



# “Comply or Die”

## Sustainable Business Conduct

*Implementing Human Rights Due diligence the case  
study of Global Energy Company – Ørsted*

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# Abstract

Social sustainability is of growing concern for global businesses as EU legislation CSRD, entered into force January 2024. The legislation requires businesses and enterprises to report on their social sustainability impacts. United Nations Guiding Principles on Business & Human Rights (UNGPs) is the framework where human rights due diligence is explicitly described as an important tool for identifying businesses impacts on human rights. Most companies do not conduct human rights due diligence (HRDD) in own operations, although most often refers to UNGPs when reporting on their social sustainability efforts. This thesis seeks out to answer the following questions: What challenges are there to implement human rights due diligence for businesses? Can human rights due diligence create blue washing for companies? Is there an incentive for companies to adhere to Business & Human Rights obligations, and are we missing the core issue?

To answer these questions, Global Energy company – Ørsted is studied as an example by interviewing Ørsted Senior Sustainability Manager and analysing four corporate documents such as reports and policies. By applying a mixed method, this thesis aims for a holistic approach by conducting semi-structured interview, content analysis and discourse analysis, through the lens of responsibility required by human rights due diligence and grounded normative business theory. This study shows that companies may experience a variety of challenges when implementing HRDD.

Keywords: Due diligence, HRDD, Business & Human Rights, Responsibility, Sustainability, UNGPs, Ørsted.

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Most of all I want to thank my family, especially my children. Thank you for enduring when I was there but maybe not as present as I would have preferred.

# List of Abbreviations

BHR	Business & Human Rights
BP	Business Partners
BR	Business Relationships
CoC	Code of Conduct
CoCBP	Code of Conduct for Business Partners
CSDDD	Corporate Sustainability Due Diligence Directive
CSRD	Corporate Sustainability Reporting Directive
DD	Due Diligence
DE&I	Diversity, Equity & Inclusion
EU	European Union
HRDD	Human Rights Due diligence
MDGs	Millennium Development Goals
OECD	Organisation for Economic Cooperation and Development
SDGs	Sustainable Development Goals
SSM	Senior Sustainability Manager at Ørsted
UNGPs	United Nations Guiding Principles on Business & Human Rights

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# 1 Introduction

Responsible business conduct and sustainability is centre of attention, with prominent focus on social impacts with human rights due diligence (HRDD) at its core. When talking about states responsibility to protect human rights and businesses responsibility to respect human rights HRDD is the key concept to “narrow the governance gap”.<sup>1</sup> HRDD has often been criticised as creating a false narrative that the sustainability efforts businesses do is only blue washing.<sup>2</sup> Experts working in the field of Business and Human Rights hopes that the new EU-directives Corporate Sustainability Reporting Directive (CSRD) and Corporate Sustainability Due Diligence Directive (CSDDD) will be the instruments to help closing the gap. In general terms due diligence can be described as acting with ‘proper attentiveness’, it should be incorporated in businesses entire organisation, and it should be used as an operational instrument as part of their risk management. By studying Global Energy Company – Ørsted, analysing their commitments, policy documents, Sustainability report & by conducting an interview with their Senior Sustainability Manager, this study aims to highlight what difficulties and challenges can arise when implementing human rights due diligence in own operations.

## 1.1 Statement of purpose and research question

This is a study about implementing HRDD in corporations or enterprises, using Global Energy Company – Ørsted as an example of how they work with social sustainability to identify issues and challenges with HRDD. This will be examined by analysing their Sustainability Report, Human Rights Policy, Code of Conduct for Business Partners, Global Labour and Employment Rights Policy, and by interviewing the Senior Sustainability Manager, - who is also Head of Responsible Business Partner Programme and Human Rights at Ørsted (further on only mentioned as SSM).

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<sup>1</sup> John G. Ruggie, *Just business - Multinational Corporations and Human Rights*, 1 ed, WW Norton & Co, United States of America, 2013, p.118.

<sup>2</sup> Berliner Daniel & Prakash Aseem, “*Bluwashing” the Firm? Voluntary Regulations, Program Design, and Member Compliance with the United Nations Global Compact*, Policy Stud J, 43: 115-138. <https://doi.org/10.1111/psj.12085>, 2015, p.121.

The purpose of this thesis is to contribute with understanding on what challenges a company might face when implementing HRDD in own operations and what misconceptions might arise, as well as bringing awareness to how the responsibility can consist of several perspectives and stakeholders.

The questions that this research aims to answer is:

- a) What challenges are there to implement human rights due diligence for businesses?
- b) Can human rights due diligence create blue washing for companies?
- c) Is there an incentive for companies to adhere to Business & Human Rights obligations?
- d) Are we missing the core issue?

## 1.2 Disposition

To introduce the reader to the field of Business and Human rights this study will start off with presenting what considerations and choices have been made when conducting this research. A brief introduction with purpose and research questions have been presented, how this thesis will unfold will be further introduced in this following section. Initially ethical considerations as well as my reflections on my position as a researcher is presented to dilute any speculation on what perspectives are embraced, to be followed by an explanation of why I chose Ørsted as the company to study.

