insurance, and other welfare schemes for social security. Social protection systems like these play an indispensable role in securing livelihoods. The main German development agency *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH* stated that a lack of social protection systems means that the development opportunities of those in the informal economy, for example, “are limited due to the fact that they have to keep savings readily available and can only make limited investments to secure their livelihoods.” (GIZ n.d.) Therefore, better access to credit, insurance, and other welfare schemes for social security may improve the standard of living of licenced food street vendors.

At the same time, formalised food street vending has a negative impact on the fundamental right “to practise any profession, or to carry on any occupation, trade or business.” (GOI 2020, Art. 19) This is due to the system of inclusion and exclusion created by the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, which I described in Subsection 5.1.2 of this master thesis. The system of inclusion and exclusion caused by the ceiling on licences violates not only the right to work of unlicenced food street vendors but also the right to livelihood, as they are hindered from practising their profession or carrying on their occupation, trade or business. This further marginalises food street vendors who cannot obtain a licence. Beyond that, it also violates their right to life (and personal liberty) because it deprives them of their means of livelihood to the point of abrogation.

Furthermore, it is the duty of the Indian state to formulate policies that secure that all its citizens have the right to an adequate means of livelihood. The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, should therefore protect the livelihoods of all (food) street vendors. However, the Act not only violates the right to livelihood of unlicenced food street vendors, as shown in the previous paragraph, but is also responsible for the existence of unlicenced food street vendors in the first place, as it imposes a ceiling on licences. Thus, the formalised setting of food street vending makes it more difficult for food street vendors without a licence to make a living.

5.2.3 Interim Conclusion

In sum, food street vending in both its informal and formal manifestations can realise the right to livelihood under the UDHR and ICESCR but not under the COI. Regarding the UDHR and ICESCR, informal food street vending facilitates participation in economic

life while formalised food street vending provides licenced food street vendors with access to a social protection system. Regarding the fundamental right “to practise any profession, or to carry on any occupation, trade or business” in the COI, informal food street vending puts the livelihoods of all food street vendors at risk while formalised food street vending puts the livelihoods of unlicenced food street vendors at risk (GOI 2020, Art. 19). Informal food street vending also threatens the constitutional right to life (and personal liberty) of food street vendors, as it creates a setting in which forced evictions are a part of the daily life of food street vendors. Formalised food street vending threatens this constitutional right through the system of inclusion and exclusion that it creates. Finally, formalised food street vending does not comply with the duty of the Indian state to formulate policies that secure that all its citizens have the right to an adequate means of livelihood, as it imposes a ceiling on licences. Therefore, informal food street vending is marginally more in line with the right to livelihood than formalised food street vending.

5.3 The Right to Food

The right to food, which is enshrined at the international level in Article 25 of the UDHR and Article 11 of the ICESCR and at the national level in Article 47 of the COI, is part of the fundamental right to life in India. This was explained in detail in Chapter 3 of this master thesis. In this section, I connect the right to food with food street vending in India. In doing so, I first contrast informal food street vending with formalised food street vending and then draw an interim conclusion. The following subsection is about informal food street vending in India and the right to food. I explore how informal food street vending contributes to the Indian society’s ability to enjoy (or exercise) its right to food. Subsection 5.3.2 is then about formalised food street vending in India and the right to food. I examine how the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and the Food Safety and Standards Act, 2006, formalise food street vending in India and the impact of this formalisation on the right to food. In the subsequent interim conclusion, I summarise the findings from the previous subsections and conclude that informal food street vending is clearly more in line with the right to food than formalised food street vending.

5.3.1 Informal Food Street Vending

The connection between informal food street vending and the right to food in India is particularly noteworthy because, as the FSSAI put it, (informal) food street vending is not only “a source of earning for a very large number of unskilled people” but also “a major source of nutrition for the urban poor and lower middle class.” (FSSAI 2016, p. 2) Thus, informal food street vending has the potential to facilitate the right of everyone to a standard of living adequate for the health and well-being of themselves and of their family, which includes, in particular, (adequate) food, as enshrined in the UDHR and ICESCR. Moreover, it can also facilitate “the fundamental right of everyone to be free from hunger” embodied in the ICESCR (UN 1966, Art. 11). This is to be seen in the context that the Indian state “shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties” (GOI 2020, Art. 47). In this subsection, I focus on the connection between informal food street vending and the right to food. First, I explain how the informal setting of food street vending facilitates the enjoyment of the right to food. Second, I examine how the informal setting can be problematised, as it leads to health risks among street food consumers.

As mentioned in Subsection 3.2.3 of this master thesis, it is important to emphasise certain elements of the UN right to food: food must be (1.) available, (2.) accessible and (3.) adequate (OHCHR 2010, pp. 2–3). I argued that in India, informal food street vendors make adequate food available as well as (economically and physically) accessible. First, they make food available to others by selling it from their stalls and carts. This is of particular importance in neighbourhoods where food markets are rare and grocery shops are scarce. Second, they make food economically accessible, i.e. affordable, by keeping costs to a minimum, and they make it physically accessible in all neighbourhoods. In this context, “keeping costs to a minimum” means that food street vendors usually buy and sell unprocessed food in larger quantities at lower prices or sell home-grown vegetables or fruits directly from their stalls and carts. It can also mean that street food vendors sell freshly prepared ready-to-eat food without having to pay taxes or rent for a premises. The fact that food street vendors make food “physically accessible in all neighbourhoods” means that they make food “accessible to all, including to the physically vulnerable, such as children, the sick, persons with disabilities or the elderly, for whom it may be difficult to go out to get food.” (ibid., p. 3) Third, they (ideally) provide adequate food that is safe and satisfies dietary needs. In this context, “dietary needs” takes into account “the

individual's age, living conditions, health, occupation, sex, etc.” (OHCHR 2010, p. 3)

