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Closing the gap? An Analysis of the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals in Business Operations

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Master Thesis (SOLM02)
Spring 2022



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Abstract

There is an increasing demand for responsible business conduct. Different mechanisms have been developed to promote and ensure such responsibility within corporate operations. Two of such mechanisms are the UN Guiding Principles on Business and Human Rights (UNGPs) and the UN Sustainable Development Goals (SDGs). These two UN mechanisms have been widely implemented into corporate operations with the objective to attain respect for human rights. However, adverse impacts on human rights continuously flourish in corporate value chains and different stakeholders are continuously affected by corporate operations. This thesis investigates three corporations that have implemented the UNGPs and the SDGs into their business operations. All three corporations are Danish supermarket chains that have experienced adverse impacts on human rights in their value chains. Though the two UN mechanisms have been implemented, the supermarket chains continuously experience human rights abuse in their operations. Therefore, Roscoe Pound's (1910) concept of law in books and law in action elucidates the gap between the aims of the UNGPs and the SDGs and their actual impacts on the operations of the three supermarket chains. To comprehend how the three corporations generate meaning of the two UN mechanisms and thus, how these mechanisms have been implemented, Susan Silbey's and Patricia Ewicks concept of legal consciousness is applied. The findings indicate that the supermarket chains find little purpose and understanding of these mechanisms and that the main objective to implement them has been to respond to external expectations. Therefore, there is a vital gap between the aims of the UNGPs and the SDGs and their actual influence on the operations of supermarket chains. This thesis concludes that the UNGPs and the SDGs have not contributed to respect for human rights in the corporate value chains of the supermarket chains, at least not to the aspired extent.

Keywords

Human Rights, Legal Consciousness, Law in books and Law in action, UN Guiding Principles on Business and Human Rights, UN Sustainable Development Goals, Supermarket chains

Acknowledgements

The first acknowledgment must go to my supervisor, Isabel Schoultz, for her guidance and generosity with her time and replies to my doubts and questions. I thank Carlo Nicoli Aldini, whom I had some interesting theoretical discussions with and who inspired me to be creative. I am grateful for the participants from the three supermarket chains and the two experts whom all contributed with crucial insights and knowledge to this thesis. Much gratitude goes to my husband, family, and friends who always support and believe in me. A special thanks to my beloved grandfather whom I lost whilst writing this thesis. Last but not least, I would like to thank the little life growing inside me who has kept me company every day and every night throughout this process.

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1. Introduction

Though the paradigm of human rights was introduced more than 70 years ago, human rights violations and abuse continuously flourish within different spheres all over the world. This thesis takes its departure from some of these human rights abuses taking place within the global corporate world. Nowadays, the international market tends to be dominated by several suppliers, privatization, and fragmented regulatory oversight (Davies 2020, 73). Multinational firms contribute to a market where prices increasingly are pressured which in many cases results in subcontracted and flexible labour structures (ibid.). It is common within these structures that human rights abuses are identified. An estimation of modern slavery stresses that more than 21 million people suffer within such structures and that 78% of these millions are modern slaves related to forced labour (Lopez 2020, 343).

In recent times we have witnessed a paradigm shift in the understanding of who possesses the responsibility to protect and respect human rights as business enterprises are increasingly recognized to hold human rights responsibilities (Ruggie 2013, xxv). Such comprehension of corporate responsibility has been reflected in the implementation of the two UN initiatives namely, the UN Guiding Principles on Business and Human Rights (UNGPs) and the UN Sustainable Development Goals (SDGs). In 2011 the UNGPs were developed in order to guide states and companies to identify, prevent, and mitigate human rights abuses caused by business operations (Business and Human Rights Resource Centre n.d.). In 2015, all member states of the United Nations adopted the 2030 agenda for sustainable development, referred to as the Sustainable Development Goals (SDGs) (United Nations n.d.a.). Though these goals initially were adopted by states, corporations equally have a key role to play as several of the SDGs explicitly require investments from the corporate world (Morris et al., 2019, 4).

This thesis investigates how the UNGPs and the SDGs have been implemented in business practices to ensure respect for human rights. This will be done through three case studies consisting of the three largest supermarket chains in Denmark: Coop Danmark, Salling Group, and Dagrofa. The methods of interviews and document analysis have been applied to investigate these cases in-depth. Further, two expert interviews have been conducted to present a meta-perspective on how the two UN mechanisms should be applied in the business practices in order to ensure respect for human rights. The reason that these three cases were chosen is

due to the fact that each of these three supermarket chains has been subject to exposure concerning human rights abuses, as their stores are selling products that originate from horrible working conditions conflicting with human rights in the agricultural industry. In addition, each of these supermarket chains has expressed implementation and compliance with the SDGs and UNGPs. Thereby, this thesis investigates how the three corporations interpret the meanings and aims of the two UN mechanisms and thus assesses whether their implementation of the two actually addresses and prevents adverse impacts on human rights in their value chains.

This thesis acknowledges that a gap exists between what the UNGPs and the SDGs aim to achieve and what they actually achieve in reality. However, the focus of this investigation is not solely to stress that a gap exists but rather, to investigate how come the gap exists. This will be analysed from the theoretical perspective of ‘law in books and law in action’, which is utilized to elucidate the initial aims of the two UN mechanisms and how they are actually applied in reality within the three corporations. To accumulate an understanding of the gap, the theoretical concept of ‘legal consciousness’ is applied, as such concept shed light on how the corporations actually grant meaning to the two UN mechanisms.

1.1. Aim

This thesis acknowledges that a continuous gap in corporate value chains flourishes and allows adverse impacts on human rights to take place. The aim is to investigate how come such gaps continuously exist when different mechanisms have been created to close these gaps and ensure responsible business conduct and thus, respect for human rights. In order to comprehend how these two mechanisms can in fact close the gaps in corporate value chains, this thesis will investigate how companies interpret the mechanisms and how they are applied in their business operations.

1.2. Research Questions

How are the three largest supermarket chains in Denmark understanding and implementing the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals to ensure respect for human rights in their business operations?

How can a gap exist between the aims of the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals and what they actually achieve in the practice of the three supermarket chains?

1.3. Background

Throughout time, we have witnessed the development of legislation and legal norms with the objective to protect the rights of individuals from adverse impacts. These sets of legislation and norms are what we refer to as human rights (Ruggie 2013, xxv). Traditionally, human rights have been conceived to protect people from state operations threatening the life of human dignity (ibid.). Corporations have equally benefitted from the human rights paradigm (McPhail and Adams 2016, 657), but who is protecting individuals from adverse impacts caused by corporations? Globalization and the expansion of the corporate world have made it clear that states are not the only actors in a position to cause adverse impacts on human rights. In 2008, John Ruggie, the architect of the UNGPs expressed that:

“The root cause of the business and human rights predicament today lies in the governance gaps created by globalization—between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation” (United Nations, 2008, 3).

Even though the development of the UNGPs came about to fill the compliance gap and thereby, implement corporate management systems respecting human rights throughout the value chains of corporations, the gap continuously thrives and causes adverse impacts on human rights. However, we are witnessing great faith in the UNGPs which are stated to be “the end of the beginning” and are defined potentially to be able to entrench human rights within the

business sector (Venkatesan 2019, 648).

Another sustainable frame that has reached great attention in the corporate world is the SDGs. The declaration of the SDGs particularly stresses:

“We call on all businesses to apply their creativity and innovation to solving sustainable development challenges. We will foster a dynamic and well-functioning business sector, while protecting labour rights (...) and health standards in accordance with relevant international standards and agreements and other on-going initiatives in this regard (...)” (United Nations 2015).

Like the UNGPs, though perhaps to an even higher extent, the SDGs have met great extent of implementation. The SDGs have by many been interpreted to provide great historic significance and as an agenda that aims to transform the world as we know it today (Collins 2018, 66). In fact, the SDGs have become the primary unifying narrative among multinational business enterprises and have managed to capture the attention of the world (ibid.). As the UNGPs have been identified to be the best possible mechanism to ensure respect for human rights, the SDGs are equally perceived by many to be the best hope for such a future (Collins 2018, 90).

Results of adverse human rights impacts are found within the agricultural sections in Danish supermarkets, thus in the largest supermarket chains, Coop Denmark, Dagrofa, and Salling Group (Mortensen 2017). Coop Denmark and Salling Group have been selling strawberries in their stores which originate from an area in Spain where migrant workers have been sexually harassed, threatened, and exposed to extreme working conditions (Mortensen and Rasmussen 2022). Additionally, Coop Denmark and Dagrofa, have been selling bananas from Ecuador, where the workers have been exposed to death threats, dangerous chemicals, and further received payment for fewer hours than they actually work (Voller and Hermann 2017). Furthermore, all three supermarket chains have been vending tomatoes from areas in Italy, where the migrant workers suffer under horrific working conditions (Mortensen 2017). These conditions consist of blackmailing, lacking contracts, bad or no payment, no electricity in the containers where they live (Rasmussen 2021), limited or no drinkable water, no toilets, discrimination, and violence (Jones and Awokoya 2019). Some of the workers have expressed the conditions of where they lived and worked:

“I was working 12-13 hours a day, including Sundays, with no holidays, no rest” (MacGregor 2021);

“I did not expect something like this, even in my own Africa I had never experienced such exploitation: tent cities that looked like concentration camps, dirt, gruelling shifts under the scorching sun, crammed trips in minibuses to reach the fields” (ibid.);

“You may work 28 days, but they'll mark only four on your payslip (...) (ibid.).”

Cheap labour constitutes a crucial part of an ever-increasing demanding supply chain (Salvia 2020, 109). It becomes quite clear, that the reason we can buy cheap vegetables and tinned tomatoes in the supermarkets is due to exploited migrant workers who find themselves stuck in exploitive global market structures (Rasmussen 2021). An argument of why these structures can thrive, is due to the lack of rule of law (Jones and Awokoya 2019). However, different mechanisms to respect human rights already exist and have been developed to protect the rights of workers. These measures will be elaborated on in the legal framework chapter of this thesis. For now, it is worthwhile to reflect upon, how come human rights abuses continuously occur in global market chains, when these mechanisms are already in place.

1.4. Relevance for Sociology of Law

This thesis is congruent with the socio-legal tradition as it embraces the study of law in society and legal behaviour in order to analyse legal phenomena (Banakar and Travers, 2013, 2). Sutton (2001, 8 cited in Banakar, 2015, 43) describes sociology of law as a study of legal behaviour of human groups. Thus, the thesis presents a socio-legal approach investigating the UNGPs and the SDGs in the social setting of respectively Coop Denmark, Salling Group, and Dagrofa. At the beginning of the socio-legal era, classical sociologists were concerned with how law and society emerged from the new industrial capitalist society (Banakar and Travers, 2013, 14). This thesis is an extension of such concern, as the study departs from a gap in corporate value chains that to a large extent emerges due to globalism, which is a development from the industrial capitalist society.

1.5 Legal Framework

This legal framework chapter operates as a foundation to investigate the gap between the aims of the UNGPs and the SDGs and their actual implementation in the business practice of the three supermarket chains.

UN Guiding Principles on Business and Human Rights (UNGPs)

The UNGPs were unanimously endorsed by the UN Human Rights Council in 2011. The UNGPs are the global authoritative standard concerning business responsibility to respect human rights (Shift Project, 2011). They are grounded in three pillars: “a) States existing obligations to respect, protect, and fulfil human rights and fundamental freedoms; b) the role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights and; c) the need for rights and obligations to be matched to appropriate and effective remedies when breached” (UNITED NATIONS, 2011). The second pillar is the one relevant to this thesis. The foundational principle in Pillar two states that “Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved” (ibid.).

The human rights that business enterprises possess a responsibility to respect are those expressed in the International Bill of Human Rights and the International Labour Organizations Declaration on Fundamental Principles and Rights at Work (ibid.). In practice, it requires that businesses a) avoid causing or contributing to adverse human rights impacts within their own activities and when such impacts should occur, address them and b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations by their business relationships (ibid.).

In order for business enterprises to meet their responsibility, they should have in place, amongst others, a human rights due diligence process to identify, prevent, mitigate, and account for how they address their impacts on human rights (ibid.). A human rights due diligence process should cover adverse impacts on human rights that businesses may cause or contribute to, or which may be directly linked to its operations (ibid.). Furthermore, potentially affected groups and relevant stakeholders should be involved in the assessment of human rights risks,

and business enterprises should track the effectiveness of their response to adverse impacts on human rights in their value chains (ibid).

UN Sustainable Development Goals (SDGs)

The 2030 agenda for sustainable development (SDGs), was adopted in 2015 by all United Nations Member States (United Nations, n.d.a). One objective of the SDGs is to “seek to realize the human rights of all (...)” (ibid.). The agenda is a plan for action for people, planet, and prosperity, and contains 17 goals and 169 targets (United Nations, 2015). They are divided into three dimensions of sustainable development namely, the economic, social, and environmental (United Nations, 2015). In this thesis, the focus of sustainable development will be on the social dimension aspect of the SDGs. The 2030 agenda is grounded in the Universal Declaration of Human Rights and reaffirm the importance of international instruments relating to human rights (ibid.). The SDGs call on all business enterprises to apply innovation to solving sustainable development challenges whilst protecting labour and human rights in accordance with relevant international standards (ibid.).

The implementation of the sustainable development goals in respectively Coop Denmark, Salling Group, and Dagrofa will be assessed in the analysis. In particular, the implementation of goal 16 will be investigated in-depth, as this goal directly links to respect for human rights in business operations. The objective of goal 16 is to “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (United Nations n.d.c).

2. Literature Review

To identify and grasp the current state of knowledge on the matter of business and human rights, an embedded literature review has been developed. A number of the scholars presented in this chapter elucidate existing gaps in the literature and suggest different areas of future necessary research. Some of these suggestions will, to some extent, be embraced in the thesis. The research introduced in this review has been collected through the Lund University library database, LUBsearch. Table 1 demonstrates which keywords have led to the relevant findings of existing literature.

Keywords	Number of Results in Database	Number of Included Sources
Guiding Principles on Business and Human Rights AND Sustainable Development Goals	13	6
UN Guiding Principles on Business and Human Rights	192	11
Sustainable Development Goals	38,525*	x
Sustainable Development Goals AND human rights AND Business	163	3
Labour Exploitation + Value Chain + Agriculture	24	7

Table 1

After the first process of identifying relevant existing literature, 36 sources were selected. These sources were elaborately examined, and 12 sources were discarded. Though all the literature concerned business and human rights in general, the literature that focused primarily

on other aspects such as procedures in courtrooms, soft law vs. hard law, and state responsibility, was excluded. Thus, the literature that has been included, all possesses a focal point of corporate responsibility and impacts, particularly within the agricultural industry, and corporate implementation of the UNGPs and the SDGs. It is worth noting that much more research has been conducted about the SDGs than the UNGPs. Thus, the keywords “Sustainable Development Goals” which provided a total of 38,525* results were limited to the keywords “Sustainable Development Goals AND Human Rights AND Business”. Literature that did not hold a strong and relevant perspective of the business use of the two UN mechanisms was additionally excluded. As a result of this examination of current literature, 27 different sources on the matter of business and human rights have been reviewed.