Human Rights Due Diligence is the key concept that this thesis is built on which will be described properly before the contextual background is narrated which includes a presentation of the guidelines that work as the framework for companies when working with social sustainability. To present the general discourse in the field, previous research provides the reader with some critical concerns often voiced when talking about HRDD. Before indulging in the exciting sections investigation and findings, - theory, method and methodology is described, that will lay the foundation for the analysis where I shine the light on the interview and let it gain ground. A discussion with thoughts that have surfaced based on the study will follow before concluding what answers this study has found to the questions being posed.



## 1.3 Ethical Considerations

When conducting research, it is a must to take serious ethical questions into consideration, especially when people are part of the research.<sup>3</sup> To understand power dynamics, it is important that researcher's study-up which this study intends to do by studying a Global Energy Company.<sup>4</sup> For this thesis one important aspect is to do no harm. As a researcher the way data is obtained, by whom it is obtained from, and in what manner it will be handled are all important factors.<sup>5</sup> All the reports, Code of Conduct (CoC), and policies is public information that anyone can access through the company's webpage, these documents are still handled with the same care and intention – to do no harm. However, the question then becomes another, when and what in this study could mean harm and to whom? The analysis might end up with a result that won't be appreciated by the company, should that then be considered as doing harm? Arguably the result might not be one that the company agrees with, being a global energy company, it is of importance that we can investigate their actions because of the risk of harm they can cause societies, employees or affiliated.<sup>6</sup>

Concern regarding treatment of informants to ensure they do not get exploited, how to respect their autonomy and how to preserve their privacy are all important factors before conducting research.<sup>7</sup> For this thesis an interview was conducted with company representative, their participation could potentially do harm by adventure employment or damage the company's reputation.<sup>8</sup> Considering the harm that could potentially occur is assessed to be fairly slim, moreover the informant have been properly informed of the purpose of the study, has given written consent to participate and is judged to be in a position that they can freely give consent.<sup>9</sup>

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<sup>3</sup> Leavy, Patricia (2020): Introduction, *The Oxford Handbook on Qualitative Methods*. Oxford University Press, Oxford, p.7.

<sup>4</sup> Nader, Laura (1974) *Up the Anthropologist – Perspectives gained from Studying up*. In Dell Hymes (ed) *Reinventing Anthropology*, New York, Vintage Books, pp. 284-311, 1974.

<sup>5</sup> Ulrich, George (2017): Research ethics for human rights researchers. In *Research methods in human rights: a handbook* (eds. Andreassen, Bård-Anders, Sano, H.-O. & McInerney-Lankford, Siobhán). Cheltenham, UK: Edward Elgar Publishing, pp.196–197.

<sup>6</sup> Nader, pp.284-311.

<sup>7</sup> Traianou, Anna (2020) The Centrality of Ethics in Qualitative Research. In *The Oxford Handbook on Qualitative Methods* (ed. Leavy, Patricia) Oxford University Press, Oxford, p.98.

<sup>8</sup> Ibid, p.87.

<sup>9</sup> Ibid, p.90.

The SSM that was interviewed, have been offered to revise or further explain quotes from the interview that have been published in this thesis. This gives both parties the possibility to correct any misunderstandings, which in return could result in misleading analysis of data. However, this does not entail changes or leaving out data that I reckon important for my analysis.

## 1.4 My Position as a Researcher

To understand my pre-theoretical commitment as a researcher there are several layers which intersects and lays the foundation for this thesis.<sup>10</sup> Studying human rights, working experience from retail and my work with a sustainable business consultancy firm, have me both questioning business conduct as well as being aware that there is a huge lack of knowledge in the field. Even from practitioners who are supposed to be the experts. I am also aware that there are companies that make sustainability part of their strategic objective, to contribute to a positive matter in an area that matches their values and business purpose, it becomes an integral part of their business model. As much as I am aware of my position conducting this study, I want to argue that this gives me an interdisciplinary advantage to analyse the complexity at hand.

## 1.5 Primary and Secondary Material

My primary material consists of Ørsted's Sustainability Report, Human Rights Policy, Code of Conduct for Business Partners, Global Labour and Employment Rights Policy, and an interview with Ørsted SSM. The reports and policies were chosen carefully and could all be accessed through Ørsted webpage. In section 1.7, HRDD as described in United Nations Guiding Principles on Business and Human Rights (UNGPs), is thoroughly explained. If Ørsted have implemented HRDD, that should be evident in the previously mentioned documents, hence, the importance of a closer examination. The interview with the SSM will provide a wider, in depth understanding on difficulties, challenges, advantages, or other issues that won't be presented or addressed in a business report or policy commitment. It provides a holistic view of what HRDD requires on paper,

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<sup>10</sup> Moore, Henrietta (2004) 'Global Anxieties: Concept-Metaphors and Pre-Theoretical Commitments in Anthropology.' *Anthropological Theory*; 4(1), p. 74.

and what shape does it take being used in operational management. Most companies have an advanced implemented strategy on their environmental impacts, and it makes the most sense for an energy company to have one in place as well. That is why it is of far more interest to study how they handle their social impacts.

Secondary Source Material was selected based on mentions of Human Rights Due diligence, Responsible Business Conduct, UNGPs, Impact Assessment, Sustainability and Supply- / Value chains.

A combination of books, journals, reports, and a quantity of web sources was chosen to detect and trace how the field discourse is produced.