However, especially in the context of informal street food vending, unsafe street food poses a threat to consumers. In their study to assess food safety and hygiene practices among street food vendors in Delhi, Thakur et al. (2013) found the following:

Seventy two percent [of the vendors] were disposing garbage in open lid bins and 16% were throwing it on the road, only 3% of the vendors were using hand gloves and from rest only 2% were washing hands before and after handling raw or cooked food. Majority of respondents (72 %) had short clean nails and few (4 %) had open wounds present. Presence of flies/mosquitoes was observed in 45% of the vending sites. 19 % were washing utensils in open. (Thakur et al. 2013, p. 3531)

Moreover, in their hazard analysis of a street vendor's operation in Pakistan, Bryan et al. (1992) showed that “the ingestion of these [street] foods must be considered a high risk of acquiring foodborne illness. The greatest concern is that of staphylococcal food poisoning” (Bryan et al. 1992, p. 713).

In the context of the right to food, it is a primary duty of the Indian state, as stipulated in the COI, not only to raise the nutrition and the standard of living of its people but also to promote public health. Thus, the widespread distribution of unsafe street food through informal street food vendors can be considered a violation of the right to food. In this master thesis, however, I look at food street vendors of which street food vendors are only a subset. The broader group of food street vendors also sells partially processed or unprocessed food, like vegetables or fruits, whose health risks are lower because cooking and handling food, as well as poor hygienic practices and holding and displaying food, make contamination and bacterial growth more likely (ibid.). Moreover, unsafe food is not a natural part of informal food street vending but rather an awareness issue. Thus, informal food street vending plays a significant role in facilitating the right to food in India, as food street vendors make adequate food available and accessible.

5.3.2 Formalised Food Street Vending

In the context of the right to food, the formalisation of food street vending in India has two prominent drivers: the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and the Food Safety and Standards Act, 2006. The objective of the 2014 Act is to regulate street vending activities in India, whereas the aim of the 2006 Act is to provide a single reference point for all issues concerning food safety and

standards in the country. More specifically, the 2014 Act provides for bans on food street vending in certain areas (no-vending zones) and at certain times (restricted-vending zones), and the 2006 Act holds food street vendors liable for articles of food which are handled or kept in unhygienic conditions, for instance, or received by them with the knowledge of being unsafe. While the 2014 Act requires all street vendors to obtain a licence from the relevant TVC, the 2006 Act requires all food street vendors to register themselves with the relevant authority. In this subsection, I focus on the relationship between formalised food street vending and the right to food. First, I look at how the formalised setting of food street vending facilitates the enjoyment of the right to food. Second, I explore how the formalised setting can lead to problems in the food supply of the Indian society as a whole.

Ideally, the 2006 Act helps to facilitate the right to food, particularly with regard to food safety, by requiring food street vendors to ensure that the articles of food within the businesses under their control satisfy certain requirements and rules and regulations “at all stages of production, processing, import, distribution and sale” (GOI 2006, Sec. 26). However, in their survey among 200 street food vendors, Reddy et al. (2020) found that less than 35 per cent of the street food vendors were registered. Although the authors pointed out that it has a positive impact on the food safety standards of street food vendors if street food vendors are registered, operate in high-income localities and have a high level of education, they also found that general food safety practices such as the use of soap for washing hands and the wearing of aprons and gloves were generally not practised by any street food vendors (Reddy et al. 2020, p. 1213). Overall, the authors noted that only 50 per cent of the street food vendors knew about food safety standards and concluded that “India’s food safety standards are on a par with those of most developed countries, but [...] their actual implementation by street-food vendors is not duly assured.” (ibid., p. 1201)

As already indicated above, the formalised setting of food street vending can also lead to problems in the food supply of the Indian society as a whole. This is due to the fact that the 2014 Act not only provides for bans on food street vending in certain areas and at certain times but also for a ceiling on licences: while all existing street vendors should be accommodated in vending zones, they are subject to a norm conforming to 2.5 per cent of the population of the ward or zone or town or city. Put simply, this means that vending zones have a holding capacity of 2.5 per cent of the population of the zone—even though the demand for (food) street vendors may be significantly higher. If we look at an example from Narang et al. (2019), my point becomes clearer. In a town with a

population of 100 thousand, there are 10 vending zones available. Based on the norm mentioned above, a maximum of 2,500 existing vendors can be accommodated in these zones. However, if one of the vending zones has a relatively small capacity and can only accommodate up to 80 vendors, and there are 280 existing vendors, it will be necessary for the local authorities to relocate the remaining 200 vendors to nearby vending zones (Narang et al. 2019, p. 6). In practice, this could lead to a shortage of (food) street vendors in the zone, which would directly affect the first and second element of the UN right to food: the availability and accessibility of food.

Taken together, the positive effects of the Food Safety and Standards Act, 2006, and the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, on the right to food in India are small. The 2006 Act does not really facilitate the right to food, particularly with regard to food safety, partly due to the often low income and poverty of food street vendors but also because food street vendors are not sufficiently informed about the 2006 Act (Reddy et al. 2020). This affects the adequacy of food, which is the third element of the UN right to food. Even the 2014 Act does not really facilitate the right to food, as it provides for bans on food street vending in certain areas and at certain times as well as for a ceiling on licences, which can lead to a shortage of (food) street vendors in certain zones. This affects the availability and accessibility of food, which are the first and second elements of the UN right to food. To reiterate, the formalised setting of food street vending can lead to problems in the food supply of the Indian society as a whole.