The review contains four different categories: ‘Corporate Impacts on Human Rights in the Agricultural Industry’, ‘UNGP and SDGs as Mechanisms to Respect Human Rights’, ‘Corporate Responsibility and the Governance Gap’, and ‘Corporate Implementation of the UNGPs and the SDGs’.

2.1. Corporate Impacts on Human Rights in the Agricultural Industry

There exists different literature elucidating a governance gap that allows corporate adverse impacts on human rights to exist and develop. Such a gap has been identified within several different sectors. However, this particular thesis will narrow down the spectrum and solely focus on agriculture. The reason for this focus is due to the background which this study departs, namely the corporate activity and its adverse human rights impacts upon workers in the agricultural sector.

A study by Salvia (2020), investigates the issues that have been created by transnational companies through the approach of a case study. Salvia (2020) looks into the supply chain formation in the Lazio Region, Italy. This study possesses the objective to identify underlying processes of the migrant labour force in the agricultural sector. Salvia (2020) criticizes previous research on this area for solely having focused on the description of how gangmasters are controlling this sector rather than questioning the underlying structures causing such control to even emerge and develop. Such criticism is in alignment with the focus of the current thesis, as it aims to investigate how come a gap exists rather than solely stating a gap. Davies (2020) equally stresses a gap in the literature, though this gap concerns corporate crime and corporate

harm in relation to labour exploitation. This study has equally been conducted as a qualitative, explanatory case study investigating conditions of workers and stakeholders within the agri-food industry in the UK. The argument of Davies' (2020) study is that harmful labour practices stem from structural problems regarding the demand for products which then become normalized as these structures exist within legitimate agri-food supply networks.

Howard and Forin (2019) examine what they refer to as Italian 'red gold' i.e., tomatoes, in the perspective of modern slavery. They find that global retail capital and agri-capital are causing labour exploitation which then exists as a normative hegemony within this sector. However, a counter-hegemonic response represented by labour unions, NGOs, stakeholder campaigns, etc., is starting to rise and demands the rights of the stakeholders involved to be practiced and respected. The study of Howard and Forin (2019) is another example of a piece of literature that elucidates and reflects upon structural issues causing labour exploitation to exist and develop.

The literature elucidating structural issues in corporate value chains is a crucial foundation for this particular thesis, as this thesis intends to investigate how corporations, facing these particular issues in their value chains, are addressing them through the two UN initiatives; the UNGPs and SDGs.

2.2. UNGPs and SDGs as Mechanisms to Respect Human Rights

Some of the literature concerning the UNGPs includes critical reflections on the current progress of corporate implementation and its outcomes of such. Further, the literature shares the common aim as this investigation, namely whether the UNGPs actually are capable of ensuring corporate respect for human rights. Another human rights mechanism that will be presented in this part of the literature review is the SDGs. This review has found a general excitement about the SDGs within academic literature. As the SDGs possess a wide scope of aims to improve the world, such wide scope is equally represented in literature.

Martin-Ortega and O'Brien (2017, 69) emphasize that a focus on mechanisms aiming to improve transnational companies' respect for human rights has increased over the last few years. The argument of the study is that to achieve sustainable development, it is crucial to ensure responsible business conduct as well as avoid adverse impacts on human rights in business operations (ibid.). However, the extent to which the existing regularity framework for

responsible business conduct is, in fact, adequate to identify and address human rights abuse in corporate operations, is for some scholars questionable.

Santoso (2017), specifically analyses the UNGPs and their capabilities as he argues that they are the most robust regime we have seen yet. However, the argument of Santoso (2017) is, that even the most robust regulatory instrument, at least the ones existing today, is inadequate for holding transnational companies accountable for their operations. Concerns of Santoso (2017), deal with the limited practical corporate implementation of existing regulations and the extent to which the current mechanisms are perceived as universally binding. Like Santoso (2017), McPhail and Adams (2016), equally perceive the UNGPs to be revolutionary in the way we think about corporate social responsibility in practice. In their research, they discover that corporations find themselves responsible for a wide range of human rights and that the corporate discourse promotes and upholds human rights. Another study that interprets the UNGPs to hold great potential in making human rights customary in corporate management procedures, is the study of Fasterling and Demuijnck (2013). They stress that due diligence, as defined by the UNGPs, is the most helpful tool for corporations when implementing a commitment to human rights. Such a claim will further be explored in this thesis, as it will look into the implementation of the UNGPs in practice.

The analytical approach of Fasterling and Demuijnck (2013) takes a moral stance as it investigates the conceptual moral commitment of corporations and argues that the effectiveness of human rights due diligence largely depends on the moral commitment of corporations. As their research was conducted at the very beginning of the UNGPs framework, empirical material on corporate implementation of human rights due diligence was limited at the time. Thus, they call on future research to shed light on the actual practice of corporate human rights due diligence. Such research has to some extent been carried out by Wetterstein (2021), as he elucidates the fact that business enterprises more frequently are implementing pillar II of the UNGPs in their business and human rights agenda. One decade after the establishment of the UNGPs, we have witnessed countless new initiatives in several different corporate sectors implementing business and human rights practices. However, Wetterstein (2021) stresses that though implementation to a large extent has taken place during the last decade, we have yet to see significant improvements in regard to those human rights who are severely impacted due to corporate activities (Wetterstein 2021, 313).

Rasche and Waddock (2021), contribute to this literary field by reviewing the literature on the UNGPs with the purpose of identifying similarities and differences. Reviewing 61 different publications on the matter, Rasche and Waddock (2021) situate the UNGPs within a voluntary corporate social responsibility infrastructure and advocate that the Guiding Principles is a great starting point to ensure social sustainability. However, though they have great faith in the UNGPs, they equally stress that more fundamental transformation is a necessity if the objective is actual change.

Another human rights mechanism being examined by different scholars in the field of business and human rights is the SDGs. As demonstrated in table 1, the SDGs have gained much attention since their establishment. Collins (2018) goes as far as to suggest that the aims of the 2030 agenda potentially will undermine or even supplant the human rights paradigm as we know it. The study by Collins (2018) examines opportunities and challenges for human rights within the context of the SDGs. It explores the conceptual and pragmatic relationship between the current human rights paradigm and the SDGs. The aim of this examination is to assess to what extent the SDGs serve or subvert human rights. Collins (2018) finds that the SDGs will supplant human rights in the global cooperative world.

Buhmann et al. (2018), contribute to the field of business and human rights literature by linking the SDGs to due diligence processes. Particularly, they explain how corporations can benefit from human rights due diligence processes as these processes elucidate corporate adverse impacts on human rights. Buhmann et al. (2018), suggest that further research could explore how companies apply due diligence processes to determine necessary actions to avoid and address adverse impacts on human rights. This is an aim that this thesis to some extent intends to approach.

2.3. Corporate Responsibility and the Governance Gap

Several of the scholars investigating the field of business and human rights argue that there flourishes a gap that fosters human rights abuse to take place. Some of the main responsible actors for these human rights abuses are business enterprises. This stated gap is reflected in the question concerning which actors possess the main responsibility to ensure respect for human rights. Further, the gaps are represented within actual regulation and compliance. Particularly

the scholars Jägers (2021), Gregg (2021), and Simons (2012) elucidate and reflect upon these gaps.

Jägers (2021) investigates whether the narratives of the UNGPs can penetrate competing powerful narratives. Although Jägers (2021, 198), argues that the general focus on business and human rights emerged along with the endorsement of the UNGPs, the study at the same time stresses that the idea of corporate social responsibility emerged way before this period of time. The study of Jägers (2021) states that a gap still flourishes as the general awareness of the UNGPs particularly exists within the ‘business and human rights bubble’, meaning that the conduct of companies continuously delivers disappointing results in regard to responsible business conduct. In the study of Gregg (2021), similar concerns regarding the UNGPs are stressed. In this study we are introduced to an analysis of the UNGPs, arguing that due diligence solely provides a tool to protect the individual business enterprise from committing human rights abuses. Thus, the UNGPs are not capable of identifying the root causes of adverse human rights impacts caused by corporations. Likewise, the study by Simons (2012) stresses, that corporate impunity cannot solely be assessed within governance gaps but must also be identified within the root causes of these gaps.

Jägers (2021) additionally explores another UN initiative that to a much larger extent has gained the awareness and implementation from business enterprises, namely the SDGs. Jägers (2021), looks into how and to what extent the SDGs include the aspect of business and human rights. This study argues that there is a clear overlap between the aims of the SDGs and human rights whilst at the same time, the study expresses that there is a general lack of corporate responsibility recognition regarding human rights (Jägers, 2021, 208). What is crucial and relevant for this current thesis, is that the SDGs explicitly recognize business enterprises to be key partners for sustainable development. Jägers (2021) finds that the SDGs, in general, possess a vague terminology with a limited joint understanding of the meaning of the goals themselves (Jägers, 2021, 210). This study provides great explanatory research on the two UN initiatives. Nevertheless, it is interesting to further investigate how different interpretations and meanings of the SDGs are expressed in business operations.

2.4. Corporate Implementation of the UNGPs and the SDGs

Several scholars have investigated how human rights frameworks have influenced and been incorporated into different business sectors. Examples of such studies are Lindsay et al., (2013)

who explore the influence of the UNGPs in the oil and gas sector, Salcito et al. (2015) who explore the guiding principles in several different sectors, and Venkatesan (2019) who investigates the Indian garment industry.

Salcito et al. (2015), conducted a quantitative study measuring corporate commitment to the UNGPs. They developed a scoring system measuring business commitment. Though such methodology provides a glimpse of the business and human rights reality, it is solely a glimpse. This is argued as the reality of corporate human rights compliance is complex. Thus, such complexity might be neglected in a quantitative methodology.

The question that is raised in this thesis concerning the general capabilities of the SDGs regarding the social responsibility of business enterprises, is equally demonstrated in the study of Sinkovics et al. (2020). Their study contributes with a developed framework conducted through a literature review. The framework aims to map out corporate activities concerning responsible business conduct. Particularly, the study aims to identify and map out business activities toward the SDGs. Sinkovics et al. (2020), stress that though business enterprises possess good intentions, their actual impacts on society do not always reflect such intentions.

McPhail and Adams (2016), contribute to the literary field of corporate operation in the business and human rights framework by conducting a critical discourse analysis of how respect for human rights emerges in the discourse of 30 different companies. Particularly, they explore the scope of rights that corporations are accountable for and the extent of responsibility that these companies assume to be theirs. The study of McPhail and Adams (2016) provides an understanding of how companies themselves perceive their responsibility for human rights. Thereby, the study contributes to a broad scope of corporate activity in the field of business and human rights and how the phenomenon of human rights is perceived.

Rao and Bernaz (2020) are very consistent in investigating the UNGPs in their research as they explicitly look into corporate responsibility under the UN Guiding Principles. Using a bottom-up approach, Rao and Bernaz (2020) conduct a qualitative content analysis of how UK-based companies deal with their responsibility to respect the rights within the area of tea plantation workers from Assam, India. This research elucidates a gap between well-documented human rights issues and corporate reactions to these issues. Rao and Bernaz (2020) specifically use publicly available corporate reporting as their primary data of research and how the companies approach their potential adverse impacts on the human rights of the tea plantation workers in

Assam. More information on the corporate response and interpretation of their responsibility might have been possible to accumulate, would Rao and Bernaz (2020) had conducted more qualitative empirical data with the companies, as some information might not flourish in the publicly available reports. Like several other scholars, some of whom also are present in this review, Rao and Bernaz (2020) conclude that the UNGPs to a large extent do not manage to ensure corporate respect for human rights.

Other scholars have equally investigated how companies utilize and comply with the UNGPs. From the perspective of the UN framework on business and human rights, Venkatesan (2019) investigates the rights of Indians within the garment supply chain and states that workers are part of a structure of informal work. Even though Venkatesan (2019) argues that companies possess little power in regard to ensuring workers' rights, this study states that the UNGP framework is relevant to all workers in that it induces a positive change and influences the behaviour of states, as well as of corporations. Further, the UNGPs provide some clarity and establish common goals within the compliance gap of human rights. However, Venkatesan (2019) critiques the UNGPs to hold a narrow construction of responsibility and argues that implementation of the Guiding Principles probably will lack significant change within the business and human rights practice. Thus, Venkatesan (2019) argues that even if the UNGPs are adopted by corporations, they would probably maintain the status quo rather than provide actual change.

2.5. Literature Review – Conclusion

From the process of reviewing academic literature within the field of business and human rights, it becomes quite clear that business enterprises possess great impact on human rights throughout their value chains. These impacts can both be good and bad however, this specific review has focused on the adverse impacts which take place within, what most the scholars refer to as, the governance gap. This literature review has aimed to elucidate some of the academic research that has been developed to shed light on these issues. This research is relevant for the current thesis as adverse impacts on human rights caused by corporations operate as a foundation for this study.

Like some scholars have identified and investigated issues in the field of business and human rights, other scholars have investigated different mechanisms to address these issues. Both

praise and criticism have been given to the UNGPs and the SDGs. The main argument concerning the UNGPs is that, even though these guiding principle to a large extent is the closest standard ever developed to ensure corporate respect for human rights, they do not meet sufficient compliance from corporations and thus, do not provide the change they aim to do (Santoso, 2017; McPhail and Adams, 2016; Fasterling and Demuijnck, 2013; Wetterstein, 2021; Rasche and Waddock, 2021). The scholars represented in this review have introduced a different level of corporate compliance and implementation regarding the SDGs. However, some scholars argue that the SDGs provide little focus on business responsibility to ensure human rights, even though such responsibility is stressed in the development goals (Collins, 2018; Buhmann et al., 2018; Jägers, 2021).

Other scholars have conducted similar research to what this thesis aims to do, namely investigating how corporations implement the SDGs and the UNGPs to ensure respect for human rights throughout their value chain. However, this current thesis takes a different approach. Like most other research, this study acknowledges a gap between what the UNGPs and the SDGs aim to achieve and what they actually achieve in reality. However, the focus of this investigation is not to stress that a gap exists but rather, to investigate how come the gap exists.

3. Theoretical Frame

Imagine three scholars within the field of law and society meeting in a park to discuss socio-legal matters. This is what I will present to you now. In reality, it would be quite difficult as the scholars have lived and developed their work in completely different time periods. Roscoe Pound developed his work in the period from 1890 to 1959 (The Free Dictionary, n.d.), and Susan Silbey and Patricia Ewick within the current time period. These three scholars have made major contributions to the socio-legal field and these contributions will provide a theoretical frame for this particular thesis.