### 1.5.1 Evaluation of Source Material

The interview gives this thesis great value by ‘filling in the blanks’ and highlighting many interesting and important issues with implementation of HRDD in business. It also serves the purpose of hearing out the businesses themselves, who are the ones being put under the loupe while working with the growing international demands. Majority of the articles I found are very critical about HRDD and perceives it as being only ‘image building’ and a way of blue washing for companies. The literature I found that lifts the question of HRDD from a business perspective, describes a capitalist system of stakeholders such as shareholders, who are being the ones that control business development, by wanting to gain as much shares as possible without consideration of the social aspects their business conduct have. At the same time there is a great amount of critic that businesses are not doing enough to secure a sustainable business conduct or that HRDD is not enough.

## 1.6 Why Ørsted?

Ørsted is a global energy company with its headquarters in Copenhagen – Denmark, with approximately 8900 employees. Their vision is to create a world that runs exclusively on green energy. They develop, build, and operates both off- and onshore windfarms, bioenergy, and solar cells. They also facilitate energy storage as well as production of renewable hydrogen and green fuel. Ørsted was recognized for its globally leading efforts against climate change which secured them a place on the environmental non-profit

organisation CDP A-list.

Ørsted was the first energy company in the world to have its science-based target of net zero emissions approved by the Science Based Targets initiative (SBTi).<sup>11</sup>

The reason for why Ørsted makes an interesting company to study is for instance the fact that they have been committed to human rights and social sustainability long before it became a legal requirement to report on these subjects. Ørsted sees a clear connection between climate change and how that is a threat to human rights.<sup>12</sup> In January 2024 Ørsted was ranked number 17 most sustainable corporation in the world by Corporate Knights.<sup>13</sup> The list published by Corporate Knights include a variety of sectors, - I acknowledge that there are several benchmarks to measure corporations on their sustainability efforts, however, the cross-sector evaluation is based on 25 metrics, "It applies different weighting to certain metrics given the nature of the sector."<sup>14</sup> The companies represented in The Global 100, generally score better on ESG metrics than its competitors.<sup>15</sup>

The timing of this study is rather interesting, current negotiations about the CSDDD, which refers to making HRDD part of sustainability efforts by legal compliance, is greatly supported by Ørsted, hence, to study their implementation of HRDD is even more intriguing. Although, it is important to highlight that this is not a study of how well Ørsted is performing. Ørsted provides this study with their perspective on how implementing HRDD have been for their company – which can contribute to understanding in a very confused field.

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<sup>11</sup> <https://orsted.dk/om-orsted>, accessed:2024.03.27.

<sup>12</sup> Ørsted Global Human Rights Policy, 2023, p.1.

<sup>13</sup> <https://www.corporateknights.com/rankings/global-100-rankings/2024-global-100-rankings/the-20th-annual-global-100/>, accessed:2024.03.22.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

## 1.7 Key concept – Human Rights Due Diligence

When Ruggie developed Human Rights Due Diligence (HRDD) he looked to the sectors that already had a due diligence process incorporated e.g., in merger and acquisitions to ensure no hidden risks and to manage risk that could harm both the company and its stakeholders.<sup>16</sup> HRDD was further introduced for companies to “identify, prevent, mitigate, and address adverse impacts on human rights”, aiming for companies to address their *responsibility* to respect human rights. Going beyond managing material risks for the company only, also managing the risks that companies’ activities and BR pose to affected rightsholders and communities.<sup>17</sup> HRDD consists of both elements of hard- and soft due diligence since different rights and adverse impacts on human rights can be measured both quantitatively and/or qualitatively.

For this thesis *human rights due diligence* will be in focus, which aspire to help businesses or enterprises to “know and show” that they respect human rights in and throughout their operations and must be continuous efforts by the company. Businesses and enterprises that say that they are applying international guidelines as stated in the UNGPs and OECD, should then conduct HRDD which means that all human rights should be part of their risk evaluation as well as potential or actual risks in own operations, including their supply- and value chain.

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<sup>16</sup> Ruggie, 2013, p.98.

<sup>17</sup> Ibid.

## 2 Background Responsible Business

### Conduct

At World Economic Forum in Davos 1999, Kofi Annan initiated a global pact for countries to come together “[...] to give the global market a human face”<sup>18</sup>, *Global Compact* was born. The purpose of Global Compact was, and still is today, that business conduct is done responsibly, that it will have an actual positive impact, while at the same time yield beneficial business<sup>19</sup>. The idea has attracted a lot of actors. Today Global Compact has more than 24 000 members spread over 167 countries representing nearly every sector.<sup>20</sup>

In year 2000 UN focused on the Millennium Development Goals (MDGs), the goals were set high and supposed to be fulfilled by 2015. Aiming to eradicating extreme hunger and poverty, ensuring universal primary education, gender equality and to empower women. MDGs was a big failure and new and more ambitious goals where set for Agenda 2030, the Sustainability Development Goals (SDGs). Businesses have taken the SDGs to heart and a lot of companies are promoting the SDGs in their policy commitments and their Sustainability Reports, - this might have to do with Global Compact emphasizing the importance of the goals of the SDGs to its members. The goals in the SDGs are idealistic and “aims to transform our world”<sup>21</sup>, however, they are not directed towards businesses, they are directed towards states - being the ones obliged to protect and promote human rights. Hence, businesses that have included the SDGs in their Sustainable business conduct – have set their sustainable business strategy up for failure, since we already know that the SDG goals will not be fulfilled by year 2030. However, it sends a signal about what transformation human rights aim to accomplish, but it is unclear to whom do they direct its actions.