5.3.3 Interim Conclusion

In summary, informal food street vending in India facilitates the right to food in the country, while formalised food street vending hinders it. In the informal setting, the three elements of the UN right to food can be sufficiently realised, which also facilitates the fundamental right of everyone to be free from hunger. However, due to the absence of food security standards, the informal setting is susceptible to unsafe food. This is contrary to the primary duty of the Indian state to raise the level of nutrition and the standard of living of its people and improve public health. In the formalised setting, the three elements of the UN right to food cannot be sufficiently realised, which also hinders the fundamental right of everyone to be free from hunger. Moreover, the existing food security standards are not adequately implemented, which negates the theoretical benefits of formality. Therefore, informal food street vending is clearly more in line with the right to food than formalised food street vending.

6 Conclusion

In this master thesis, I examined the role of food street vendors in India in terms of three socio-economic human rights: the right to work, the right to livelihood, and the right to food. In Chapter 1, I made a distinction between street food vendors, who sell ready-to-eat food, and food street vendors, who also sell partially processed or unprocessed food. More precisely, I defined food street vendors as persons engaged in vending of food items “to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place” (GOI 2014, p. 2). I then asked two questions: how does food street vending as part of the informal economy relate to human rights, and, more specifically, to what extent does the involvement in the informal economy in the form of food street vending sustain the ‘enjoyment dimension’ of human rights? I argued that the informal economy, of which food street vendors are a part, facilitates the enjoyment of certain socio-economic human rights and compensates weaknesses in the formal legal system.

In Chapter 2, I built my theoretical foundation, which I call ‘critical’ modernisation theory. First, I presented classical modernisation theory, which, building on the evolutionary thinking of Tönnies (1887), Weber (1920), and Parsons (1964), introduced the traditional–modern dichotomy into Western social thought. Second, I sketched out criticisms of classical modernisation theory, which mainly refer to its traditional–modern dichotomy and evolutionary perspective. In addition, I introduced Eisenstadt’s (2000) conceptual revision of classical modernisation theory, which posits that not only one modernity but multiple modernities have developed. Using the notion of multiple modernities to describe informality as one expression of modernity, I then established my ‘critical’ modernisation theory, which explains the concept of ‘formalising the informal’ as a political project of the West. Third, I discussed modernisation in terms of the informal economy. Here, I made the point that informality in the Global South is an integral part of the modern economy. Fourth, I discussed modernisation in terms of human rights. In this subsection, I maintained that the informal economy—much like the formal economy—contributes to the enjoyment of human rights by individuals in countries like India.

In Chapter 3, I then developed my human rights approach. After outlining the genesis of the UDHR, ICESCR, and COI, I began the section on socio-economic human rights by explaining where in the respective documents the relevant human rights articles on the right to work, the right to livelihood, and the right to food are found. Furthermore, I pointed out the difference between Fundamental Rights and Directive Principles of State Policy in the COI. In the first subsection, I looked at the right to work, which is part of the Directive Principles of State Policy in India. The second subsection was on the right to livelihood, which is a Fundamental Right in India and also part of the Directive Principles of State Policy. The third subsection was on the right to food, which is part of the Directive Principles of State Policy. I showed that the three socio-economic human rights also derive from the fundamental right to life in India. The final section of this chapter was on the human rights triangle, which I adapted from Davy et al. (2013). In the first subsection, I described the formalisation of the rights of an individual. This was followed by a subsection on the obligation of the government to comply with human rights and a subsection on the enjoyment of a human right by natural persons.

In Chapter 4, I turned my attention to policies and acts to formalise the informal. The first section was on the ILO and the informal economy. I looked at the ILC resolution and conclusions concerning decent work and the informal economy, 2002, and the ILO Recommendation concerning the Transition from the Informal to the Formal Economy, 2015. Altogether, I demonstrated in this section that the two ILO policies are practical translations of classical modernisation theory. The following section was on the regime governing (food) street vending in India. In this section, I described the National Policy for Urban Street Vendors, 2004, the National Policy on Urban Street Vendors, 2009, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and the Food Safety and Standards Act, 2006.

In Chapter 5, I examined the relationship between food street vending in India and the three socio-economic human rights I introduced in the third chapter. I analysed the three rights using the same pattern: first, I looked at how the informal setting of food street vending facilitates or hinders the enjoyment of the right in question; second, I explored how the formalised setting of food street vending affects this right; and third, I summarised the findings from the previous subsections and drew an interim conclusion. The first section was about the right to work. Altogether, I found that informal food street vending is more in line with the right to work than formalised food street vending. The second section was about the right to livelihood. Here, I came to the interim conclusion that informal food street vending is marginally more in line with the right to

livelihood than formalised food street vending. The third section was about the right to food. In this section, I concluded that informal food street vending is clearly more in line with the right to food than formalised food street vending.

Overall, I showed in the fifth chapter of this master thesis that efforts to formalise the informal economy can have a negative impact on the human rights situation in India. With regard to my first research question, I confirmed my argument that the informal economy, of which food street vendors are a part, facilitates the enjoyment of certain socio-economic human rights and compensates weaknesses in the formal legal system. Regarding my second research question, I demonstrated that the involvement in the informal economy in the form of informal food street vending sustains the enjoyment dimension of the right to work, the right to livelihood, and the right to food more than formalised food street vending.