The theoretical frame will analyse how the three supermarket chains perceive and implement the UNGPs and the SDGs. This theoretical chapter will thus present Silbey and Ewicks concept of legal consciousness and Roscoe Pound's concept of law in books and law in action, through a hypothetical theoretical dialogue between the three scholars. This hypothetical dialogue has been created by me and is inspired by the work of Silbey, Ewick, and Pound. This approach was chosen because the most qualified actors explaining the two theoretical concepts are the authors themselves. At the end of the day, when combining two theoretical approaches, the objective is to establish a dialogue between their scholarship. Therefore, the theoretical frame will be presented as a dialogue between Roscoe Pound, Patricia Ewick, and Susan Silbey and further, through reflections on how these two concepts will be applied in the analysis.

3.1. Silbey, Ewick, and Pound sitting on a bench

Roscoe Pound, Patricia Ewick, and Susan Silbey meet in a park in Massachusetts and sees the opportunity to discuss matters concerning the gaps between law in books and law in action and what might explain such gaps.

S: I am acknowledging that you are one of the scholars who have been identifying the repeated ineffectiveness of law, referred to as gaps between 'law in books and law in action. If you are interested, Mr. Pound, my colleague Patricia Ewick and I would like to share with you a theory concerning 'legal consciousness', that we believe can say a lot about why the gap between law in the books and law in action exists (see Silbey, 2005, 324).

P: *You have my interest Mrs. Silbey. But please allow me first to elaborate on the concept of 'Law in books and Law in action' (see Pound, 1910).*

3.2. Roscoe Pound introduces: Law in books and Law in action

P: *The concept of law in books and law in action represents the gap between rules that purport to govern the relations of man and those that in fact govern them (see Pound, 1910, 15), or to put it differently, a gap between legal theory and judicial administration (ibid.).*

E: *If I may interrupt, Mr. Pound. I guess that the actions within judicial administration could represent an implementation of legislation in all sorts of spheres, such as in communities, corporations, and families. Isn't that so?*

P: *Yes, I believe you have a point Mrs. Ewick, and I will tell you, that one of my main objectives has been to study the social nature of law, which I have done by looking at the living and working aspects that take place in reality (see Banakar and Travers, 2013, 35). The social aspect of social legislation must not and cannot be neglected. It is the social nature of legal processes that are highlighted in the distinction between law in books and law in action. This social nature could be engineered to ensure a tighter fit between legislation in itself and the social reality that such legislation aims to regulate (see Banakar, 2015, 53).*

In this thesis, the concept of law in books and law in action elucidates the gap between the legal frameworks that purport to govern the operations of the three corporations, namely the UNGPs and the SDGs, and those frameworks that in fact govern their operations. The analysis will thus assess the two legal frameworks in connection with the empirical data, in order to elucidate the gap. Pound acknowledges that the social aspect of law is crucial to comprehend to grasp the reality where legal frameworks are implemented. The social aspect is something Silbey and Ewick provide an insight into through the concept of legal consciousness, which will be further elucidated in this chapter, and which can examine why the gap emerges.

P: Another way to explain the concept of law in books and law in action is through a distinction between the intentions of law and the de facto regulatory impact (see Banakar and Travers, 2013, 15). It is my interpretation that if law becomes mechanical, thus not acknowledging the social aspects of reality and solely relying on written law in the books, law will no longer act as an effective instrument (see Pound, 1910, 20).

According to Pound, legal mechanisms lose their efficiency if they become too mechanical and if they are neglecting the reality where they operate. Such pitfalls will be investigated in the analysis when investigating whether the two mechanisms have been implemented in such a way that they in fact ensure respect for human rights. The argument of Pound was that law should not be pursued for its own sake, but rather be a response to the needs and interests of society (Banakar and Travers, 2013, 36). Therefore, the implementation of the two UN mechanisms will be analysed to see whether they in fact have been implemented due to the needs and interests of the corporate stakeholders or whether they have been implemented due to other aspects.

P: In my time, some laws were developed solely to please particular actors and therefore, the laws were never enforced in reality (see Pound, 1910, 21).

S: This, I do recognize in our time as well Mr. Pound. It is my experience that law only possesses enough power in its implementation, as the actors offer to it. Therefore, it is crucial to understand the meanings social actors are giving the legislation that is implemented in their practices (see Silbey, 2005).

P: I quite see your point Mrs. Silbey. This is also why I approached law instrumentally which means, that law should be understood as a tool that responds to the demands of societal conditions (see Banakar and Travers, 2013, 36).

In the same manner, as the instrumental approach of Pound, the analysis will assess the two UN mechanisms in the light of already existing demands in the corporate sphere in which the three cases operate. In this way, the relationship between the corporations and the two UN mechanisms will be analysed to understand how these mechanisms can ensure respect for human rights in business operations. For instance, if the study discovers a limited amount of

power or influence of the UNGPs and the SDGs in the three corporations, the opportunity for these two mechanisms to ensure respect for human rights will be limited.

P: Given the fact, that your work has been developed much later than mine, I believe that you have also found law to be dynamic. What I mean is, that law always has and always will be in a process “of becoming” and must be a variable as the social actors are themselves (see Pound, 1910, 22). Therefore, what I think is necessary in order to close the gap between law in books and law in action, is a sociological jurisprudence that should work as an institution to regulate the social processes to ensure security and protection of the interests of society (see Banakar and Travers, 2013, 46).

S: I quite agree with you, Mr. Pound. To understand what law does and how it works, we need to know how ‘we the people’ might be contributing to the law’s systemic effects and further, to its ineffectiveness. Law as a social institution can only be understood by examining the ways it is actually applied (see Silbey, 2005, 326).

P: I will finish saying this: “In a conflict between the law in books and the national will, there can be but one result. Let us not become legal monks. Let us not allow our legal texts to acquire sanctity and go the way of all sacred writings. For the written word remains, but man changes” (Pound, 1910, 36).

The UNGPs and parts of the SDGs have been developed to secure the interest of stakeholders who are affected by corporate operations. Pound called upon such necessary institutions more than a century ago and here we have them. The analysis will investigate whether Pound’s prediction of what has been missing to close the gap between law in books and law in action, in fact, is an accurate prediction. It is crucial to understand how the UNGPs and SDGs work their way and have been interpreted within the actions of the three corporations. Such comprehension will contribute to the understanding of whether the two UN mechanisms in fact ensure respect for human rights in the business operations, and if they do not, why that is.

S: I appreciate the elaboration, Mr. Pound. I believe you will see that we, to some extent, share quite the same objectives within the socio-legal field. I agree that the social aspects of the implementation of law pave the way to comprehending social life in itself (see Banakar and Travers, 2013, 35), and thus the possible legal gaps we

experience. This, I will explain to you through the concept of legal consciousness.

E: I will contribute to this presentation by describing our development of three narratives of legal consciousness; before the law, with the law, and against the law (see Ewick and Silbey, 1998). But please Silbey, if you may start presenting the general concept of legal consciousness.

S: Certainly.

3.3. Susan Silbey Introduces: Legal Consciousness

S: The theoretical concept of legal consciousness was developed in the 1980s and 1990s. I believe that you in some respects can say, that your work, Mr. Pound, has been ahead of its time. It is my impression that legal scholars for most of the twentieth century have treated law and society as two distinct spheres (see Silbey, 2005, 327). However, you, Mr. Pound, illustrate an acknowledgment of the crucial link between law and society in your work. What I will tell you about legal consciousness is, that this concept addresses issues of legal hegemony (see Silbey, 2005, 323). What legal consciousness can elucidate, amongst other things, is how ‘repeat players’ have the resources to orchestrate legitimacy and thereby produce rules and changes in their favour. These practices thus produce systematic organizational processes that create legal behaviour (see Silbey, 2005, 325).

The analysis will examine whether these systematic organizational processes in fact are at play in the spheres of the three corporations and whether such processes affect the gap between law in books and law in action. This examination will be carried out through the three conceptual schemas ‘before the law’, ‘with the law’, and ‘against the law’ which Patricia Ewick will introduce later in this chapter. The empirical data of the thesis elucidates how the corporations utilize the UNGPs and the SDGs to ensure respect for human rights and further, whether other mechanisms are implemented to achieve the obligation for responsible business conduct. Therefore, the analysis will investigate whether other legal hegemonies exist in the operations of the three corporations and thus, how such hegemonies influence the implementation of the UNGPs and SDGs.

S: Originally, legal consciousness was understood to deal with the consciousness of individuals. However, legal consciousness in socio-legal research is construed as a type of social practice. Consciousness does in fact stem from the mind of individuals. However, consciousness originates from collective cultural schemas and is thus constructed through social, ideological, and hegemonic structures (see Silbey, 2005, 334). Consciousness should therefore be understood as a process where meanings given within certain spheres become patterned and stabilized. When these meanings are institutionalized, and thus become part of material and discursive systems, they will limit future meaning-making processes (see Silbey, 2005, 333).

It is crucial to comprehend the interpretations and meanings that have been given by the three corporations to their identified responsibility in ensuring respect for human rights. Recognizing how the corporations understand their own responsibility and how to ensure it in practice, will pave the way to assess whether the UNGPs and the SDGs possess a role to ensure respect for human rights in the operations of the three supermarket chains and therefore, whether the two UN mechanisms fulfil their intended purposes in these corporate practices.

P: If I may ask Mrs. Silbey, now that you say that legal consciousness should be understood as a process where meaning-making becomes patterned and stabilized. Do you not, in this regard, neglect the fact that meaning-making processes of law and society are dynamic and continuously in the process of change?

S: I appreciate your concern, Mr. Pound! It is important for me to stress, that legal consciousness can take shape within different narratives. Ewick and I have divided such narratives into three schemas: Before the law (BTL), with the law (WTL), and against the law (ATL) (see Ewick and Silbey, 1998), which Ewick will introduce to you now.

3.4. Patricia Ewick Introduces: Three Narratives of Legal Consciousness

Before the law:

The BFL schema represents situations where the law is perceived as “its own story” (see Ewick and Silbey, 1998, 106). Here law is interpreted as logical rules developed

through objectivity and rationality. Therefore, within this schema, law is understood to be universal, timeless, spaceless, and thus to exist unquestioned. What the law aspires actors to think of the law, is in fact what is carried out in practice (see Ewick and Silbey, 1998, 106).

With the law:

The WTL schema illustrates how law acts as an open-ended device that agents deploy, along with other instruments, to pursue subjective interests (see Ewick and Silbey, 1998, 132). Thereby, law becomes a tool utilized and manipulated for the purpose of achieving personal goals and thus becomes flexible in different spheres depending on personal capital and resources (see Ewick and Silbey, 1998, 224). Within this schema, law is therefore perceived as amoral (see Ewick and Silbey, 1998, 132), maybe even as a game. Law does in fact maintain a set of rules that construct a normative framework for social action. However, here law operates at actors' disposal, and these actors play a game where it is possible to choose between whatever aspects of the law make sense for them (see Ewick and Silbey, 1998, 136).

Against the law:

The comprehension of law in the ATL schema is, contrary to the BTL schema, understood to promote its own ideology and is thus not a neutral instance. Here law possesses a certain amount of power and social actors develop different strategies to resist such power. Here it is not possible to manipulate the law for one's own benefit, as it is within the WTL schema (see Ewick and Silbey, 1998, 224). With the aim of avoiding the hegemonic power of law, sarcasm and humour are applied to mock the content of the law (see Ewick and Silbey, 1998, 219). In addition, in the process of acting against the law, social actors draw upon previous experiences and knowledge and from that point of view, make the claim that their actions against the law should be perceived as legitimate (see Ewick and Silbey, 1998, 206).

E: *I hope this makes sense to you, Mr. Pound?*

P: *Indeed. Though I wonder, do you believe that certain individuals and certain social spheres always respond to law in the same way?*

E: They do not. It is not as if the same social spheres always stand either before, with, or against the law. Different responses are given depending on each situation and each legal framework.

The three schemas, BFL, WTL, and ALT will be utilized in the analysis to investigate the legal consciousness of the three corporations. These schemas bring forth the opportunity to analyse the understandings, responses, and implementation of the UNGPs and the SDGs. This comprehension increases the opportunity to assess whether the UNGPs and SDGs have been implemented in such a way that they in fact ensure respect for human rights in the business operations. Additionally, two of Ewick and Silbey's dimensions, namely *normativity* and *constraint*, which identify specific legal consciousness, will be applied in the analysis.

The theoretical frame will contribute to an in-depth investigation of how and why the UNGPs and the SDGs have been implemented in the three corporations. Roscoe Pound's concept of law in books and law in action will be utilized to assess the extent of implementation of the two UN mechanisms. In this way, the theoretical concept elucidates a gap between the intentions behind the UNGPs and the SDGs (law in books) and their actual impact in reality (law in action). Such gap, and the extent of it, is crucial to acknowledge to understand the opportunities for the three corporations to ensure respect for human rights through the UNGPs and the SDGs. However, as previously mentioned, this thesis does not solely wish to establish a gap but rather, to comprehend how come such a gap exists. Therefore, the theoretical concept of legal consciousness is equally applied in the analysis, as this concept investigates the aspect of "law in action" in-depth. To comprehend how the two UN mechanisms have been interpreted within the business operations of the three supermarket chains, it is crucial to understand the legal consciousness of the supermarket chains regarding responsible business conduct. Further, the three legal consciousness schemas provide great insight into a complex reality of how the three corporations understand their responsibility to respect human rights and how they carry out such responsibility in practice.

4. Methodology

This chapter will introduce the methods chosen to investigate the research questions in depth. Thus, the three case studies and reflections of such a method are elucidated. Additionally, the empirical data consisting of documents and interviews are introduced, and further, how the dataset will be assessed within an analytical framework. Lastly, ethical considerations and reflections on limitations have been established.

4.1. Case Studies

The implementation of the UNGPs and the SDGs will be assessed in three specific case studies, namely within the three largest supermarket chains in Denmark: Coop Denmark, Salling Group, and Dagrofa. These three companies are all cases of having implemented the two UN mechanisms to ensure responsible business conduct and thus, respect for human rights, in their business operations.

The case study method can be defined as “in-depth, qualitative studies of one or a few illustrative cases” (Hagan, 2006, 240 cited in Lune and Berg, 2017, 170). These case studies are qualitative (Leavy, 2014, 458) as this research emphasizes the subjective ways that these three corporations understand the role of the two UN mechanisms and thus focuses on the experiences and consciousness of their implementation of the two. The selected cases aim to function as an illustration of whether these two UN mechanisms can ensure respect for human rights in business practices. The approach of the case study method provides the opportunity to capture a holistic description of the significant factors at play (Lune and Berg, 2017, 171), and thus examine and understand the complex phenomena that elucidate the opportunities or adversities of the implementation of the two UN mechanisms (Lune and Berg, 2017, 170). More specifically, this thesis has utilized the method of instrumental case studies, as it intends to investigate a specific issue (Lune and Berg, 2017, 175), namely how corporations make sense and use the UNGPs and the SDGs. Thus, the three selected cases act as a supportive role because the main issue is to explore how the implementation of the two UN mechanisms can in fact operate as they were intended to.