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<sup>18</sup> <https://fn.se/wp-content/uploads/2016/08/Faktablad-2-16-N%C3%A4ringslivet-och-global-utveckling.pdf>, accessed:2024-01-22

<sup>19</sup> Ibid.

<sup>20</sup> <https://unglobalcompact.org/>, accessed:2024.05.05

<sup>21</sup> [https://www.who.int/europe/about-us/our-work/sustainable-development-goals#:~:text=The%20Sustainable%20Development%20Goals%20\(SDGs.enjoy%20health%2C%20justice%20and%20prosperity](https://www.who.int/europe/about-us/our-work/sustainable-development-goals#:~:text=The%20Sustainable%20Development%20Goals%20(SDGs.enjoy%20health%2C%20justice%20and%20prosperity), accessed:2024-01-22

## 2.1 Due diligence

Due diligence terminology originates from law and finance sector. The term due diligence (DD) became a common practice in United States due to *Securities Act of 1933*, the law entailed brokers responsibility to disclose material information of what they were selling, if they failed to do so, brokers and dealers risked legal liability.<sup>22</sup> This helps with creating transparency and an obligation to give adequate information about details needed in order to make a fair decision. If information about issues will surface, brokers won't be liable if they can show they conducted proper DD.

There is numerous context-specific DD e.g., legal, financial, tax, commercial, they all have in common that the due diligence process is aimed at the core business. Legal DD can be that all legal requirements and compliance is in order, for financial it will be that financial statements and books are solid and so on.<sup>23</sup> In general DD-terminology, there is a difference between if the DD will provide quantitative or qualitative results. Hard due diligence is directed towards numbers, data, financial position or alike. Soft due diligence aims to look at business success that numbers cannot catch, it examines management, people within the company, corporate culture and much more.<sup>24</sup>

## 2.2 Guidelines

This section introduces the two guideline's that are applied and referenced to in the field of business and human rights the most. UNGPs is the guideline that the coming EU-Directive CSDDD is based on, hence, to understand the content of them are foundational. UNGPs where developed on the issues of human rights and transnational corporations and other business enterprises. UNGPs are built on three pillars, the "protect, respect and remedy" framework<sup>25</sup>.

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<sup>22</sup><https://www.investopedia.com/terms/d/duediligence.asp#:~:text=Due%20diligence%20is%20an%20investigation,proposed%20transaction%20with%20another%20party>, accessed:2024.02.16.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> UN Guiding Principles on Business & Human Rights (UNGPs).

Each pillar identifies and defines actions for businesses as well as governments, the first pillar is the state duty to protect human rights, the second pillar is the corporate responsibility to respect human rights and the third pillar is to give access to remedy. OECD Guidelines has a bigger focus on economic sustainability and have adopted the wording from UNGPs 1:1 in the human rights section of the guidelines. By applying these guidelines when conducting DD you will cover all three bottom lines of ESG (Environmental, Social and Governance).

## 2.2.1 UNGPs

### State Obligations

States are obliged to protect human rights and that entails various actions, such as preventing, investigate, punish, and redress private actors abuse – States should take measures to legislate and regulate and set out clear expectations within their jurisdiction which makes it transparent for businesses to respect human rights.<sup>26</sup> The UNGPs framework urges States to use what is called “smart mix”<sup>27</sup> of legislation both nationally and internationally. There has been miscellaneous conception of what is required by whom when it comes to actions for promoting human rights and if what is stated in UNGPs are ‘soft’ or ‘hard’ law. Rachel Davis, senior legal advisor to former UN Special Representative John Ruggie, argue that the “smart mix” is a mandatory measure for States. “A SMART MIX is exactly that – the right combination of mandatory, voluntary, national and international measures that is needed to effectively foster business respect for human rights in a particular context.”<sup>28</sup> States duty to protect human right should also include a monitoring and accountability mechanism, offer advice when a business operates in conflict areas or where there might be a heightened risk of gross human rights abuses with intention to do no harm should prevail.<sup>29</sup>

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<sup>26</sup> Ibid, pp.4-5.

<sup>27</sup> Ibid, p.5.

<sup>28</sup> <https://shiftproject.org/beyond-voluntary-what-it-means-for-states-to-play-an-active-role-in-fostering-business-respect-for-human-rights/>, accessed:2024.02.06.

<sup>29</sup> UN Guiding Principles on Business & Human Rights (UNGPs), pp.8-10.



## Business Responsibility

“The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights.”<sup>30</sup> This opening statement clarifies that businesses should aim for ‘best practice’ in business conduct and the UNGPs continues to argue that the expected minimum to assess against, are the international recognized human rights, based on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,<sup>31</sup> expressed in the International Bill of human rights and the International Labour Organisation’s Declaration on Fundamental Principles and Rights at Work.<sup>32</sup>

All human rights should be subject for recurring assessment, this is of importance because the risk will vary based on context and industry. For businesses to respect human rights they need to avoid causing or contributing to adverse human rights impacts in their own operations, prevent, and mitigate adverse human rights impacts that are linked to their own operations, products, and services by their business relationship (BR), even if they have not been in direct contribution to their BR adverse impacts.<sup>33</sup>

Businesses responsibility to respect human rights applies to any and every company no matter the size, it applies to all business enterprises equally. Small and medium-sized enterprises (SMEs) might not have the same capacity or management structures, but they will still have adverse impacts on human rights which means that their due diligence might take a different form.<sup>34</sup> This is a paradigm shift from the former discourse of NGOs “naming and shaming” to businesses instead taking accountability and being transparent by focusing on “knowing and showing”.<sup>35</sup>

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<sup>30</sup> Ibid, p.13.