Furthermore, there is still the question of the extent to which the six policies and acts I presented in the fourth chapter actually formalise the informal. In the introduction of this master thesis, I pointed out that in theory, the policies and acts bring the informal economy in the form of food street vending within the scope of the law, but I noted that to see if this is the case in reality, it is necessary to examine whether the law is successfully applied or enforced. I then maintained that the formalisation of the informal only takes place to a limited extent because of the lack of successful application or enforcement of the policies and acts. The further course of my master thesis reinforced this assumption. Even though the natural goal of the policies and acts is to formalise the informal, on-ground formalisation (through national acts) quickly reaches its limits. This is mainly due to the fact that the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, imposed a ceiling on licences, which in practice means that the formalisation cannot cover all food street vendors in India.

A first possible limitation of this master thesis is its strong theoretical focus. I presented two international policies, two national policies, and two acts to formalise the informal, but I neither looked at state implementations of the policies and acts nor at the ground realities in India. However, including state implementations of the policies and acts or fieldwork in different Indian cities would have clearly gone beyond the scope of this master thesis. A second possible limitation is that I focused on only three socio-economic human rights, although the UDHR, ICESCR, and COI cover many more rights. Here, too, I had to make a selection because of the limited scope of this master thesis, but the selected rights serve as meaningful examples for my argumentation. A third possible limitation is that in the previous chapter, I mainly focused on informal and formalised food street

vending in the light of the two main acts, but I did not consider the implications of the two international policies and the two national policies presented in the fourth chapter. This is because international policies only indirectly influence ground realities through national laws or acts, and national policies are only broad statements of intent that can form the basis for national laws or acts. Finally, the focus on India is also a possible limitation, as it ignores the realities of food street vending elsewhere in the world.

The limitations of this master thesis also point to possibilities for future research. First, future research could look at state implementations of the policies and acts or at the ground realities in India. Examples of state implementation of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, would be the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017, and the Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019. The analysis would also benefit from voices from the ground, such as street vendors or representatives of street vendors' associations. In addition, policy makers could be interviewed to get a better understanding of the relevant policies and acts. Second, other human rights could be added to the analysis, such as the right to equality between men and women, which would add the aspect of gender to the analysis food street vending and could reveal gender-specific vulnerabilities of female food street vendors. Third, the comparison between informal and formalised food street vending could benefit from a more international or historical perspective, in which the impact of the ILO policies and national policies play a greater role. Last but not least, future research could focus on a country other than India and identify different approaches to 'formalising the informal'.

Bibliography

- A, Divya (Nov. 2020). *Explained: Who is a 'street vendor' in India? What is the Street Vendors Act?* The Indian Express (accessed 26 November 2021). URL: <https://indianexpress.com/article/explained/street-vendor-act-pm-svanidhi-scheme-explained-6911120/>.
- Anjaria, Jonathan Shapiro (2016). *The Slow Boil: Street Food, Rights, and Public Space in Mumbai*. Stanford University Press. ISBN: 9780804799393.

- Bendix, Reinhard (Apr. 1967). 'Tradition and Modernity Reconsidered'. In: *Comparative Studies in Society and History* 9.3, pp. 292–346.
- Bhowmik, Sharit K. (2001). *Hawkers and the Urban Informal Sector: A Study of Street Vending in Seven Cities*. WIEGO (accessed 2 September 2022). URL: <https://www.wiego.org/sites/default/files/publications/files/Bhowmik-Hawkers-URBAN-INFORMAL-SECTOR.pdf>.
- ed. (2010). *Street Vendors in the Global Urban Economy*. Routledge. ISBN: 978-0-415-55372-8.
- Bryan, Frank L. et al. (Sept. 1992). 'Hazards and Critical Control Points of Street-Vended Chat, a Regionally Popular Food in Pakistan'. In: *Journal of Food Protection* 55.9, pp. 708–713.
- Černý, Karel (Apr. 2018). 'Great Middle Eastern instability: Structural roots and uneven modernization 1960–2012'. In: *Journal of Historical Sociology* 31.1, pp. 53–71. DOI: <https://doi.org/10.1111/johs.12191>.
- Cole, Wade M. (2017). 'Too much of a good thing? Economic growth and human rights, 1960 to 2010'. In: *Social Science Research* 67, pp. 72–90. DOI: <https://doi.org/10.1016/j.ssresearch.2017.08.002>.
- CSS, Centre for Civil Society (Jan. 2019). *Implementing the Street Vendors Act 2014*. CSS (accessed 16 March 2022). URL: <https://ccs.in/sites/default/files/research/svac-report-2019.pdf>.
- D'Souza, Errol (2020). *Conceptualizing the Ubiquity of Informal Economy Work*. 1st ed. Singapore: Springer. ISBN: 9789811574283.
- Davy, Benjamin and Sony Pellissery (May 2013). 'The citizenship promise (un)fulfilled: The right to housing in informal settings'. In: *International Journal of Social Welfare* 22, S68–S84. DOI: <https://doi.org/10.1111/ijsw.12033>.
- de Villiers, Bertus (1992). 'Directive Principles of State Policy and Fundamental Rights: The Indian Experience'. In: *South African Journal on Human Rights* 8.1, pp. 29–49. DOI: <https://doi.org/10.1080/02587203.1992.11827851>.
- Dibua, Jeremiah I. (Nov. 2017). *Modernization and the Crisis of Development in Africa: The Nigerian Experience*. Routledge. ISBN: 9781351152907.
- Donnelly, Jack (2013). *Universal Human Rights in Theory and Practice*. 3rd ed. Cornell University Press. ISBN: 978-0-8014-7770-6.
- Eide, Asbjørn (1987). *Report on the right to adequate food as a human right*. UN (accessed 28 December 2021). URL: <https://digitallibrary.un.org/record/139080?ln=en>.