To understand the cases in-depth, it is a necessity to utilize multiple methods in order to create

a full examination (Lune and Berg, 2017, 171). Therefore, the empirical data of this thesis equally consists of interviews and documents from the three cases.

4.2. Document Analysis

To identify relevant documents concerning the supermarket chains' implementation of the UNGPs and the SDGs, the websites of all three corporations and their documents concerning corporate social responsibility (CSR) have been examined. In total, 27 documents have therefore been included in the analysis (see appendix 4).

As the modern world is developed through writings and documents (Prior, 2003, 5), the information that documents provide elucidates to a great extent how and why actions are implemented within a specific field and therefore, organizational structures can only be pointed to as long as they are documented (Prior, 2003, 11). It is crucial not only to assess the content of the documents but also to follow its social trajectory i.e., examine the creation and specific context of the documents (Prior, 2003, 9). Such knowledge will be collected through interviews with the three supermarket chains. A document acts as a form of instruction. The document is thus open to external inputs and should not merely be seen as a static thing. In other words, documents are affected and have effects (Prior, 2003a, 4). Thus, the thoughts and reasoning behind the development of the documents and the challenges in such a process will be examined in this study. Further, the assessment of the documents provides an opportunity to develop an interview guide where missing or unclear content could be elucidated and elaborated.

4.3. Interviews

As Lune and Berg (2017, 172) express, the most effective way to learn about different circumstances is to ask the people involved. Thus, this is exactly what has been done in the process of understanding and assessing the aims and outcomes of the corporate implementation of the UNGPs and the SDGs. Semi-structured interviews with employees working with responsible business conduct in the three corporate cases have been collected. These employees will be referred to as respectively 'Representative from Coop Denmark', 'Representative from Salling Group', and 'Representative from Dagrofa'.

Through the method of interviews, the research has gained access to certain corporate information crucial for the aim of this research. Kvale and Brinkmann (2008, 3) express that a qualitative interview, like the ones conducted in this study, is an interview “with the purpose of obtaining descriptions of the life world of the interviewee in order to interpret the meaning of the described phenomena”. Thus, in the process of collecting interviews with representatives of the three corporations, the study accumulated knowledge of how they attach meaning to the implementation of the UNGPs and the SDGs in their business operations.

The interview guide was built within a semi-structured frame. Thus, predetermined questions were included. Further, after having assessed the documents concerning responsible business conduct, more elaboration was required and thus included as questions in the interview guide. The questions were asked in a systematic order but additional questions concerning the information shared in the interview process were equally raised (Lune and Berg 2017, 69). Ewick and Silbey (1998, 26) stress that to comprehend legal consciousness, interview questions must investigate the sense of cause, responsibility, and motivations for certain actions. Within the CSR documents of the three corporations, the sense of responsibility towards respect for human rights is to a large extent stressed and described. Therefore, the interview guide mainly focuses on the aspects of cause and motivation for implementing the two UN mechanisms in their business practices. The process of investigating the cause, sense of responsibility, and motivations behind the actions of carrying out responsible business conduct, will provide an understanding of the first research question, namely how these supermarket chains understand and implement the UNGPs and the SDGs. Further, such knowledge will additionally contribute to answering the second research question namely, how the gap between the aims of these two UN mechanisms and their actual achievements can exist.

In addition, two semi-structured expert interviews were conducted in order to gain a meta-perspective of how the UNGPs and the SDGs should be implemented within corporate practices in order to ensure respect for human rights. The first expert is the Senior Advisor in Business and Human Rights from Amnesty International Denmark. The other expert is the CEO of the sustainable business consultancy, GLOBAL CSR. The specific work of the experts is of less interest to this study. Rather, their capacities and insights as experts (see Flick, 2014, 227), are the aspects relevant to the current study. These two experts have been marked as experts due to their specific functions in their professional setting, their experiences, and their knowledge regarding the subject matter (Flick, 2014, 228).

The interviews have been carried out in different ways in accordance with what was possible for the participants. The interview with Coop Denmark was carried out as a face-to-face interview, the interview with Salling Group as a telephone interview, and the interview with Dagrofa as an online interview. The expert interview with the senior advisor from Amnesty International Denmark was carried out as a face-to-face interview, whilst the interview with the CEO from GLOBAL CSR was carried out as a telephone interview. Considerations regarding the different forms of interviews will be introduced in the “Limitations” section. The semi-structured interviews with the three corporations lasted approximately between 35-50 minutes whilst the two semi-structured expert interviews lasted approximately 30 minutes. All interviews have been recorded and later transcribed manually.

4.4. Analytical Framework

To answer the research questions, a thematic data analysis will be conducted. The aim of the analytical framework is to reflect upon the data and generate connections, identify patterns, and generally understand the data in-depth (Williamson et al., 2018, 456). Such comprehension will elucidate core phenomena at play when analysing the corporate implementation of the two UN mechanisms. The identified patterns in the dataset will be viewed as themes, which will act as general and meaningful insights into the dataset (ibid.). By dividing the data into themes, the opportunity to grasp underlying and essential features of the data, increases (Leavy, 2014, 587). To identify the themes of the dataset a process of five steps inspired by Williamson et al. (2018, 459), has been executed. The data assessed through these steps are the documents and interviews collected from the three supermarket chains.

Step 1: First the transcribed interviews and documents have been read thoroughly, and notes of the content were developed.

Step 2: From these notes, preliminary themes were identified.

Step 3: Sub-categories of the preliminary themes were developed.

Step 4: The qualitative data analysis software, Nvivo, was utilized to go further into depth with the data and identify themes. The usage of Nvivo allowed for new thinking and understanding of the data (Williamson et al., 2018, 456).

Step 5: The final themes were established.

Table 2 demonstrates an extract of the results from a ‘word frequency’ query conducted in Nvivo. The ten most frequent words are included in the figure. Such a query provides an overall understanding of which concepts and phenomena that are most common in the dataset. If the same code appeared in more than one dataset of respectively the three corporations, a colour was added to the code. For instance, the code ‘Supplier’ has been marked with the colour yellow. From this colour system, it is quite clear that the three corporations to a large extent share the same understanding of what responsible business conduct entails. Another way to get an overview of the main themes in the data set is through a ‘Word Cloud’ query conducted in Nvivo, which is demonstrated in figure 1. This particular word cloud is conducted from the dataset of all three corporations.

Salling Group		Dagrofa		Coop Denmark	
Codes	Word Count	Codes	Word Count	Codes	Word Count
BSCI	126	Supplier	128	Supplier	176
Partners	95	Code of Conduct	64	Rights	76
Supplier	88	Workers	46	Code of Conduct	74
Code of Conduct	82	Rights	45	Products	53
Products	79	Risk	38	BSCI	48
Rights	72	BSCI	34	Workers	41
Responsible	70	Requirement	30	Audit	40
Workers	52	Assessment	20	Responsible	30
Impact	35	Compliance	20	Demand	26
Risk	31	Audit	20	Ethics	23

Table 2



Figure 1

Leavy (2014, 464) introduces the concept of *interpretation*, which is a concept used as a tool to make sense of one's data. This concept complies with the five steps utilized to generate the overall themes. Through an interpretive assessment, the thesis will gain a holistic insight and understanding of the collected data. First, the interpretive assessment is carried out through the establishment of preliminary hunches, also referred to as interpretive asides, as executed in steps one, two, and three, and later transformed into themes through *concept mapping* (ibid.), as executed in step four through Nvivo.

Further, the software program Nvivo provided the opportunity to go into depth with the most frequent themes and comprehend the meanings and thoughts that each of these themes have received from the three corporations. For instance, the example in figure 2, demonstrates that Dagrofa uses the risk assessment tool developed by amfori Business Social Compliance Initiative (BSCI) as their way to assess the compliance level of their suppliers (pink mark in the figure). In addition, Dagrofa explains that BSCI provides an overview of risks that different suppliers are in exposure to (yellow mark in the figure).

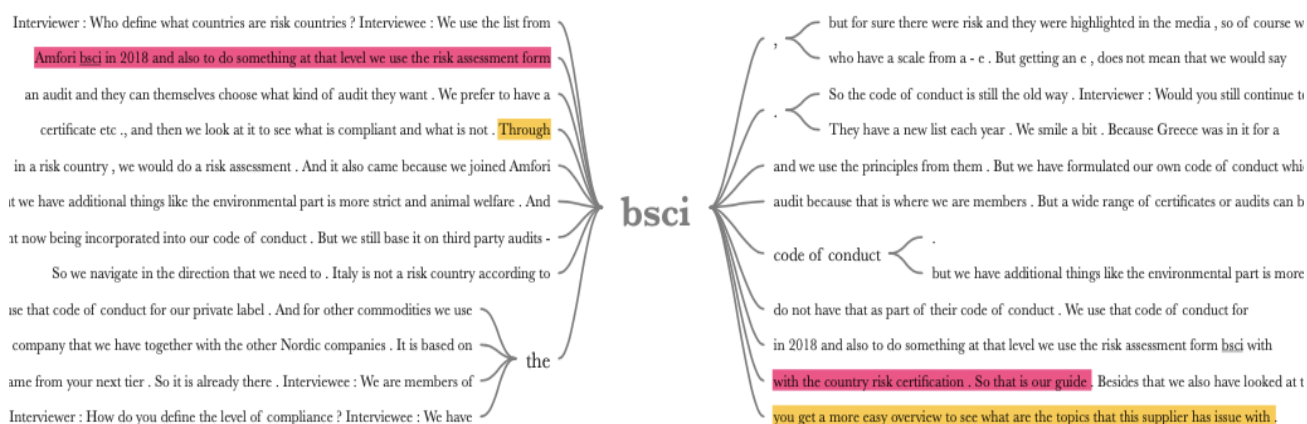


Figure 2

Through the coding process, several codes were identified within all three datasets. After the first four steps were executed, overall themes have been established from the foundation of the codes demonstrated in table 2. The overall themes, which will act as the analytical frame, are here displayed in table 3:

<u>Theme</u>	<u>Description</u>	<u>Codes</u>
Statements and Reasons to Respect Human Rights	Describes claims and objectives to ensure respect for human rights.	<i>Rights, Risk, Responsible, Impact, Requirement, Demand, Ethics</i>
Problems in the Field	Describes the spheres of where the corporations assess they have a responsibility to ensure respect for human rights and where they meet challenges to ensure such responsibility.	<i>Supplier, Products, Workers</i>
Mechanisms to Respect Human Rights - The UNGPs and the SDGs	Describes the corporations' understandings and implementation of the UNGPs and the SDGs.	<i>UNGPs, SDGs</i>
Other Mechanisms to Respect Human Rights	Describes other mechanisms applied to ensure respect for human rights and the corporate understanding of these.	<i>BSCI, Partners, Audit, Code of Conduct, Assessment, Compliance</i>

Table 3

4.5. Ethical Considerations

In the process of writing the current thesis, several ethical considerations have been reflected upon. First of all, before each interview was conducted, the participants were informed that the interview would be recorded and later transcribed. After the transcription process, all audios were deleted. The participants were informed that they could withdraw their consent at any time (Lune and Berg, 2017, 46). All interview participants from the three supermarket chains have given their consent to be referred to as representatives of the corporation where they work. The two experts have given their consent to be referred to through their title. As these

two participants act as experts in this thesis, and thus do not share any vulnerable information about their own work, I have decided that further anonymization of the two experts is not a necessity. The reason for the transparency about which corporations have been investigated in this thesis, and which expert perspectives have been included, is to ensure some extent of validity that otherwise is questioned when conducting case studies. This will further be elaborated on in the limitation section.

Two participants, from two of the corporations, explicitly asked to be able to approve any citation from the interviews that are applied in this study. This of course has been respected and realized. Other than that, all participants have stressed that they do not have anything to hide, and that no sensitive information has been revealed. Further, all documents that have been applied in this study are publicly available, thus no further ethical considerations regarding these documents have been included.

Throughout the process of collecting empirical data and throughout the general development of this thesis, the researcher's bias has been reflected upon (Leavy, 2014, 5). My interest in the field of business and human rights stems, amongst others, from my professional background and internship period. Thereby, I have been in the position of pre-existing knowledge and presuppositions before entering the process of developing the current thesis, which to some extent might have influenced the development and analysis of the current research. However, the analysis of this thesis has been developed from the perspective of the empirical data, and thus biases that I might possess have limited influence on the findings and outcome.

4.6. Limitations

Different limitations occur in this thesis. First, the empirical data, and thus analysis, is mainly built upon three specific cases. The method of case study often makes it difficult to make any general claims which makes the acceptance of the validity of this study challenging (Leavy, 2014, 465). However, it is possible to identify specific processes, in this particular research, namely the processes of the implementation of the UNGPs and the SDGs, which can be transferable to other cases (Leavy, 2014, 466). Therefore, as these three cases are the three largest supermarket chains in Denmark and thus represent almost every supermarket in the country, and because they all express similar thoughts, I would argue that the validity of the study can be considered acceptable.

Other limitations of this study can be found in the facilitation of the interviews. One of the interviews was conducted online and two other interviews were conducted by telephone. The reason for these formats was due to the distance between me as the interviewer and the participants and further, due to the general challenges concerning the participants' busy schedules. The telephone interviews lacked the nonverbal cues that are reached within face-to-face interviews (Lune and Berg, 2017, 78). These nonverbal cues were for instance quite rich in the face-to-face interview with the representative from Coop Denmark. An example was her facial expression when speaking about the SDGs which gave the impression, that the corporation did not expect to generate any major changes through these goals. This will be further elaborated on in the analytical chapter.

One interview was conducted in Danish, and then later translated into English thus, some aspects might have been lost in translation. Nevertheless, the essential points in this interview have been ensured. Research on the format of online interviewing has found that responses within such a structure are typically shorter and less contextual (Carter, 2021, 712). However, the semi-structured format allowed for additional follow-up questions which ensures the in-depth perspectives that might have been neglected within an online interview format. Furthermore, as the online interview was the one that lasted the longest, it can be argued that the participant was not brief in her replies.

5. Presentation and Analysis of the Empirical Findings

This section will present the empirical findings collected from the three supermarket chains. These findings will be analysed from the perspective of how the corporations understand their responsibility to ensure respect for human rights and how they understand and implement measures to meet such responsibility in practice. Furthermore, expert interviews and the theoretical concepts of legal consciousness and law in books and law in action will be applied to investigate the empirical data in-depth.