<sup>31</sup> ICCPR & ICESCR

<sup>32</sup> Ibid, p.14, ILO Declaration on Fundamental Principles and Rights at Work.

<sup>33</sup> Ibid.

<sup>34</sup> UN Guiding Principles on Business & Human Rights (UNGPs), p.15.

<sup>35</sup> John. G. Ruggie, “Just business - Multinational Corporations and Human Rights”, 1 ed, (2013), United States of America, ISBN:978-0-393-93797-8, p.113.

Businesses need to communicate their commitment by a policy statement,<sup>36</sup> the policy commitment should be publicly available and depending on the complexity of the company, the content of the policy commitment should be reviewed by a third party with expertise in the area to ensure adequacy.<sup>37</sup>

UNGPs - Principle 17, describes how businesses should conduct human rights due diligence:

“The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.”<sup>38</sup>

HRDD should be part of businesses operations, preferably from the initial phase of a new project or investment, or when bigger changes will be done in the organisation to appropriately assess what risks may come to surface. Businesses need to take measures and make it stop and if they do not have the leverage, they need to either build it or live with the consequences of being linked to a company who have adverse impacts on human rights.<sup>39</sup>

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<sup>36</sup> UN Guiding Principles on Business & Human Rights (UNGPs), p.16.

<sup>37</sup> UN Guiding Principles on Business & Human Rights (UNGPs), p.17.

<sup>38</sup> Ibid, pp.17-18.

<sup>39</sup> Ibid, p.22.

The last component in the UNGPs framework is to give access to remedy and that could be everything from an apology to financial or non-financial compensation and it can also be punitive sanction, rehabilitation and should be with an intention that the adverse impact will not repeat itself. One would think that it goes without saying but the “procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome”.<sup>40</sup> In order for companies to be able to give access to remedy they should have a grievance mechanism in place which should not get confused with a Whistle-blower mechanism. A grievance mechanism is for companies to preferably catch any issues before they become an issue.

### 2.2.2 OECD Guidelines

The OECD Guidelines for Multinational Enterprises (OECD) consists of 38 member states (also known as the ‘rich countries club’ - as the member states represent approximately 80 % of world trade and investments).<sup>41</sup> The guidelines are legally non-binding and set out principles and standards for what responsible business conduct for multinational corporations should amount to. The OECD updated its guidelines on the section of human rights to reflect the UNGPs 1:1, where a new comprehensive approach to HRDD and responsible supply chain management was adopted in year 2011.<sup>42</sup>

The purpose of the OECD is to strengthen the cooperation between governments and enterprises, to improve the climate of foreign investments to build a sustainable global economy. With growing multinational enterprises and a lot of SMEs<sup>43</sup> also investing internationally, there is a much wider playing field for companies. With that comes a much more competitive field, which could lead to temptation for companies to cut corners and neglect principles and standards to gain competitive advantage and this in return will undermine businesses responsibility to respect human rights.<sup>44</sup>

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<sup>40</sup> Ibid, p.27.

<sup>41</sup> <https://www.oecd.org/about/members-and-partners/>, accessed:2024-02-07.

<sup>42</sup> The OECD Guidelines for Multinational Enterprises, 2011, p.3.

<sup>43</sup> Small and Medium Enterprises.

<sup>44</sup> Ibid, pp.14-15.

### 3 Previous Research

Sustainability almost seems to be synonymous with environmental issues, lately a larger focus has been put on social sustainability and its effect it has on people. For businesses to understand the impact they have on their employees, BR, communities, they must conduct HRDD. A lot of articles are focused on semantics and confusing terminology and gives a critical perspective on HRDD and if it has any real effect. Not that much is written on how we are supposed to work with due diligence or what benefits it have. Since year 2011 when the UNGPs became the baseline for proper business conduct and HRDD the tool for adequate risk assessments and mitigation of potential or actual operational impacts - plentiful articles are arguing that HRDD is not sufficient or even setting the bar to low, they question if it brings any added value.<sup>45</sup>

Global developments and free market have made it easy for enterprises to expand their supply chains and businesses have a vast amount of power over the peoples who work for them and the communities they are active in.<sup>46</sup> States are dependent on businesses within their territory to e.g., assure greater tax-incomes, especially if they do not have any natural resources to secure the state's financial independence, which can lead to states not being as assertive in implementing laws that will require responsible business conduct. Furthermore, some countries are dependent on certain companies, since they can be important actors in upholding the country's GDP, in return we can imagine how these companies play an integral role in shaping the political landscape in those countries. Nevertheless, businesses cannot hide behind them being active within a state where the protection of human rights are not prioritized, businesses have their own responsibilities,<sup>47</sup> and they are built on respecting human rights whilst implementing DD as part of their management system, wherever they operate.<sup>48</sup>

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<sup>45</sup> Radu Mares, "Human Rights Due Diligence and the Root Causes of Harm in Business Operation," *Northeastern University Law Review* 10, no. 1 (2018), p.5.