- Eide, Asbjørn (June 2001). ‘Economic, Social and Cultural Rights as Human Rights’. In: *Economic, Social and Cultural Rights: A Textbook*. Ed. by Asbjørn Eide, Catarina Krause and Allan Rosas. 2nd ed. Martinus Nijhoff Publishers, pp. 9–28. ISBN: 978-90-47-43386-6.
- Eisenstadt, Shmuel N. (Oct. 1974). ‘Studies of Modernization and Sociological Theory’. In: *History and Theory* 13.3, pp. 225–252.
- (2000). ‘Multiple Modernities’. In: *Daedalus* 129.1, pp. 1–29.
- Elgin, Ceyhun (July 2020). *The Informal Economy: Measures, Causes, and Consequences*. 1st ed. Routledge. ISBN: 9780429274930. DOI: <https://doi.org/10.4324/9780429274930>.
- Felice, Emanuele and Michelangelo Vasta (Feb. 2015). ‘Passive modernization? The new human development index and its components in Italy’s regions (1871–2007)’. In: *European Review of Economic History* 19.1, pp. 44–66. DOI: <https://doi.org/10.1093/ereh/heu018>.
- FSSAI, Food Safety and Standards Authority of India (Mar. 2016). *Project Clean Street Food*. FSSAI (accessed 5 March 2022). URL: https://archive.fssai.gov.in/dam/jcr:20cb6493-19b8-4e10-87b8-1ce14532243b/Clean_Street_Food_Brochure.pdf.
- GIZ, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (n.d.). *Social protection*. GIZ (accessed 2 December 2022). URL: <https://www.giz.de/expertise/html/60024.html>.
- Goddard, Victoria (2017). ‘Work and Livelihoods: An Introduction’. In: *Work and Livelihoods: History, Ethnography and Models in Times of Crisis*. Ed. by Susana Narotzky and Victoria Goddard. Routledge, pp. 1–27. DOI: <https://doi.org/10.4324/9781315747804>.
- GOI, Government of India (Oct. 1860). *The Indian Penal Code*. Legislative Department (accessed 25 November 2022). URL: <https://legislative.gov.in/sites/default/files/A1860-45.pdf>.
- (May 2004). *National Common Minimum Programme of the Government of India*. Internet Archive (accessed 12 October 2022). URL: https://web.archive.org/web/20050315235132fw_/http://pmindia.nic.in/cmp.pdf.
- (Aug. 2006). *The Food Safety and Standards Act, 2006*. FSSAI (accessed 5 March 2022). URL: <https://fssai.gov.in/upload/uploadfiles/files/FOOD-ACT.pdf>.
- (Dec. 2008). *The Unorganised Workers’ Social Security Act, 2008*. GOI (accessed 5 March 2022). URL: <https://legislative.gov.in/sites/default/files/A2008-33.pdf>.

- GOI, Government of India (Mar. 2014). *The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014*. ILO (accessed 5 March 2022). URL: <https://fssai.gov.in/upload/uploadfiles/files/FOOD-ACT.pdf>.
- (Dec. 2020). *The Constitution of India*. Legislative Department (accessed 28 December 2021). URL: https://legislative.gov.in/sites/default/files/COI_1.pdf.
- Graaff, Kristina and Noa Ha, eds. (2015). *Street Vending in the Neoliberal City: A Global Perspective on the Practices and Policies of a Marginalized Economy*. Berghahn Books. ISBN: 978-1-78238-835-7.
- Guha-Khasnobis, Basudeb, Ravi Kanbur and Elinor Ostrom, eds. (2006). *Linking the Formal and Informal Economy: Concepts and Policies*. Oxford: Oxford University Press. ISBN: 9780199204762.
- Gupta, Shruti (Sept. 2021). *Standing Committee Report Summary: Implementation of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014*. PRS India (accessed 6 October 2022). URL: https://prsindia.org/files/policy/policy_committee_reports/Report%20summary_Street%20Vendors.pdf.
- Harding, Philip and Richard Jenkins (1989). *The myth of the hidden economy: towards a new understanding of informal economic activity*. Open University Press. ISBN: 0335099238.
- Hart, Keith (Mar. 1973). 'Informal Income Opportunities and Urban Employment in Ghana'. In: *The Journal of Modern African Studies* 11.1, pp. 61–89.
- Huntington, Samuel P. (1968). *Political Order in Changing Societies*. Yale University Press, pp. 283–322.
- (Apr. 1971). 'The Change to Change: Modernization, Development, and Politics'. In: *Comparative Politics* 3.3, pp. 283–322.
- IASV, International Alliance of Street Vendors (Nov. 1995). *The Bellagio International Declaration of Street Vendors*. EU (accessed 5 September 2022). URL: <https://europa.eu/capacity4dev/file/25587/download?token=99j8-iVK>.
- ILO, International Labour Organization (Jan. 1993). *Resolution concerning statistics of employment in the informal sector, adopted by the Fifteenth International Conference of Labour Statisticians*. ILO (accessed 5 March 2022). URL: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_087484.pdf.
- (2002). *Resolution and conclusions concerning decent work and the informal economy*. ILO (accessed 5 March 2022). URL: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/---reloff/documents/meetingdocument/wcms_080105.pdf.