The analysis is divided into four sections: ‘Statements and Reasons to Respect Human Rights’; ‘Problems in the Field’; ‘Mechanisms to Respect Human Rights - The UNGPs and the SDGs’; and, ‘Other Mechanisms to Respect Human Rights’. The first two sections work as an introduction to the analysis and elucidate how the three corporations perceive their responsibility to respect human rights and the challenges they encounter when practicing this responsibility. The information presented in the two first sections is a necessity to go into depth and analyse how the supermarket chains understand and implement the UNGPs and SDGs and generally ensure respect for human rights in their operations. Such understanding and implementation are investigated in the last two sections through the expert’s meta-perspective on the UNGPs and the SDGs and through the two theoretical concepts.

5.1. Statements and Reasons to Respect Human Rights

The three corporations stress several reasons to implement sustainable measures ensuring respect for human rights in their business operations. Amongst these are primarily the objective to meet the expectations of their customers and an aim to minimize risks and do good.

Salling Group states that they respect human rights and that they work to ensure not to contribute to any human rights abuses (Dansk Supermarked A/S, 2013). In their CSR report (2014) they express “We are committed to providing our customers with peace of mind when they shop in our stores, ensuring that the products we sell are safe and responsibly produced”. Dagrofa (2018), expresses that it is crucial for their corporation to sell products that are produced within respectful conditions. Therefore, they have implemented certain demands for their suppliers to ensure that they are not causing or contributing to any adverse human rights impacts in their value chains. Coop Denmark (2019) shares similar objectives and states that all its commodities should be produced within decent working conditions and with respect for

human rights. At the same time, they stress that they possess a responsibility to avoid and identify risks and minimize adverse impacts on human rights in their supply chains (Coop, 2018).

The main objective for all three companies to respect human rights, is to live up to the expectations of their customers. Salling Group (2014), particularly stresses: “Customers expect our products to be safe and produced in a responsible way (...)”. Dagrofa expresses that they feel some form of pressure from their consumers, NGOs, and the media to ensure respect for human rights. Particularly when they are exposed in the media due to suspicion of adverse human rights impacts in their value chains (Representative, Dagrofa). Howard and Forin (2019), found in their research that more and more actors, such as NGOs, stakeholders, and labour unions, are starting to demand the rights of the stakeholders involved in business operations. However, Dagrofa equally stresses that they implement mechanisms ensuring respect for human rights in their business operations for the sole purpose of being responsible (Representative, Dagrofa). Such a statement is equally stressed at Salling Group:

“As Denmark’s largest retail company, our main focus will always be the further development of a sustainable business. Our financial strength enables us to make conscious long-term decisions to the benefit of our customers, colleagues, suppliers and the citizens of the communities we are part of” (Dansk Supermarked, 2016, 6).

Senior Advisor from Amnesty International Denmark shares the same observations regarding consumer expectations and stresses accumulative expectations on sustainability. A survey, that was conducted by the EU, shows that eight out of ten consumers within Europe believe that it is important that companies are socially sustainable and thus respect human rights. However, at the same time, she stresses that companies are trying to accumulate cheap points when stating their sustainability solely because they know that such factors are important for their customers.

5.2. Problems in the Field

All three companies identify several human rights risks within their value chains. Dagrofa (2021), explicitly mentions child labour, forced labour, and public health as the main areas where adverse impacts on human rights can take place in their value chains. Both Coop

Denmark (2020), and Salling Group (2020), equally mention child labour and forced labour as the main areas at risk for human rights abuse in their value chains. Furthermore, Coop Denmark adds wage and working conditions to the risk list (Coop, 2020) and Salling Group adds discrimination, health, and security (Salling Group, 2020).

The Representative from Salling Group expresses that they experience suppliers not complying with their code of conduct, which states the necessity to respect human rights. These challenges are especially encountered in the agricultural industry. “Sometimes the issues occur due to ignorance or bad management systems” (Representative, Salling Group). The Representative from Coop Denmark explains that they have been exposed to different media cases which have made them aware of adverse impacts on human rights in their value chains. It is mainly through these media cases that Coop Denmark becomes aware of their adverse human rights impacts. The information they collect themselves is for the most part “a snapshot” from a reality where a supplier wishes to sell a commodity. “The reality can be different sometimes. We are not blind to that. It is very very hard to actually find out on your own that something is not as it should be. Because usually, all the documentation we get shows that everything is fine” (Representative from Coop Denmark). The Representative from Salling Group expresses similar concerns and explains that everyone with experience in global trade knows that human rights abuse continuously flourishes because suppliers can state that they respect human rights, though this is not necessarily the case.

According to Fasterling and Demuijnck (2013), human rights due diligence, thus human rights impact assessments, depends on the moral commitment of corporations. If their interpretation stands correctly, it means that mechanisms developed to ensure corporate respect for human rights would solely succeed if the corporations themselves possess such interest. However, Sinkovics et al. (2020) express that though corporations hold good intentions, their actual impacts do not always reflect such intentions. Thereby, even if the supermarket chains desire to ensure respect for human rights, their actions will not necessarily reflect such a desire. All three supermarkets express that it is difficult to ensure responsibility and avoid harm throughout their value chains. “Most companies have one value chain to address. But as a retail company, we have one value chain for every product on our shelves” (Dansk Supermarked, 2014). Therefore, it is difficult for the companies to gain the needed transparency of business activities in all their value chains. Salling Group expresses that they see very little enforcement of respect for human rights within business operations in other parts of the world. “Factories can cut corners in order

to provide better prices” (Dansk Supermarked, 2015, 19). Coop Denmark similarly stresses that they need to be cautious about poor working conditions in other parts of the world and that they are aware of human rights abuses taking place in their value chains (Coop, 2018).

In conclusion, there is no doubt that the supermarket chains experience challenges in the process of ensuring respect for human rights in their business practices. Therefore, they have implemented different mechanisms, such as the UNGPs and the SDGs, to accumulate their success in ensuring responsible business conduct. However, issues of human rights abuse continuously flourish in their value chains. Therefore, the next sections will analyse how come there is a gap between the implementation of the UNGPs and the SDGs and the actual achievements - a gap that allows these adverse impacts on human rights to continuously exist.

5.3. Mechanisms to Respect Human Rights - The UNGPs and the SDGs

5.3.1. The UN Guiding Principles on Business and Human Rights (UNGPs)

5.3.1.1. Expert Perspective: Stating the Gap Between Law in Books and Law in Action

All three supermarket chains have stated to comply with the UNGPs. In regard to the UNGPs, The CEO of GLOBAL CSR stresses that companies must have two different management systems in place, one internal and one external. The internal management system assesses a company’s own possible adverse impacts on human rights. The other management system deals with the adverse impacts a company’s business relationships, such as suppliers, might cause or contribute to. The other expert, Senior Advisor from Amnesty International Denmark, stresses that the easy answer to how corporations should apply the UNGPs to their business practices, is simply to implement the guidelines as they are described.

Fasterling and Demuijnck (2013) perceive the UNGPs to be the most helpful tool for corporations regarding human rights commitment. Thus, the UNGPs have been developed to act as clear guidance for corporations on how they can ensure respect for human rights throughout their value chains and how they can address and mitigate possible adverse impacts that they themselves might cause or contribute to. However, the experts seem to have two different interpretations of how this implementation should be carried out in practice. For the CEO at GLOBAL CSR, the essential part is for companies to do their self-assessments i.e.,

assess and identify their own possible risks in their own operations. Whereas the expert from Amnesty International Denmark has a much larger focus on the value chain. The CEO at GLOBAL CSR argues that the only way to ensure respect for human rights throughout the value chain is through the method of cascading. This means that all companies need to demonstrate their expectations to their business relationships which implies that all suppliers must conduct their own self-assessment and ask the same of their suppliers.

Both experts experience corporations who find it challenging to implement the UNGPs. The CEO from GLOBAL CSR meets business actors who perceive the UNGPs to be utopia or too difficult to utilize in practice. Though, he believes that this interpretation stems from a misconception or lack of knowledge about the UNGPs. The expert from Amnesty International Denmark equally experiences corporations finding it too challenging to implement the UNGPs. She expresses:

“What I get disappointed about is that when we talk about human rights it suddenly becomes rocket science for companies. They are already doing due diligence on all other kinds of areas in their practice. But when it comes to human rights it becomes too difficult for them”.

They both explain that they continuously meet corporations who are in doubt about how to utilize the UNGPs and that they even meet corporations who have little faith in the UNGPs in general. This perception is something we additionally will see in the three supermarket chains.

Both the expert from Amnesty International Denmark and the expert from GLOBAL CSR possess much experience and knowledge of the UNGPs and how business enterprises have been working with them. But the two experts do not see eye to eye on exactly how the UNGPs should be implemented to ensure respect for human rights. Thereby, the first time we become aware of possible causation behind the gap between the UNGPs as they are described in the books, and their actual implementation and effect in action, is through the different interpretations from the two experts.

Roscoe Pound saw that, in order to understand the gap between law in books and law in action, it is crucial to look at relevant social aspects (Banakar, 2015, 53). In this case, the social aspects consist of corporations' perceptions of their responsibilities and their opportunity to meet their responsibility through the UNGPs. However, before we dig into the three corporations'

perception of the UNGPs, it is worthwhile to note that two experts in the area of business and human rights interpret the ‘law in books’ aspect of the UNGPs differently. If there is a lack of consensus on this level of expertise of the UNGPs, it is not surprising that corporations themselves find it challenging to implement them and that they generate their own interpretations and meanings of the UNGPs.

5.3.1.2. Implementation and understanding of the UNGPs in the Supermarket Chains

The Representative from Salling Group explains that the UNGPs are part of their Code of Conduct. The UNGPs act as an overall structure or guidance to what they as a company need to be aware of when they include new suppliers in their business operations. They are further applied to ensure that current suppliers respect human rights. Salling Group stresses (2017) that to prevent human rights violations, proper due diligence must be in place. They use these due diligence processes to enhance supplier surveillance. At Dagrofa, the UNGPs have similarly been implemented in their management system. However, the Representative from Dagrofa explains that this decision was not made alone by Dagrofa. Rather, it was a push from other Scandinavian supermarket chains that they cooperate and share the same Code of Conduct with. The UNGPs particularly are applied to identify which areas in their value chains could have adverse impacts on human rights. Both Salling Group and Dagrofa especially use the UNGPs as a system that provides them an opportunity to make sure that their suppliers respect human rights. This structure is thus, what the CEO from GLOBAL CSR referred to as the external management system. Neither of these two supermarket chains has conducted a due diligence process assessing their own impacts on human rights, thereby the internal management system seems to be neglected. The reason this management system has not been implemented, is because both companies argue that if human rights abuses would take place in their value chains, it would be something that happened abroad and mainly outside of Europe.

Both companies use third-party audit systems through amfori Business Social Compliance Initiative (BSCI) to ensure that their suppliers live up to their Code of Conduct and thereby the UNGPs. The Representative from Dagrofa mentions that BSCI develops a list of ‘risk countries’ each year and that they use this list to assess where there might be risks of adverse impacts on human rights. The Representative from Dagrofa expresses “we smile a bit because Greece suddenly was on the list for a few years and Greece is in the EU. Nobody thought that Greece was a risk country”. Such a statement indicates that the corporation mainly perceives

possible adverse impacts on human rights to take place outside the EU.

Looking at Ewick and Silbey's three legal consciousness schemas: before the law, with the law, and against the law; the way that Salling Group and Dagrofa apply the UNGPs in their business operations falls under the 'with the law' schema. Within this schema, law is perceived to offer a *normative* space where it is possible to pursue subjective goals (Ewick and Silbey, 1998, 140). Further, the implementation of law is manipulated in such a way, that it is utilized through subjective resources and skills (Ewick and Silbey, 1998, 224). It has been established that the subjective goals of these two supermarket chains in implementing the UNGPs are to avoid causing harm and do good and further, to live up to the expectations of their customers. Both Salling Group and Dagrofa express that they find the practical implementation of the UNGPs challenging, which might be one of the reasons for outsourcing the task of due diligence to third-parties. Thereby, their implementation of the UNGPs falls within their own subjective resources and skills and the responsibility to comply with the UNGPs now lies on the shoulders of other parties than themselves.

Within the WTL schema, legal frameworks are perceived as a form of a skeleton of rules which is compatible with how Salling Group and Dagrofa perceive the UNGPs, namely as a form of structure or guidance. Roscoe Pound's concept of 'law in books' represents the intentions of legal frameworks whilst the concept 'law in action' represents the de facto impacts of these frameworks (Banakar and Travers, 2013, 15). Both Salling Group and Dagrofa have solely implemented parts of the UNGPs' legal framework namely, the specific aspects that make sense for their social reality and in their own way, namely through third-party audits. Meanwhile, other parts of the UNGPs, namely the internal management system, have to a large extent been neglected in their operations. Thereby, there seems to flourish a gap between the intentions behind the UNGPs and the de facto implementation taking place in these two business operations.

This assessment is in line with previous research on this matter. Santoso (2017) agrees with Fasterling and Demuijnck (2013) in their interpretation of the UNGPs being the most robust regime to ensure respect for human rights in corporate operations. However, Santoso stresses that even the most robust regulatory instrument is inadequate for holding corporations accountable for their operations. As we see in this study, Santoso similarly sees that there has been limited practical implementation of the UNGPs, which increases the gap between the

intentions behind the UNGPs and the actual outcomes that originate from such limited implementation.

The Representative from Coop Denmark explains that they decided to implement the UNGPs for two reasons. First, Coop Denmark was rated last in a benchmark analysis conducted by the Danish Institute for Human Rights which assessed Danish corporations' implementation of the UNGPs. The second reason was to comply with upcoming legislation on due diligence at the EU level. Coop Denmark aims to implement the UNGPs throughout their whole value chain. In practice, they wish to do this first by developing their own self-assessment and then expanding to the rest of the value chain. "I think we actually do a lot of what is required. We identify our main risks. (...). We try to do a lot to protect and respect human rights. Both national and in our value chains". This way of approaching the UNGPs is to a large extent in compliance with the internal management system. Thus, the implementation from Coop Denmark is to a larger extent in compliance with the 'law in the books' aspect of the UNGPs.

At first glimpse, it could therefore look like Coop Denmark's implementation of the UNGPs falls within the 'Before the law' schema. Within this schema, legal frameworks act as "its own story" (Ewick and Silbey, 1998, 106), in other words, the *normativity* of law is perceived to be impartial and objective (ibid., 88). Thereby, as Coop Denmark aims to implement the UNGPs as they are described, they seem to hold the BTL consciousness. Legal frameworks can however be *constrained* and act in areas where there are things they cannot achieve in practice (ibid.). Coop Denmark finds a lot of challenges implementing the UNGPs and thus identifies the constraints of the framework. The Representative from Coop Denmark expresses that:

"The UNGPs are well intended, and they are a good framework. But the actual practical day-to-day operations often look very different from what is intended in a document with a lot of overall descriptions of what you can do. Taking the UNGPs and making them into a practical tool is a little difficult I think".