<sup>46</sup> Geoffrey Chandler in Sullivan, R., & Robinson, M. (Eds.). (2003). *Business and Human Rights: Dilemmas and Solutions* (1st ed.). Routledge, p.22, <https://doi-org.ludwig.lub.lu.se/10.4324/9781351281287>.

<sup>47</sup> John Ruggie, *Just Business: Multinational Corporations and Human Rights*, WW Norton & Co, United States of America, (2013), p.55.

<sup>48</sup> UNGA 'Working Group on the issue of human rights and transnational corporations and other business enterprises, Note by the Secretary-General' (16 July 2018) UN Doc A/73/163 para 2.

EU is being described as the driving force in developing the field of BHR and Cernic argues that the focus on socio-economic development is based on sustainability, green economy, and digitalization, which suggests that businesses will have to subscribe to non-financial indicators,<sup>49</sup> hence the importance of HRDD.

Short-term earnings and maximizing the earnings of shareholders is a common praxis which Choudhury means have become a bulletproof expectation of what corporations' missions are. The focus on financialization leads to businesses only focusing on their economic impacts by the liability represented in corporate law.<sup>50</sup> Marianne Leit argue that the neo-liberal ideology promotes privatisation and limited interventions from the government and that UNGPs aims to fix the neoliberal order, and this might create a clash.<sup>51</sup> Leit goes on with explaining that Ruggie tried to instrumentalising human rights but because of it being non-legally binding, the free market have financial profit triumphing over human rights and social stability.<sup>52</sup> Leit addresses the need to rethink Tax-systems, to deal with both private debt as well as sovereign debt crisis and to handle the global tax abuse by large corporations.<sup>53</sup>

With HRDD initiatives, critique regarding downstream HRDD has risen, Hogan & Reyes argues that by failing to conduct HRDD downstream could lead to legal liability, losing customers and giving the company a bad reputation. That could lead to the company not being able to enter new markets, jeopardising their social license to operate.<sup>54</sup> This might be why so many companies lean on third parties to conduct social audits, afraid they will fail with their HRDD. Social audits are a way for companies to have a third-party assess if their BR comply with human rights and labour law and some corporations use audits

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<sup>49</sup> Cernej Letnar Cernic, "The Human Rights Due Diligence Standard-Setting in the European Union: Bridging the Gap between Ambition and Reality," *Global Business Law Review* 10, no. 1 (2022), p.6.

<sup>50</sup> Barnali Choudhury, "Corporate Law's Threat to Human Rights: Why Human Rights Due Diligence Might Not Be Enough", *Business and Human Rights Journal* (2023), 8, 180–196  
doi:10.1017/bhj.2023.29, pp.183-184.

<sup>51</sup> Marianna Leite, "Beyond Buzzwords: Mandatory Human Rights Due Diligence and a Rights-Based Approach to Business Models", *Business and Human Rights Journal* (2023), 8, 197–212  
doi:10.1017/bhj.2023.11, p.201.

<sup>52</sup> *Ibid*, pp.201-202.

<sup>53</sup> *Ibid*, p.211.

<sup>54</sup> Hogan F. Ben & Reyes Joanna, *Downstream Human Rights Due Diligence: Informing Debate Through Insights from Business Practice*, *Business and Human Rights Journal*, 8: (2023), p 435.

as an extension of their HRDD. An audit typically consists of a physical investigation of facilities, if possible, conducting interviews with both management and employees as well as examining their documentation. In the case of Rana Plaza, the audits had certified the workplace as compliant prior to the fire. Even after the accident, businesses continued to engage in exploitative relationships with these suppliers, all with the financial interest at focus.<sup>55</sup> The last two decades have provided enough evidence that the audits fail to detect significant abuse to labour- and human rights, nor is there little to no evidence that audits have led to improvements in any social issues. The audit only provides a “snapshot” of work conditions, it does not show how the organisation function day-to-day.<sup>56</sup>

## 4 Theory and Method

This section will clarify what theories and methods will be used for analysing the data for this thesis. Including a section on methodology, which describes how the research is conducted.

### 4.1 Theory

To serve the purpose of this research, the first section of the theory expresses layers of HRDD from a couple of foundational perspectives, being how compliance will take form by legislation, what are we trying to achieve with HRDD and how can this be developed and carried forward. Since the field is a combination of business & human rights, adding an additional theoretical lens, the second section will describe normative theory for businesses which aims to offer a comprehensive approach.

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<sup>55</sup> Barnali Choudhury, “Corporate Law’s Threat to Human Rights: Why Human Rights Due Diligence Might Not Be Enough”, *Business and Human Rights Journal* (2023), 8, 180–196  
doi:10.1017/bhj.2023.29, p.189.

<sup>56</sup>Nolan J, “Chasing the next shiny thing: Can human rights due diligence effectively address labour exploitation in global fashion supply chains? *International Journal for Crime, Justice and Social Democracy* (2022). 11(2): 1-14. <https://doi.org/10.5204/ijcjsd.2398>, pp.6-7.