- ILO, International Labour Organization (Nov. 2003). *Guidelines concerning a statistical definition of informal employment*. ILO (accessed 5 March 2022). URL: https://ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_087622.pdf.
- (Jan. 2012). *Informal Economy and Atypical Forms of Employment*. ILO (accessed 4 March 2022). URL: https://www.ilo.org/actrav/areas/WCMS_DOC_ATR_ARE_INF_EN/lang--en/index.htm.
- (2013). *Women and Men in the Informal Economy: A Statistical Picture*. 2nd ed. International Labour Office. ISBN: 978-92-2-128170-2.
- (July 2014a). *Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Facilitating transitions from the informal to the formal economy”*. ILO (accessed 17 August 2022). URL: https://www.ilo.org/ilc/ILCSessions/previous-sessions/103/reports/committee-reports/WCMS_249799/lang--en/index.htm.
- (2014b). *Transitioning from the informal to the formal economy*. ILO (accessed 20 May 2022). URL: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_218128.pdf.
- (2015a). *Recommendation concerning the Transition from the Informal to the Formal Economy*. ILO (accessed 5 March 2022). URL: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_377774.pdf.
- (July 2015b). *Resolution concerning efforts to facilitate the transition from the informal to the formal economy*. ILO (accessed 17 August 2022).
- (2017). *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*. ILO (accessed 2 August 2022). URL: https://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/publication/wcms_545928.pdf.
- (Apr. 2018). *Women and men in the informal economy: A statistical picture*. ILO (accessed 17 May 2022). URL: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf.
- (2020). *The World Employment Programme (WEP): Past, Present and Future*. ILO (accessed 11 October 2022). URL: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_759397.pdf.
- (n.d.[a]). *13. Informal Economy*. ILO (accessed 5 March 2022). URL: <https://www.ilo.org/global/topics/dw4sd/themes/informal-economy/lang--en/index.htm>.

- (n.d.[b]). *Committee on the Transition from the Informal to the Formal Economy*. ILO (accessed 17 August 2022). URL: <https://www.ilo.org/ilc/ILCSessions/previous-sessions/104/committees/informal-economy/lang--en/index.htm>.
- ILO, International Labour Organization (n.d.[c]). *Decent Work and the Informal Economy*. ILO (accessed 11 October 2022). URL: https://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_policy/documents/publication/wcms_210442.pdf.
- (n.d.[d]). *Informal economy*. ILO (accessed 5 March 2022). URL: https://www.ilo.org/ilostat-files/Documents/description_IFL_EN.pdf.
- (n.d.[e]). *Informal economy*. ILO (accessed 17 May 2022). URL: <https://www.ilo.org/global/topics/employment-promotion/informal-economy/lang--en/index.htm>.
- (n.d.[f]). *Informal economy in South Asia*. ILO (accessed 17 May 2022). URL: <https://www.ilo.org/newdelhi/areasofwork/informal-economy/lang--en/index.htm>.
- IMF, International Monetary Fund (2021). *The Global Informal Workforce: Priorities for Inclusive Growth*. IMF (accessed 24 May 2022). URL: <https://www.elibrary.imf.org/fileasset/IEATWEAEX.pdf?cid=va-com-compd-ieatw>.
- Jhabvala, Renana (Aug. 2003). ‘Bringing Informal Workers Centrestage’. In: *Informal Economy Centrestage: New Structures of Employment*. Ed. by Renana Jhabvala, Ratna M Sudarshan and Jeemol Unni. SAGE Publications India, pp. 258–275. ISBN: 9788132103752.
- Kothari, Jayna (2014). ‘A Social Rights Model for Social Security: Learnings from India’. In: *Verfassung und Recht in Übersee* 47.1, pp. 5–21.
- Krstić, Gorana and Friedrich Schneider, eds. (2015). *Formalizing the Shadow Economy in Serbia*. 1st ed. Springer. ISBN: 978-3-319-13437-6. DOI: <https://doi.org/10.1007/978-3-319-13437-6>.
- Leach, Melissa, Robin Mearns and Ian Scoones (1999). ‘Environmental entitlements: a framework for understanding the institutional dynamics of environmental change’. In: *World Development* 27.2, pp. 225–247.
- Madhavan, M R and Kaushiki Sanyal (Feb. 2006). *Legislative Brief: The Food Safety and Standards Bill, 2005*. PRS India (accessed 10 October 2022). URL: https://prsindia.org/files/bills_acts/bills_parliament/2005/legis1167478357_legislative_brief_food_safety_standards_bill_2005.pdf.
- Malefakis, Alexis (2019). *Tanzania’s Informal Economy: The Micro-politics of Street Vending*. 1st ed. Zed Books. ISBN: 9781786994523.
- Marsh, Robert M. (July 2014). ‘Modernization Theory, Then and Now’. In: *Comparative Sociology* 13.3, pp. 261–283. DOI: <https://doi.org/10.1163/15691330-12341311>.