These reflections clearly state a gap between the UNGPs as they were intended and the reality in an actual practical day to day operation. The Representative from Coop Denmark elaborates and explains that the requirements stated in the UNGPs are something that they already execute.

“Our code of conduct is already establishing most of what the UNGPs do. And we made our Code of Conduct before the UNGPs. Our code of conduct is a contractual agreement, saying that you have to respect human rights (...) and you have to require the same from your next tier in the supply chain. So it is already there”.

The opportunity that the Representative from Coop Denmark sees in the UNGPs is to establish a different framework in how to talk about corporate responsibility and respect for human rights. Therefore, the consciousness of Coop Denmark falls within the WTL schema as legal frameworks can be manipulated to achieve subjective goals (Ewick and Silbey, 1998, 132-133).

However, to some extent, it can be argued that Coop Denmark’s implementation of the UNGPs equally falls within the legal consciousness schema ‘Against the law’. Actors with this consciousness perceive legal frameworks to promote their own ideologies (Ewick and Silbey, 1998, 224), which is an understanding that Coop Denmark holds of the UNGPs. They feel obligated to implement this framework due to external expectations. Within the ATL schema, *normativity* is not deriving from moral principles. Rather, legal frameworks act as a powerful source establishing normative grounds (ibid., 189). Further, legal frameworks are *constrained* and often exacerbate the powerlessness that it aims to remediate (ibid., 197). Coop Denmark perceives the UNGPs to be an expression of power as they feel obligated to implement them. However, they do not necessarily find a vital purpose in this implementation as they are already applying other mechanisms to ensure the same objectives as the UNGPs hold. Thus, Coop Denmark interprets the UNGPs to be constrained in their actual effects. Within this consciousness, actors develop different strategies to avoid the power of law (ibid.), which is not the case in this respect as Coop Denmark work to implement the UNGPs. Therefore, the legal consciousness of Coop Denmark similarly lies within the WTL schema.

Within the WTL schema, law maintains a set of rules that aim to construct a normative framework, though this framework acts at the disposal of the actors applying it (Ewick and Silbey, 1998, 136). At Coop Denmark, they already work with different mechanisms to ensure respect for human rights and have no intentions of changing these operations. Nonetheless, they see that the UNGPs can make a common discursive framework where corporations can act within and articulate their responsibility to respect human rights in the same way. Legal mechanisms can *constrain* subjective pursuits however, actors with the WTL consciousness tend to act in accordance with their own moral compass. Rules are perceived as socially

constructed and thus understood to be open to challenge and manipulated (Ewick and Silbey, 1998, 146). The UNGPs have to a large degree not been implemented as they are described and solely applied in the ways that make moral sense for the three supermarket chains.

When asking the three companies the question of whether they experience challenges in implementing the UNGPs, their answers elucidated how they perceive the UNGPs in the first place. Let me first state, that all three companies expressed a clear ‘yes’ to the question. The Representative from Salling Group explains that some suppliers feel that they cannot live up to the UNGPs or that their suppliers get frustrated with all the audits they experience. From these statements, it shows that Salling Group interprets the UNGPs mainly to hold the objective of keeping their suppliers accountable and that they do that through third-party audits. Thus, it is not themselves as a corporation that experiences the implementation to be challenging and instead their suppliers who find the process frustrating or difficult. The reason for this might be, as we have seen, that Salling Group only implements the UNGPs to a limited extent and mainly through an external management system.

The Representative from Dagrofa expresses “It is quite complicated to navigate in. I think everyone thinks so (...). We cannot manage all risks even though that would be the perfect ideal world”. Additionally, The Representative from Coop Denmark elucidates that they have experienced internal discussions based on the concern whether the implementation of the UNGPs will only be another bureaucratic exercise. At Coop Denmark, they find it difficult to transform the UNGPs into something concrete and not just a paper exercise.

5.3.1.3. Corporate Perspective: Stating the Gap Between Law in Books and Law in Action

Roscoe Pound (1910, 20) saw that law will lose its effectiveness if it becomes too mechanical. As these companies experience the UNGPs to be difficult to grasp and apply in such a way that they achieve what the UNGPs aim to achieve, it could be argued that this legal framework is “too mechanical” or perceived as such. Further, Pound feared that social actors would become “legal monks” if they would let legal texts act as sacred writings (Pound, 1910, 36). The question is then whether the three corporations have become legal monks in their implementation of the UNGPs? It could be argued that they have. Though they experience challenges in their implementation, and they do not really comprehend the full purpose of the

UNGPs or how they can ensure respect for human rights solely through this legal framework, they continuously apply the UNGPs and state their compliance with them.

The three supermarket chains express that the UNGPs hold potential though they to a larger degree possess doubts about the UNGPs actual capabilities to change business conduct throughout value chains. These findings are compatible with existing literature on the UNGPs. Venkatesan (2019) argues that the UNGPs probably lack the opportunity to promote significant change. Thus, even though the UNGPs are implemented in business practices, the status quo will remain.

The Representative from Dagrofa expresses similar statements as Coop Denmark, namely that they have already established processes to ensure limited harm and respect for human rights before they knew about the UNGPs. “It is good to have them, to have a common frame to refer to. But we would not work any differently, if the UNGPs were not there” (ibid.). This statement confirms the WTL consciousness as Dagrofa acts within the legal normative space of the UNGPs though they challenge the framework to act at their disposal (Ewick and Silbey, 1998, 141).

Jägers (2021) explains that the UNGPs continuously lack general awareness of business management systems which is congruent with the study of Gregg (2021), who argues that the UNGPs solely is utilized as a tool to protect the interests of individual business enterprises. Such perspective is compatible with the legal consciousness of the three supermarket chains who all utilize the aspects of the UNGPs that make sense to them whilst neglecting other parts of the legal framework. The Representative from Coop Denmark expresses:

“As long as we follow legally regulated orders (...) does it matter whether it is within the framework of the UNGPs or not? Because putting it into a structure and saying that we do it because it’s a framework of the UNGPs doesn’t change the things that we are actually doing”.

Jägers (2021) argues that corporations applying the UNGPs continuously deliver disappointing results. We have seen that the three corporations investigated in this study all possess challenges in understanding the UNGPs and how to convert them into practical operations. This might be one of the reasons that the disappointing results which Jägers refers to, continuously emerge. The Representative from Coop Denmark argues that to address and

mitigate adverse human rights abuses in value chains and thus ensure respect for human rights, a completely different mechanism than the ones existing today is needed. Rasche and Waddock (2021) would agree with such a statement as they stress that the UNGPs are a great starting point though a more fundamental transformation is necessary.

5.3.2. UN Sustainable Development Goals (SDGs)

5.3.2.1. Expert Perspective: Stating the Gap Between Law in Books and Law in Action

The two experts express concerns about the SDGs. Senior Advisor from Amnesty International Denmark explains that the SDGs do not contribute to any significant change in business behaviour when it comes to human rights. Companies identify which of the 17 goals they already operate within and then make an official statement of their compliance with those particular goals (ibid.). Thus, it is limited to how many new actions originate from the SDGs. “It was easy for companies to shy away from methodology dealing with adverse impacts and then looking at goals. Because you can decide for yourself how to achieve these goals” (ibid.).

The overall concern of the CEO from GLOBAL CSR, when it comes to the SDGs, is that many corporations are utilizing the SDGs solely as a “PR opportunity” to promote themselves as sustainable businesses. The CEO explains: “It is a dangerous game for those companies that do not ensure that they manage adverse impacts while promoting themselves on the SDGs”. Senior Advisor at Amnesty International Denmark shares the same reflection: “Companies say that they do a lot to be sustainable. But when it comes down to it. Do they really?”

Ewick and Silbey (1998, 151) explain how actors within the WTL consciousness perceive legal frameworks as a game. Thereby, actors play by the rules of legal frameworks however, they also tend to play the rules of these frameworks. According to the experts, this phenomenon is exactly what is at play regarding the implementation of the SDGs. Corporations play by the rules as they aim to implement the SDGs though solely in a way, that is for their own advantage and thus corporations manipulate the framework to achieve subjective aims.

5.3.2.2 Implementation and understanding of the SDGs in the Supermarket Chains

The SDGs have gained much attention since their establishment. Collins (2018) expresses that the SDGs undermine and probably will supplant the general human rights paradigm as we know it. The Representative from Salling Group perceives the SDGs to work as a kind of frame

that can guide their business operations which is similar to how they perceive the UNGPs. The way that Salling Group first approached the implementation of the SDGs was to assess which of the goals they had an actual opportunity to make a difference within (ibid.). All three corporations state to comply with several of the Sustainable Development Goals. However, as there are no specific guidelines or demands on how the SDGs should be applied in business practices, corporations interpret their own impacts and possibilities within each goal and state their compliance with them. From the outside, it can thus look like the corporations are doing more in specific human rights areas than what is actually the case. To give an example, the Sustainable Development Goal 16 promotes “peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (United Nations, n.d.c). Several of the targets within this goal are relevant to promoting and ensuring respect for human rights within business operations. The target promoting to ‘end abuse and exploitation’ touch upon adverse impacts frequently exposed in corporate value chains and is thus relevant for corporations. The target concerning ‘transparent institutions at all levels’ could ensure an increased opportunity to identify and mitigate human rights risks in business operations, and the target concerning ‘representative decision-making at all levels’ could provide stakeholders in corporate value chains the opportunity to elucidate their conditions and claim their rights.

Salling Group announces that SDG16 is a part of their business operations (Representative, Salling Group). Thereby, being aware of what the goal includes, one can get the impression that the corporation does a lot to ensure respect for human rights. Salling Group elaborates on their implementation of this particular goal and explains that the way they comply, is through the taxes they pay which contribute to the welfare state. Thus, they perceive this action to be in compliance with target 16.6: “Develop effective, accountable and transparent institutions at all levels” (United Nations, n.d.c), because they see that a wealthy welfare state can contribute to the development of institutions. Thereby they are contributing to ensuring social sustainability. However, it can be argued that more could be done in order to comply with this particular goal.

From the perspective of Ewick and Silbey’s legal consciousness schemas, the Salling Group implementation of the SDGs falls within the ‘with the law’ schema. The SDGs have been freely interpreted and mainly applied due to the internal interests of the corporation i.e., to state their compliance with the SDGs. The Representative from Salling Group explains that their focus on the different goals develops over time and in accordance with how the world

develops. She elaborates and explains that their focus on the climate was limited in 2015 when the SDGs were established. However, as attention on the climate has increased over time, this area has now become an SDG priority for the company. In the WTL schema, legal frameworks act as a set of rules that furnish a kind of frame wherein actors can operate. This frame is interpreted as being flexible, and actors can choose between different possible actions within the frame according to whatever aspects provide meaning for them (Ewick and Silbey, 1998, 136). Like the UNPGs, Salling Group perceives the SDGs to work as a kind of frame wherein they can operate. As there are no specific demands on how the different goals should be implemented in business practices, the goals are flexible and thus simple to state compliance with. Further, as this framework is flexible, the focus of attention can change whenever it makes sense for the corporation, which was the case for Salling Group in regard to the change of focus towards the climate. As stated at the beginning of this analytical chapter, it is in the interest of all three companies to live up to the expectations of their customers. This objective is demonstrated in the shift of focus towards climate as this focus now lies within the interest of their customers. The experts expressed concerns about whether corporations saw the SDGs solely as a PR opportunity. Based on Salling Group's interpretation of the SDGs and their change of focus to meet external expectations, it can be argued that the experts might be right in their prediction.

It was of great importance for Roscoe Pound (1910, 22) that law acted dynamically. What he meant was that law should act in accordance with the society where it aims to operate. To some extent, it could be argued that the SDGs do exactly that because they operate in accordance with how business enterprises themselves provide meaning to them. However, it is questionable whether such flexibility provides any actual change. Though it makes sense that law should understand the spheres where it intends to operate and act in accordance with how actors see meaning with its presence, it seems like some structure or demands are required in order to generate actual change.

5.3.2.3. Corporate Perspective: Stating the Gap Between Law in Books and Law in Action

The Representative from Dagrofa explains that they decided to implement the SDGs because everyone else was doing it. Further, she stresses that the SDGs provide a common frame that corporations can look into for guidance on sustainability. In addition, the Representative from Dagrofa explains that before the establishment of the SDGs, they had already developed

different aims regarding sustainability. When the SDGs were introduced, they looked at their already existing corporate operations concerning sustainability and reflected upon which of the 17 goals they already could state their compliance with. Thereby, it is a limited extent of new sustainable operations that was caused by the SDGs (ibid.). The legal consciousness of Dagrofa, when it comes to their understanding of the SDGs, is thus also found within the WTL schema as they play by the rules whilst they are playing the rules (Ewick and Silbey, 1998, 151).

The Representative from Coop Denmark explains that they do not actually implement the SDGs: “We put a little target beside our activities because it is a common language that people can relate to, and it has become pretty mainstream. So, it is not an actual implementation. It is more an adaptation”. Once again, the *normativity* of legal frameworks is a set of rules, here the SDGs, that is perceived as a game that can be played to serve the self-interests of a player (Ewick and Silbey, 1998, 132). The interests of Coop Denmark are to speak into “a common language” and be part of the identified sustainability wave that now occurs amongst businesses and consumers. Therefore they “adopt” the SDGs though they do not fully implement them.

The statement from the Representative from Coop Denmark gives the impression that their legal consciousness towards the SDGs could fall within the ‘against the law’ schema. There is a clear acknowledgment of the power that the SDGs possess as Coop Denmark acknowledges that they are widely spread in the corporate world. However, the SDGs are not a framework that they particularly wish to implement. Ewick and Silbey (1998, 219) explain that with the aim to avoid a hegemonic power of law, sarcasm is often applied to mock the content of the law. To the question of whether Coop Denmark is using the SDGs to establish new sustainable operations, the Representative from Coop Denmark replies “Nope, not at all” whilst laughing. In her replies, concerning the SDGs, she was very short and consistent whilst either smiling or laughing. To the question of whether their own goals concerning sustainability, or the SDGs came first, she replied “our own goals” at a time when I had barely finished the question. The SDGs thus receive little recognition from Coop Denmark. Nevertheless, actors of the ATL consciousness develop different strategies to avoid the power of legal frameworks (Ewick and Silbey, 1998, 224), which is not the case for Coop Denmark. Though they internally express little faith in the SDGs and do not really implement them in practice, they still officially state their compliance with several of the goals (Coop Denmark, 2019). The way that Coop Denmark has been working with the SDGs has equally been to look at their existing goals:

“(…) and then looked at ”so, if we should communicate these strategic goals in a way that talks into a language that other people use, then how can we match these goals of the SDGs?” (Representative, Coop Denmark). Thereby, similar to Salling Group and Dagrofa, the legal consciousness of Coop Denmark concerning the SDGs falls within the WTL schema. The SDGs are to some extent implemented, though primarily as a tool to achieve subjective interests which, in this case, is to participate in a common language of sustainability.