### 4.1.1 Social Sustainability through HRDD

Legislation about DD has been adopted by a couple of countries, making it clear that DD is an integral part of responsible business conduct by implementation in national legislation.<sup>57</sup> Tired of waiting on EU legislation to be materialised, these countries have taken the important step in the right direction - for responsible business conduct: Norway (*Åpenhetsloven*),<sup>58</sup> Germany (*Lieferkettensorgfaltspflichtengesetz*),<sup>59</sup> and France (*Loi de vigilance*).<sup>60</sup> There are other countries who have tried to also implement national legislation with connections to due diligence, somehow, they lost the purpose and focus on one human right only – Forced labour (Modern Slavery Act<sup>61</sup>, adopted by many commonwealth countries, Canada, UK, et al.).

As I am writing this thesis, there has been somewhat of a storm around EU Directive CSDDD, the purpose of the directive is to establish a level playing field for companies to contribute to a fair global market. The ambition is that companies, by conducting their HRDD in own operations and value chain, will identify, prevent, mitigate, act, and report, on adverse environmental and human rights impacts they are responsible for.<sup>62</sup> Experts working with BHR and sustainability, is asking for transparency in the market where businesses take responsibility. The CSDDD proposal is now more or less watered down to nothing, since the scope have been significantly narrowed,<sup>63</sup> however, this directive is important because it amounts to that the UNGPs will be codified in EU law.

The added layer of compliance puts pressure on companies to start conducting HRDD, it will be interesting to study if there are signs of the legislative landscape in Ørsted's commitment when working with social sustainability.

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<sup>57</sup> Deva S, Ramasastry A, Wettstein F, *Beyond Human Rights Due Diligence: What Else Do We Need?*, Business and Human Rights Journal, 2023;8(2):133-134. doi:10.1017/bhj.2023.33, p. 133.

<sup>58</sup> <https://www.regjeringen.no/no/tema/forbruker/apenhetsloven/id2947848/>

<sup>59</sup> [https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger\\_BGBl&jumpTo=bgbl121s2959.pdf#\\_bgbl\\_%2F%2F\\*%5B%40attr\\_id%3D%27bgbl121s2959.pdf%27%5D\\_1695115362732](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl121s2959.pdf#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl121s2959.pdf%27%5D_1695115362732)

<sup>60</sup> <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/>

<sup>61</sup> <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

<sup>62</sup> UN Guiding Principles on Business & Human Rights (UNGPs), Principle 17.

<sup>63</sup> <https://www.esgtoday.com/watered-down-supply-chain-sustainability-due-diligence-law-passes-first-hurdle-in-eu-parliament/>, accessed: 2024.03.20

Barnali Choudhury argues that while some states are ratifying mandatory HRDD laws, businesses corporate responsibility to not harm human rights as developed in the UNGPs, states can put a spin on how they address the problems in BHR without addressing the core issue.<sup>64</sup> Justine Nolan agrees with Choudhury and voice the reluctance from states to make businesses comply with legally binding standards that have real substance.<sup>65</sup> Choudhury continues with why the root cause is not being addressed “This is because the root cause of many BHR problems is the way in which corporations operate, a *modus operandi*, that is supported by state-sanctioned corporate law”<sup>66</sup>, furthermore that means that if states actually want to address the root causes in BHR, they need to change the structure of corporate law.<sup>67</sup>

Deva, Ramasastry & Wettstein highlight how HRDD as an instrument to operationalize corporate responsibility to respect human rights are doubted, even if the efficiency is still to be evaluated.<sup>68</sup> Deva et al. also argue that there is a paradox when talking about mandatory HRDD, in one end it is being applauded, charged with optimism encouraging business to take their responsibility, in the other end it is criticised as risk of only being a ‘tick-box’ compliance.<sup>69</sup> This argument about HRDD only being a ‘tick-box’ exercise and not strive to solving the core issues is a strong, valid point, it would diminish the purpose of the management system. Therefore, it will be of importance for the analysis to try and catch any hints of ‘tick-box’ compliance in the data.

Justine Nolan argues that HRDD struggle with vagueness in definition and implementation and this is why HRDD might just be the “new shiny thing” in business

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<sup>64</sup> Barnali Choudhury, “Corporate Law’s Threat to Human Rights: Why Human Rights Due Diligence Might Not Be Enough”, *Business and Human Rights Journal* (2023), 8, 180–196  
doi:10.1017/bhj.2023.29, p.180.

<sup>65</sup> Nolan J, “Chasing the next shiny thing: Can human rights due diligence effectively address labour exploitation in global fashion supply chains?”, *International Journal for Crime, Justice and Social Democracy* (2022). 11(2): 1-14. <https://doi.org/10.5204/ijcjsd.2398>, p, 9.

<sup>66</sup> Barnali Choudhury, “Corporate Law’s Threat to Human Rights: Why Human Rights Due Diligence Might Not Be Enough”, *Business and Human Rights Journal* (2023), 8, 180–196  
doi:10.1017/bhj.2023.29, p.180.

<sup>67</sup> *Ibid*, p.181.

<sup>68</sup> Deva S, Ramasastry A, Wettstein F, *Beyond Human Rights Due Diligence: What Else Do We Need?*, *Business and Human Rights Journal*, 2023;8(2):133-134. doi:10.1017/bhj.2023.33, p.133.