- Martinelli, Alberto (2005). *Global Modernization: Rethinking the Project of Modernity*. SAGE Publications. ISBN: 9780761947998.
- Martinelli, Alberto, Antonio M. Chiesi and Sonia Stefanizzi (1999). *Recent social trends in Italy, 1960–1995*. McGill-Queen’s University Press. ISBN: 9780773518421.
- MHUPA, Ministry of Housing and Urban Poverty Alleviation (2009). *National Policy on Urban Street Vendors*. Bihar SULM (accessed 20 September 2022). URL: <https://biharsulm.in/pdf/16930e98711e2c17408e1ea763c82560.pdf>.
- (Feb. 2014). *Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2014 Passed by Rajya Sabha*. Press Information Bureau (accessed 5 October 2022). URL: <https://pib.gov.in/newsite/printrelease.aspx?relid=103949>.
- Miller, Brett J. (2006). ‘Living Outside the Law: How the Informal Economy Frustrates Enforcement of the Human Rights Regime for Billions of the World’s Most Marginalized Citizens’. In: *Northwestern Journal of International Human Rights* 5.1, pp. 127–152.
- Modi, Narendra (Dec. 2019). *We are focusing on formalization and modernization of Indian economy: PM Modi*. Narendra Modi (accessed 19 May 2022). URL: <https://www.narendramodi.in/text-of-pm-s-address-at-the-inaugural-session-of-hundred-years-of-assochem-547696>.
- MUEPA, Ministry of Urban Employment and Poverty Alleviation (2004). *National Policy For Urban Street Vendors*. PRS (accessed 5 March 2022). URL: https://prsindia.org/files/bills_acts/bills_parliament/2005/bill82_2006123082_National_Policy_for_Urban_Street_Vendors.pdf.
- Narang, Prashant and Bhuvana Anand (Dec. 2019). *Street Vendors Act 2014: Survey of Vendors and Allocation of Certificates of Vending in India*. CSS (accessed 30 December 2022). URL: <https://ccs.in/sites/default/files/2022-08/street-vendor-act-2014-survey-of-vendors-and-allocation-of-certificates-of-vending.pdf>.
- NFSP, National Food Security Portal (n.d.). *National Food Security Act, (NFSA) 2013*. NFSP (accessed 18 June 2022). URL: <https://nfsa.gov.in/portal/NFSA-Act>.
- NSSO, National Sample Survey Organisation (Dec. 2000). *Non-agricultural Enterprises in the Informal Sector in India*. NSSO (accessed 12 March 2022). URL: <http://microdata.gov.in/nada43/index.php/catalog/89/download/838>.
- OHCHR, Office of the United Nations High Commissioner for Human Rights (June 1996). *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*. OHCHR (accessed 6 June 2022). URL: <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet2Rev.1en.pdf>.

- OHCHR, Office of the United Nations High Commissioner for Human Rights (Apr. 2010). *The Right to Adequate Food*. OHCHR (accessed 9 July 2022). URL: <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet2Rev.1en.pdf>.
- Pal, Jagdambika (Aug. 2021). *Implementation of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014*. Parliament of India (accessed 21 November 2022). URL: http://164.100.47.193/lssccommittee/Housing%20and%20Urban%20Affairs/17_Urban_Development_8.pdf.
- Parsons, Talcott (June 1964). 'Evolutionary Universals in Society'. In: *American Sociological Review* 29.3, pp. 339–357.
- Patel, Shikha (July 2019). 'Policy Impact on Street Vending, Case of K. R. Market, Bangalore'. In: *International Journal of Current Research* 11.7, pp. 5161–5165.
- Peberdy, Sally (2016). *International Migrants in Johannesburg's Informal Economy*. Ed. by Jonathan Crush. SAMP Migration Policy Series 71. Southern African Migration Programm. ISBN: 978-1-920596-18-7.
- Poe, Steven C. and C. Neal Tate (Dec. 1994). 'Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis'. In: *The American Political Science Review* 88.4, pp. 853–872. DOI: <https://doi.org/10.2307/2082712>.
- Portes, Alejandro, Manuel Castells and Lauren A. Benton, eds. (1989). *The informal economy: studies in advanced and less developed countries*. Johns Hopkins University Press. ISBN: 0801837359.
- PRS Legislative Research (n.d.). *The Food Safety and Standards Bill, 2005*. PRS India (accessed 7 October 2022). URL: <https://prsindia.org/billtrack/the-food-safety-and-standards-bill-2005>.
- PTI, Press Trust of India (May 2022). *India's per capita income remains below pre-Covid level in 2021-22*. The Economic Times (accessed 22 December 2022). URL: <https://economictimes.indiatimes.com/news/economy/indicators/indias-per-capita-income-remains-below-pre-covid-level-in-2021-22/articleshow/91923086.cms>.
- Rajagopal, Krishnadas (June 2021). 'One Nation One Ration Card' scheme makes food security portable: Centre tells SC. The Hindu (accessed 18 June 2022). URL: <https://www.thehindu.com/news/national/one-nation-one-ration-card-scheme-makes-food-security-portable-centre-tells-sc/article60676874.ece>.
- Reddy, A. Amarender, Sandra Ricart and Timothy Cadman (2020). 'Driving factors of food safety standards in India: learning from street-food vendors' behaviour and attitude'. In: *Food Security* 12, pp. 1201–1217.