Pound approached law instrumentally. This means that law should act as a response to social demands (Banakar and Travers, 2013, 36). In fact, attention on sustainability has increased rapidly in the past decade which is also demonstrated by the expectations of consumers. Thereby, the SDGs act as a response to this societal demand. Nevertheless, from the perspective of the implementation of the SDGs within the business operations of these three cases, it is doubtful that the SDGs increase achievements of sustainability. Thus, a gap between law in books, here the SDGs, and law in actions, their actual achievements, is present.

5.3.3. Constraints of the UNGPs and the SDGs

Neither the UNGPs nor the SDGs receive great faith from the three supermarket chains. The Representative from Salling Group particularly stresses that they do not believe that these UN mechanisms alone could ensure respect for human rights in their operations. Dagrofa experiences the SDGs currently to be a “*freeride*” and stresses that no one is actually making them or others accountable for statements of complying with them (Representative, Dagrofa). At Coop Denmark they share similar interpretations of the SDGs:

“Regarding the SDGs, you can practically say anything. You can have activities that are in no way related to ending hunger and still say that you are ending hunger because somewhere they might have been donating a little money or something” (Representative, Coop Denmark).

As elucidated earlier, Coop Denmark expresses compliance with the SDGs to speak into a common language on sustainability. I asked whether they would prefer the UNGPs to be the common language and frame for social sustainability rather than the SDGs. To this, the reply was: “I don’t think that the corporate world is ready for the UNGPs to be the common language

(...). And right now, even though it is stated in the UNGPs that this policy should be above all else, it is not” (Representative, Coop Denmark).

The assessment that the two UN mechanisms have received from the three supermarket chains, is to a large extent compliant with the one of Rasche and Waddock (2021). Current mechanisms act as a great start to ensure responsible business conduct however, more fundamental transformation is crucial if the objective is to achieve actual change (ibid.). Within the WTL schema, actors interpret legal frameworks as rules creating spaces where action can occur and advantages are taken (Erick and Silbey, 1998, 146). We see that the three supermarket chains identify some advantages to implementing the UNGPs and the SDGs. However, as these corporations perceive these UN mechanisms to act as a starting point and mainly to act as guidelines that cannot provide actual change, only a few aspects of these two mechanisms have in fact been implemented. Therefore, a gap between the intentions behind the UNGPs and the SDGs and their actual implementation, and thus effects, is present in these business and human rights spheres.

5.4. Other Mechanisms to Respect Human Rights

There is no doubt that demands for responsible business conduct exist. However, as adverse impacts on human rights continuously flourish in corporate value chains, the right question to ask is rather, if the demanded mechanisms actually have been effectively applied in corporate operations.

As established in this thesis, the three supermarket chains all possess the objective to address and mitigate possible human rights risks in their value chains. So far, their implementation of the UNGPs and the SDGs has been analysed. Nevertheless, in the process of gathering the empirical data from these three supermarket chains, it became clear that they all have established their own processes and utilized different mechanisms to ensure respect for human rights in their operations. Specifically, one mechanism has been dominating throughout the data, namely the Business Social Compliance Initiative (BSCI). Therefore, this last part of the analysis will investigate the implementation of the BSCI and how the three corporations understand the role of this mechanism in their operations.

5.4.1. The Business Social Compliance Initiative in the three Supermarket Chains

As demonstrated in the coding process, amfori BSCI plays a major role for all three corporations in their attempt to ensure respect for human rights. Salling Group (2020) describes amfori BSCI as a platform for companies to improve traceability and transparency in their supply chains (ibid.). Salling Group joined the BSCI in 2006, and further adopted BSCI's code of conduct (Representative, Salling Group). In continuation of adopting the BSCI code of conduct, Salling Group ensures that third-party audits are conducted. When Salling Group is made aware of adverse impacts on human rights in their value chains, they send a third-party audit to examine these circumstances (ibid.).

Amfori BSCI is additionally applied in the corporate practices of Coop Denmark and has been applied since 2008 (Coop, 2015). The suppliers that operate in the countries which amfori BSCI perceives as 'risk countries' meet higher demands from Coop Denmark. In practice, this means that the supplier is obligated to receive a third-party audit (ibid.). The Representative from Coop Denmark expresses that they perceive third-party audits as "the normal way of doing things". *Normativity* of law is perceived as impartial and objective within the 'before the law' schema (Ewick and Silbey, 1998, 83). Thereby, actors who find themselves before the law state an acceptance and loyalty to the legal framework which seems to be the case in this aspect. However, in this consciousness schema, legality exists outside of particular interests (ibid.), which is not the case for Coop Denmark as it is their subjective interest to ensure respect for human rights in their business operations and the BSCI has therefore been implemented to ensure such an objective. Dagrofa joined amfori BSCI in 2018 and has additionally adopted the code of conduct of BSCI (Dagrofa, 2018). They assess that approximately 10% of their suppliers operate in 'risk countries' and must therefore receive third-party audits (ibid.).

5.4.2. Constraints of the BSCI

Though amfori BSCI is dominating the business operations of these three companies, concerns and doubts about this initiative are still present. The Representative from Dagrofa expresses:

"But for sure, it is not a perfect world, and an audit report is just done that day, and tomorrow it can be a different sight. We do rely very much on third-party audits. And that is not a

bulletproof way to work. But we cannot be everywhere all the time. This is the way, with a lot of dialogue, that we have chosen”.

The Representative from Coop Denmark similarly stresses that third-party audit systems are not sufficient to ensure respect for human rights in their value chains. However, at the same time, she stresses that the UNGPs and SDGs cannot solve what audit-systems fail to do: “And the only thing we can do, because we cannot visit the production sides ourselves all the time (...) is that we can rely on the information. And that information doesn’t change no matter if it is the audit systems or the UNGPs we use”.

Senior Advisor at Amnesty International Denmark expresses that a lot of issues are to be found within the paradigm of audits. She stresses that lots of audits are conducted, and no severe risks are identified however, as soon as NGOs conduct research on the same business operations, human rights issues are easily identified.

“At Amnesty, we are not happy about certification schemes. (...). You have no idea what is actually happening in areas that you have a responsibility for and you lose ownership of the problem (...) It just doesn’t work. When we scratch the surface, then we see auditors who have no expertise regarding human rights. Companies are just throwing money at schemes they do not know anything about” (ibid.).

As we have seen in the practices of the three supermarket chains, they themselves are often not part of the auditing and instead rely on third-party operators. The CEO of GLOBAL CSR shares similar concerns regarding audit schemes:

”We see still that companies use so much money to train people to audit and send them around the globe, particularly to the companies they do not trust and go in and look for adverse impacts. (...) and they will look at the indicators they themselves set up (...). That is a mission impossible”.

The *constraint* of law within the BTL schema recognizes that there are things that law should do although there are things that law simply cannot do (Ewick and Silbey, 1998, 88). The supermarket chains perceive the BSCI to be the best option in their aim of ensuring human rights in their operations. However, at the same time, they realize that constraints of this

mechanism to a large extent are present and thereby do not manage to ensure respect for human rights in all respects.

5.4.3. Implementation and understanding of BSCI in Comparison to the UNGPs and the SDGs

The legal consciousness of social actors elucidates hegemonic schemas (Silbey, 2005, 325). Thereby, comprehending the consciousness of the three supermarket chains elucidates within which hegemonic schema they operate to ensure respect for human rights. In other words, how they make sense of responsible business conduct. Legality is created through narratives (Ewick and Silbey, 1998, 30) and narratives create the structures and ideologies which are then reproduced through hegemonic repeat players (Silbey, 2005, 325). Thus, the stories that corporations tell, thus how they generate meaning and act upon it, is how structures are created.

The CEO from GLOBAL CSR stresses that companies continuously use audit-schemes because they are a well-established businesses in themselves and from the empirical data collected for this thesis, it is clear that amfori BSCI is a hegemonic power in the field of business and human rights. Of the different mechanisms that have been investigated in this study, the closest we come to finding a mechanism that could fall within the ‘before the law’ consciousness, is the one from amfori BSCI. Within this schema, actors interpret legal frameworks to consist of a set of rules that are neutral and universal (Ewick and Silbey, 1998, 90). Even though there are some small diversions in the supermarket chain’s implementation of amfori BSCI’s structures, all three corporations express the biggest faith and utilization of this framework.

Salling Group and Coop Denmark explain that they implemented the code of conduct of amfori BSCI and followed these structures long before they started working with the UNGPs and the SDGs. Consciousness is created through collective hegemonic structures (Silbey, 2005, 334), and as the code of conduct of amfori BSCI has been widely adopted in the corporate world, other corporations seem to follow the same path and generate meaning from this point of view. When meanings are institutionalized, which is the case for amfori BSCI in the operations of the three supermarket chains, they will limit future meaning-making processes (Silbey, 2005, 333). Therefore, it becomes challenging for new mechanisms to dominate future actions and generate new meanings, which this analysis has demonstrated has been the case for the UNGPs and the SDGs within the three supermarket chains. The three corporations have expressed that they implement the UNGPs to make sure that their

suppliers respect human rights. However, the way they ensure this in practice is through measures established by amfori BSCI rather than from the perspective of the UNGPs. Thus, it seems challenging for these corporations to comprehend the UNGPs in a way that differs from the understandings they already possess, when it comes to respect for human rights and how to ensure such responsibility in practice. Therefore, when a hegemonic legal framework is already at play, it is questionable whether other mechanisms can ever stand a chance to influence business practices.

6. Conclusion

6.1 Answering the research questions

How are the three largest supermarket chains in Denmark understanding and implementing the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals to ensure respect for human rights in their business operations?

We have seen that the three corporations achieve the objective of respecting human rights through their already implemented business practices which originate from their membership of amfori BSCI and their audit-schemes. Whereas the SDGs and UNGPs to a much larger extent have been applied to fulfil the other objective namely, to meet external expectations. The three corporations explain that they ensure respect for human rights through the implementation of the UNGPs and the SDGs. Nevertheless, the way they explain these actions in practice, is to a large degree more in alignment with BSCI practices. Thereby, the three supermarket chains have developed an understanding of what it means to respect human rights and how it should be carried out in practice long before implementing the UNGPs and the SDGs. Even though the UNGPs state that all companies should do a self-assessment of possible adverse impacts they themselves might cause or contribute to, it is solely one out of the three supermarket chains that have done this, as all three supermarket chains believe that human rights abuse mainly occurs in countries abroad. Therefore, they rely to a greater extent on third-party audits and general mechanisms that monitor their suppliers which are all actions that to a larger extent fall under the BSCI rather than the UNGPs and the SDGs.

The three companies additionally express that these two UN mechanisms act as a “frame” where they can seek guidance and understand their obligations. Further, the two mechanisms act as a discursive framework in which the supermarket chains can articulate their business practices concerning sustainability and thus “share the same language” with other corporations and consumers. In fact, the UNGPs, and particularly the SDGs, have gained accumulative attention from the corporate world. Nevertheless, the supermarket chains express little faith in the UNGPs and the SDGs and further, find it challenging to understand them and implement them in practice. The experts experience that these interpretations of the two UN mechanisms additionally exist in other corporations as well. These mechanisms are thereby implemented within a consciousness that demonstrates a lack of faith and understanding of them. Thus, they

possess limited opportunity to achieve anything in reality within these business operations.

We have seen that the two experts do not see eye to eye on exactly how the UNGPs should be implemented by corporations. It is therefore not incomprehensible that corporations themselves find such implementation difficult. As for the SDGs, all three corporations expressed that their actions regarding sustainability came before the SDGs. As corporations are free to interpret how they can contribute to the different goals, limited new practices have been established. Rather, the three corporations to a larger extent identified which of the 17 goals they could already state their compliance with and then announced sustainable actions from that standpoint. Furthermore, the Representative from Coop Denmark expressed that they started to implement the SDGs because “everyone else started to”. Previous research concerning the SDGs has found that the attention towards them has been so great that they will undermine the current human rights paradigm. From the findings developed in this study, we can conclude that such a prediction is far from reality. At least when it comes to ensuring actual sustainable behaviour. Even though the SDGs have been widely applied in the corporate world, limited new sustainable operations originate from such implementation.

In conclusion, the three supermarket chains have to some extent become ‘legal monks’, as Roscoe Pound would call them, because they apply these mechanisms mainly due to external expectations though they do not find any vital purpose in such implementation. Behind the surface, the dominating mechanism to ensure respect for human rights in their value chains, is the BSCI and its audit schemes. The Representative from Coop Denmark expressed that it should not matter which mechanism is applied to ensure respect for human rights. Rather, the only thing that should matter, is that something is in fact done to achieve such an objective. Even though all three supermarket chains mainly utilize the BSCI and possess the most faith in this mechanism, they themselves identify various issues with this framework. The audits conducted are solely a snapshot of the reality and human rights harm continuously flourish within corporate value chains. However, the supermarket chains do not perceive the UNGPs, nor the SDGs, to be a better alternative to ensure respect for human rights. Thereby, there is a clear gap between the two UN mechanisms as they were intended and the actual implementation in the practices of the three corporations. When such a gap exists, it makes sense that the UNGPs and the SDGs have not achieved what they aimed to do namely, to ensure respect for human rights.

How can a gap exist between the aims of the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals and what they actually achieve in the practice of the three supermarket chains?

This thesis has found that there are mainly three reasons that a gap exists a thereby, that the UNGPs and the SDGs have not ensured respect for human rights in the three supermarket chains. At least not to a significant extent.

First, the UNGPs and the SDGs have mainly been implemented due to external expectations. The legal consciousness towards the UNGPs and the SDGs falls within the ‘with the law’ schema. Thereby, the two mechanisms have been applied in accordance with whatever operations and frames make sense for the three corporations, though no further than that. As the SDGs started to accumulate attention from civil society and more and more corporations started to state their compliance with the goals, the three supermarket chains felt an obligation and opportunity to do the same. It has been a similar process with the UNGPs. As the decision of implementing the UNGPs and the SDGs does not directly originate from the interest of the three supermarket chains themselves, there has been limited effort to understand and implement these mechanisms. Tasks, such as developing impact assessments, are either outsourced or neglected. Thus, the actual implementation only goes as far, as the supermarket chains have an opportunity to state their compliance.

The second reason for the presence of the gap is due to the fact, that the three supermarket chains find it challenging to understand and implement the UNGPs and the SDGs. These challenges are understandable for different reasons. First, the experts have demonstrated that even on an expert level there are different perceptions, particularly of the UNGPs, and how this framework should be implemented in business practices. Second, there seems to be missing an actual effort to achieve a comprehension of how the UNGPs and the SDGs are described ‘in the books. These contradicting understandings and limited implementation of the frameworks, as they are described, might contribute to the supermarket chain’s belief that these frameworks do not possess any vital purpose nor can generate any necessary change in their operations. Different from the UNGPs, the SDGs do not possess specific guidance on how they should be implemented in business practices. As we have seen, corporations are thus free to interpret and generate meaning to this mechanism and state their compliance, though they have not

necessarily developed new sustainable operations. Thereby, there is a clear gap between the aims of the SDGs, which are to promote and develop new sustainable operations, and the actual implementation. The opportunity for the supermarket chains to apply these mechanisms within the BTL schema is thus greater for the UNGPs than it is for the SDGs. However, the argument is not that the consciousness of corporations should comply with the BTL schema as social dimensions and subjective meaning-generation can be neglected within this schema. Such neglect would contradict Pounds argument stating that law should reflect social demands. Rather, the way that the two UN mechanisms might have stood a chance to influence the business operations of the supermarket chains, would have been if these corporations in fact could comprehend how such an implementation would create value for them and thus be implemented in a way that was influential on their operations.

The third identified reason for the gap is due to an already existing hegemonic framework. Silbey stressed that it is difficult for new legal frameworks to influence a social sphere if a hegemonic legal framework is already dominating this sphere. This is in fact the case with the corporations' understanding and implementation of the BSCI. The three supermarket chains have developed their understanding of how to carry out responsible business conduct through the BSCI. Therefore, the UNGPs and the SDGs are either understood to exist within the same operations, though their frameworks are quite different from the BSCI.

The three corporations do in fact believe that they possess a responsibility to ensure respect for human rights in their business operations and wish to live up to such a responsibility. Their measures to meet this responsibility have been developed through the BSCI long before the UNGPs and the SDGs were introduced. Nevertheless, they acknowledge that they are not able to achieve respect for human rights to the extent they should and wish to through their membership of BSCI. Thereby, the three corporations recognize that a gap allowing human rights abuse to take place in their value chains is continuously present. However, they do not perceive the UNGPs nor the SDGs to be able to fill such a gap and therefore prefer to continue their business operations primarily through the BSCI, as they perceive this framework to be the best option to meet their responsibility. Rasche and Waddock (2021) argued in their study that a more fundamental transformation is required. I believe the three supermarket chains would agree.

6.2 Discussion

There seems to flourish an accumulative understanding that business enterprises hold a responsibility to ensure respect for human rights in their operations. Thereby, much research on this matter has emerged over the last decade. Such literature investigates structural reasons behind adverse human rights impacts caused by business operations and has for instance been executed by Davies (2020) and Howard and Forin (2019). This thesis recognizes that such knowledge is crucial to reflect upon and has therefore worked as background knowledge for this study. However, I have aimed to investigate a different perspective on the phenomenon of adverse human rights impacts in corporate value chains namely, two mechanisms, the UNGPs and the SDGs, that aim to close the gap where these human rights abuses take place. The gap that has been investigated in this study is thus different from the gap elucidated in much-existing literature. Existing literature investigates how come a gap flourishes in corporate value chains whereas this thesis has investigated how come there is a gap between mechanisms that aim to close that gap and the actual achievements of these mechanisms in business operations.

Fasterling and Demuijnck (2013) called upon future research that should aim to investigate actual practices concerning the implementation of corporate human rights due diligence. That is what this thesis has done, and these findings vary to a great extent from existing literature. Most scholars, such as McPhail and Adams (2016), Santoso (2017), and Fasterling and Demuijnck (2013) interpret the UNGPs to be the most robust regime in the field of business and human rights we have seen yet. This is far from the belief we have seen in the three supermarket chains. From the outside, I acknowledge that it seems as if the UNGPs receive large implementation and approval however, investigating the legal consciousness in these three cases, it is clear that the reality is quite different. Though these scholars interpret the UNGPs to be the most robust regime in the field of business and human rights, they equally acknowledge that we have yet to see significant change that originates from this mechanism. Rather than solely state such criticism, this thesis has investigated how come the UNGPs have not been able to provide such significant change.

Similar to existing literature, this study has found that the SDGs to a large extent have been implemented in business practices though to a limited extent when it comes to human rights. However, the reasoning behind these findings differs in this study from the reasoning in the existing literature. Contrary to the studies of Collins (2018), Jägers (2021), and Sinkovics

(2020), who argue that the implementation of the SDGs concerning human rights is limited, this study has found that such implementation in fact has occurred in the three corporations. Thereby, it is not the lack of implementation of the SDGs that causes limited change regarding respect for human rights but rather, the missing demands of how the SDGs should be interpreted and implemented to ensure respect for human rights.

Both UN mechanisms have been subjects of research though rarely in the same study. Investigating both these mechanisms; how they are interpreted, and further implemented in the three corporations, has provided a wider perspective of how mechanisms are able to fill the gap where human rights abuses take place. We have seen that neither the UNGPs nor the SDGs are able to ensure respect for human rights in the operations of the three supermarket chains. Thereby, as both of these mechanisms fail to accomplish what they aim to do, it is crucial to look beyond these mechanisms and here the socio-legal perspective becomes indispensable.

The discipline of Sociology of law has been described as a study of legal behaviour of human groups (Sutton, 2001, 8, cited in Banakar, 2015, 43). To go into depth with reasons behind the gap between the two UN mechanisms in the books and the two mechanisms in action, this study has applied Ewick and Silbey's theoretical concept of legal consciousness. Thereby, this thesis has investigated and described legal behaviour of the three supermarket chains which have provided new insights into how social behaviour and consciousness are crucial when investigating the effect, as well as lapse of effects, of legal mechanisms in practice. Furthermore, investigating these two UN mechanisms from a socio-legal perspective has developed a comprehension of structural challenges that these mechanisms encounter in business operations.

6.3. Future Research

We have yet to see a significant change in business practices that originates from the implementation of the UNGPs and the SDGs. As we have seen, even though these two UN mechanisms have in fact been implemented in business operations, there is a vital gap between their aims and what the mechanisms actually accomplish. The UNGPs and the SDGs are perceived by the three supermarket chains as voluntary, a “free ride”, and even unnecessary. The framework of the SDGs will end in 2030. However, the future looks quite different for the UNGPs. In February 2022, the European Commission adopted a proposal for a Directive concerning corporate sustainability due diligence (European Commission, 2022). When such a proposal is approved, it means that large corporations in the EU would have to conduct due diligence in a way that is similar to how it is described in the UNGPs. For future research, it could be investigated whether more rigid due diligence demands would in fact provide significant change when it comes to respecting human rights in business operations.

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8. Appendices

8.1 Informed Consent Form

Information regarding thesis

Globalization and the expansion of the corporate world have made it quite clear that states are not the only actors in a position to cause adverse impacts on human rights. In recent times we have witnessed a paradigm shift in the understanding of who possesses the responsibility to protect and respect human rights as business enterprises are increasingly recognized to hold human rights responsibilities. Such comprehension of corporate responsibility has been reflected within the implementation of the two UN initiatives namely, the UN Guiding Principles on Business and Human Rights (UNGPs) and the UN Sustainable Development Goals (SDGs). We are witnessing great faith in the UNGPs which are stated to potentially be able to entrench human rights within the business sector. In 2015, all member states of the United Nations adopted the 2030 agenda for sustainable development, referred to as the Sustainable Development Goals (SDGs). Though these goals initially were adopted by states, business enterprises equally have a key role to play as several of the SDGs explicitly require investments from the corporate world as well as generally responsible business conduct. Like the UNGPs, and perhaps to an even higher extent, the SDGs have been met with great faith and corporate implementation. As the UN Guiding Principles on Business and Human Rights have been identified to be the best possible mechanism to ensure respect for human rights, the SDGs are equally perceived by many to be the best hope for such a future. This thesis will investigate how the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals have been implemented by supermarket chains in Denmark, in order to ensure respect for human rights throughout their value chains.

I will therefore interview Danish supermarket chains. Further, the documents that form the basis of their CSR work will be analysed. The interview material will, provided that the interviewee agrees, be recorded, and then transcribed. No sensitive information that can be traced to individuals is transcribed. Audio and video files are deleted as soon as they have been transcribed. Further, I will refer to people who are interviewed by only stating their job title. All information that is given during the interviews is treated with confidentiality.

Participation in the study is voluntary and the participant can at any time, without special explanation, suspend their participation or withdraw their consent to participate. I will then delete all information that the participant has given.

All processing of the study material will take place in accordance with research ethics principles and in accordance with the Swedish Data Inspectorate's safety guidelines. The processing of the material will take place on Lund University's premises and only the project's participating researchers will have access to it.

For more information about the thesis and questions about how we process participants' data, contact the researcher: Sif Lundberg, Department of Sociology of Law, Lund University. E-mail address: si7420ni-s@lu.se

Consent form for interview participants

I have been informed about the research project regarding corporate implementation of the UN Guiding Principles on Business and Human Rights and the UN Sustainable Development Goals. I have understood my role as a participating interviewee and how the information I provide is processed by the responsible researcher. I agree to participate in the project as an interviewee and agree to how my informations are processed in the research project:

Signatur

Responsible researcher: Sif Lundberg

Signatur

Interview person

Contact

Email: si7420ni-s@lu.se Lund University Department: Sociology of Law

8.2 Interview Guide (Supermarket Chains)

Questions regarding the UN Guiding Principles on Business and Human Rights

- o How come did you decide to implement the UNGPs in your business operations? / What objectives do you have with such practice?
- o To what extent are you using the UNGPs to ensure responsible business conduct throughout your value chain?
- o How are you utilizing the UN Guiding Principles on Business and Human Rights in practice?
- o To what extent would you say that you comply with UNGPs?
- o Have you faced any challenges in implementing the UNGPs?
- o Have you obtained concrete results in implementing the UNGPs?

Questions regarding the UN Sustainable Development Goals

- o How come did you decide to implement the SDGs in your business operations? / What objectives do you have with such practice?
- o To what extent are you using the SDGs to ensure responsible business conduct throughout your value chain?
- o Which of the 17 goals have you included, and have you specifically excluded some – if so, why?
- o How are you utilizing the SDGs in practice?
- o Have you faced any challenges in implementing the SDGs?
- o Have you obtained concrete results in implementing the SDGs?

General Questions

- o Do you believe that the UNGPs and SDGs can complement each other in your business operations? If so, how? If no, why not?
- o There have been different exposures of bad working conditions behind some of the agricultural products (e.g., bananas, tomatoes, strawberries) that you are or have been selling in your supermarkets.
 - Have you considered the UNGPs and/or the SDGs to possess the capability to address and cope with such issues?
If so, how? If no, why not?
 - Have your implementation of the UNGPs and/or SDGs benefitted your coping with such matters in any way?
If so, can you give some examples?
 - Will you use the UNGPs and/or SDGs in the future to address such issues?
If so, how? If no, why not?

8.3 Interview Guide (Experts)

- How should corporations utilize the UNGPs to ensure respect for human rights throughout their value chains?
- How should corporations utilize the SDGs to ensure respect for human rights throughout their value chains?
- Can the implementation of both the UNGPs and the SDGs cause any conflicts? - Are the SDGs and UNGPs compatible in business operations?
- Have you witnessed any general challenges in the corporate implementation of the UNGPs and the SDGs?
- Have you witnessed any general achievements due to corporate implementation of the UNGPs and/or the SDGs?
- Do you believe that corporate implementation of one or both of the two mechanisms can in fact prevent human rights abuse in value chains?
- Are there other mechanisms that you identify as necessary to prevent human rights abuse in value chains?

8.4 Documents Table

Coop Denmark Documents

Name of Document	Available at
2013 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1397/2013-ansvarlighed.pdf
2014 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1398/2014-ansvarlighed.pdf
2015 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1399/2015-ansvarlighed.pdf
2016 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1400/2016-ansvarlighed.pdf
2017 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1403/aarsrapport-2017.pdf
2018 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1401/2018-ansvarlighed.pdf
2019 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1402/2019-ansvarlighed.pdf
2020 – Ansvarlighedsrapport	https://tidtilathandle.coop.dk/media/1411/coop_amba_ar20_csr.pdf
FN's Verdensmål – en fælles indsats mod en bedre verden	https://tidtilathandle.coop.dk/vores-tilgang/fns-verdensmaal-i-coop/
The Coop Group's Code of Conduct	https://om.coop.dk/Upload/om.coop.dk/The%20Coop%20Group%20Code%20of%20Conduct%20July%202017.pdf

Dagrofa Documents

Name of Document	Available at
Dagrofa CSR-rapport 2018	https://www.dagrofa.dk/wp-content/uploads/CSR-rapport-2018_web.pdf
Dagrofa CSR-rapport 2019	https://www.dagrofa.dk/wp-content/uploads/280249_CSR_rapport_2019_WEB.pdf
Dagrofa CSR-rapport 2020	https://www.dagrofa.dk/wp-content/uploads/Dagrofa_CSR_Rapport_2020_WEB.pdf
United Nordic's Code of Conduct	https://unil.no/globalassets/vedlegg/krav-og-retningslinjer/appendix-4---united-nordic-code-of-conduct-210325.pdf
Dagrofa Årsrapport 2017	https://www.dagrofa.dk/wp-content/uploads/Dagrofa-Årsrapport_2017_layout20_enkelside.pdf
Dagrofa Årsrapport 2021	https://www.dagrofa.dk/wp-content/uploads/DAGROFA_AaRSRPPORT_2021_LAYOUT_ENKELTSIDET.pdf

Salling Group Documents

Name of Document	Available at
Dansk Supermarked A/S	https://storage.sallinggroup.com/media/2032/csr-report-2013.pdf
CSR Report 2014	https://storage.sallinggroup.com/media/2033/csr-report-2014.pdf
CSR Report 2015	https://storage.sallinggroup.com/media/2034/csr-report-2015.pdf
CSR Report 2016	https://storage.sallinggroup.com/media/2035/csr-report-2016.pdf
CSR Report 2017	https://storage.sallinggroup.com/media/2036/csr-report-2017.pdf
CSR Report 2018	ps://storage.sallinggroup.com/media/2166/csr-report-2018-final.pdf
CSR Report 2019	https://viewer.ipaper.io/salling-group/csr/uk-csr-rapport-2019/
CSR Report 2020	https://projectsunshinedev.blob.core.windows.net/media/1058/csr_uk_salling-group_2020_final.pdf
Salling Group Responsible Procurement Policy	https://storage.sallinggroup.com/media/2138/salling-group-responsible-procurement-policy_web.pdf
Terms of Implementation for Business Partners	https://storage.sallinggroup.com/media/1992/amfori-bsci-terms-of-implementation-for-business-partners_oct-2018.pdf
Amfori BSCI Code of Conduct	https://storage.sallinggroup.com/media/1990/amfori-bsci-code-of-conduct_oct-2018.pdf