- Roniger, Luis (Nov. 2015). ‘Multiple Modernities ‘East’ and ‘West’ and the Quest for Universal Human Rights’. In: *Varieties of Multiple Modernities*. Ed. by Gerhard Preyer and Michael Sussmann. Brill, pp. 122–148. ISBN: 978-90-04-30671-4. DOI: https://doi.org/10.1163/9789004306714_009.
- Saha, Debdulal (2017). *Informal Markets, Livelihood and Politics: Street vendors in urban India*. Routledge. ISBN: 978-1-315-54308-6.
- Schneider, Friedrich (2008). *The economics of the hidden economy*. Edward Elgar Publishing. ISBN: 9781785367069.
- Schneider, Friedrich and Dominik Enste (Mar. 2002). *Hiding in the shadows: the growth of the underground economy*. International Monetary Fund.
- SCI, Supreme Court of India (July 1985). *Olga Tellis & Ors. Vs. Bombay Municipal Corporation & Ors. Etc.* SCI (accessed 29 June 2022). URL: <https://main.sci.gov.in/jonew/judis/9246.pdf>.
- (June 2021). *Suo Motu Writ Petition (Civil) No. 6 of 2020*. SCI (accessed 16 June 2022). URL: https://main.sci.gov.in/supremecourt/2020/11706/11706_2020_36_1501_28166_Judgement_29-Jun-2021.pdf.
- Singer, Hans W. and Richard Jolly (2012). ‘Employment, Incomes and Equality: Lessons of the ILO Employment Strategy Mission to Kenya’. In: *Milestones and Turning Points in Development Thinking*. Ed. by Richard Jolly. IDS Companions to Development. Springer, pp. 121–134. ISBN: 978-1-137-27163-1. DOI: <https://doi.org/10.1057/9781137271631>.
- te Lintelo, Dolf J.H. (Aug. 2017). ‘Enrolling a goddess for Delhi’s street vendors: The micro-politics of policy implementation shaping urban (in)formality’. In: *Geoforum* 84, pp. 77–87. DOI: <https://doi.org/10.1016/j.geoforum.2017.06.005>.
- Thakur, Chander Pal et al. (Nov. 2013). ‘Food safety and hygiene practices among street food vendors in Delhi, India’. In: *International Journal of Current Research* 5.11, pp. 3531–3534.
- Tokman, Víctor E. (2001). ‘Integrating the Informal Sector into the Modernization Process’. In: *SAIS Review* 21.1, pp. 45–60.
- Tönnies, Ferdinand (1887). *Gemeinschaft und Gesellschaft: Abhandlung des Communismus und des Socialismus als empirischer Culturformen*. Leipzig: Fues.
- Toppen, Joel J. (July 1996). ‘Development and Human Rights: An Alternative Analysis’. In: *Peace & Change* 21.3, pp. 318–337. DOI: <https://doi.org/10.1111/j.1468-0130.1996.tb00274.x>.

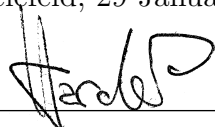
- UN, United Nations (1945). *Charter of the United Nations and Statute of the International Court of Justice*. UN (accessed 6 June 2022). URL: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>.
- (Dec. 1948). *Universal Declaration of Human Rights*. UN (accessed 18 June 2022). URL: <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf>.
- (Dec. 1966). *International Covenant on Economic, Social and Cultural Rights*. OHCHR (accessed 18 June 2022). URL: <https://www.ohchr.org/sites/default/files/cescr.pdf>.
- (Apr. 2016). *General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*. OHCHR (accessed 10 November 2022). URL: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/23&Lang=en.
- (n.d.[a]). *History of the Declaration*. UN (accessed 6 June 2022). URL: <https://www.un.org/en/about-us/udhr/history-of-the-declaration>.
- (n.d.[b]). *Transforming Our World: The 2030 Agenda for Sustainable Development*. UN (accessed 5 March 2022). URL: <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>.
- UNDP, United Nations Development Programme (n.d.[a]). *Human Development Index (HDI)*. UNDP (accessed 10 May 2022). URL: <https://hdr.undp.org/en/content/human-development-index-hdi>.
- (n.d.[b]). *India*. UNDP (accessed 10 May 2022). URL: <https://hdr.undp.org/en/countries/profiles/IND>.
- Venkatesh, Sudhir Alladi (2006). *Off the books: the underground economy of the urban poor*. Harvard University Press. ISBN: 9780674023550.
- Wallerstein, Immanuel (1976). ‘Modernization: Requiescat in Pace’. In: *The Uses of Controversy in Sociology*. Ed. by L. Coser and O. Larsen. Free Press.
- WB, World Bank (2022a). *GDP per capita (current US\$)*. WB (accessed 8 May 2022). URL: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD>.
- (2022b). *GDP per capita (current US\$) - India*. WB (accessed 7 May 2022). URL: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=IN>.
- (2022c). *GDP per capita, PPP (current international \$) - India*. WB (accessed 7 May 2022). URL: <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD?locations=IN>.

- WB, World Bank (2022d). *GNI per capita, Atlas method (current US\$) - India*. WB (accessed 9 May 2022). URL: <https://data.worldbank.org/indicator/NY.GNP.PCAP.CD?locations=IN>.
- Weber, Max (1920). *Die protestantische Ethik und der Geist des Kapitalismus*. J.C.B. Mohr (Paul Siebeck).
- WIEGO, Women in Informal Employment: Globalizing and Organizing (Apr. 2011). *India's National Policy on Urban Street Vendors*. WIEGO (accessed 31 August 2022). URL: https://www.wiego.org/sites/default/files/publications/files/Sinha_WIEGO_PB2.pdf.
- Williams, Colin C. (May 2019). *The Informal Economy*. Newcastle upon Tyne: Agenda Publishing. ISBN: 9781911116301.
- Williams, Colin C. and Friedrich Schneider (2016). *Measuring the global shadow economy: the prevalence of informal work and labour*. Edward Elgar Publishing. ISBN: 9781784717995.
- Wittrock, Björn (2017). 'Modernity: One, None, or Many? European Origins and Modernity as a Global Condition'. In: *Multiple Modernities*. Ed. by Shmuel N. Eisenstadt. Routledge, pp. 31–60. ISBN: 978-0-7658-0926-1.
- Zhu, Jiemin and Hendricus Andy Simarmata (2015). 'Formal land rights versus informal land rights: Governance for sustainable urbanization in the Jakarta metropolitan region, Indonesia'. In: *Land Use Policy* 43, pp. 63–73. DOI: <https://doi.org/10.1016/j.landusepol.2014.10.016>.

Written Insurance

I hereby certify that I have prepared this master thesis independently. All passages which are taken from the wording or the meaning of other works (including electronic sources) have been clearly marked in each individual case with precise indication of the source.

Bielefeld, 29 January 2023



(Max Harder)