<sup>69</sup> *Ibid*.



and human rights.<sup>70</sup> This is further developed by Marianne Leite who highlight the importance of language and how there might be a risk of the construction of the UNGPs treating human rights too lightly, which might lead to companies false narrative of complying by implementing policies, hence not conducting proper DD.<sup>71</sup> Another issue with rhetoric Leite experience, is that public policies directed towards social justice needs to be intersected to a wider culture of political measures for there to be a positive change. This is reflected in merging of different terminology which Leit describes as ‘humanization’ of economic terms, ‘marketization’ of human rights terms.<sup>72</sup> For this thesis, analysing if there are references to semantics as a challenge with implementation or fulfilment of the UNGPs and applying human rights in a business context, can confirm the arguments made by Nolan and Leit.

Human rights are shaped and transformed by different social movements around the world and gets solidified under UN supervision and its social organisations. Sally Engle Merry and Peggy Levitt describes this as vernacularisation, how a law-like form gets translated into the ‘local’ context. In their chapter “The Vernacularization of Women’s Human Rights” they describe the importance of NGOs work by vernacularising women’s human rights discourse in four cities.<sup>73</sup> Antoine Duval describes the vernacularisation of HRDD in his article “*Ruggie’s Double Movement: Assembling the Private and the Public Through Human Rights Due Diligence*”, by corporations’ translation of human rights through their management systems in their transnational supply/value chains. How they subject them to control by the lead company, “Thus they are ‘... undergoing a role shift from norm violators to actors who commit themselves to human rights norms and even serve as agents of human rights promotion’.”<sup>74</sup>

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<sup>70</sup> Nolan J, “Chasing the next shiny thing: Can human rights due diligence effectively address labour exploitation in global fashion supply chains? *International Journal for Crime, Justice and Social Democracy* (2022). 11(2): 1-14. <https://doi.org/10.5204/ijcjsd.2398>, p9.

<sup>71</sup> Marianna Leite, “Beyond Buzzwords: Mandatory Human Rights Due Diligence and a Rights-Based Approach to Business Models”, *Business and Human Rights Journal* (2023), 8, 197–212 doi:10.1017/bhj.2023.11, pp.199-200.

<sup>72</sup> Ibid, p.204.

<sup>73</sup> Merry SE, Levitt P. *The Vernacularization of Women’s Human Rights*. In: Hopgood S, Snyder J, Vinjamuri L, eds. *Human Rights Futures*. Cambridge University Press; (2017), p.213. Publisher: Cambridge University Press Print publication (2017).

<sup>74</sup> Antoine Duval, *Ruggie’s Double Movement: Assembling the Private and the Public Through Human Rights Due Diligence*, *Nordic Journal of Human Rights*, 41:3, DOI: 10.1080/18918131.2023.2171633, 2023, pp.289-290

Duval means that this private governance will bridge the ‘governance gap’ without focusing on the potential need of re-empowering states to administrate companies’ compliance on BHR.<sup>75</sup> Connecting this to my thesis is to examine if there are signs of vernacularisation through HRDD by Ørsted and how this might affect the field.

#### 4.1.2 Normative theory in a business context

There are three leading categories within normative theory for businesses: *stockholder*, *stakeholder*, and *social contract* theories, stockholder being the oldest of the three. The stockholder theory, with its capitalist heritage, might be one of the more criticised and at the same time mostly accepted in the business world. The stakeholder theory is considered more conventional and the latest of the three, whilst the social contract theory is challenging the stakeholder approach.<sup>76</sup> The main purpose of a business, and the responsibility of a manager, is to expand resources to fulfil the purpose upon which the business was organised. If a business is strictly organised for profit, the managers responsibility can reach beyond generating profit by expanding business resources for “Socially beneficial purposes”. When adopting this approach, it is most often to build the company’s image by creating ‘goodwill’ and this will in long-term generate greater profit.<sup>77</sup> When referring to social responsibility it implies that business resources will be spent on socially beneficial purposes without intention to achieve the foundational purpose of its organisation.<sup>78</sup> Businesses social responsibility is of different importance based on which of the three theoretical categories being applied

##### Stockholder Theory

According to *stockholder theory*, managers act as agents of the stockholders in the sense that stockholders make investments and in return earn ownership interest. This implies that the business can have no social responsibility because managers cannot act upon any other principles than authorised by the stockholders, hence, the sole purpose is to maximize revenue and increase the stockholder investments.<sup>79</sup> It is of importance

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<sup>75</sup> Ibid.

<sup>76</sup> Hasnas John, *The Normative Theories of Business Ethics: A Guide for the Perplexed*, Business Ethics Quarterly, Vol. 8, No. 1, Cambridge University Press, 1998, p.20.

<sup>77</sup> Ibid, p.21.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid, pp.21-22.

that even when maximization of profit is top priority, managers are obliged to comply with legislation and are not allowed to act deceptively or fraudulent.<sup>80</sup> This theory is criticised by many and being described as “corporate Neanderthalism”<sup>81</sup> however, it is a common practice and the deontological argument that it is outdated, is based on warped ideals at its best.

### Stakeholder Theory

The *stakeholder theory* on the other hand requires effective management to balance and consider all relevant stakeholder interests. Who is considered a stakeholder has a wider and narrow interpretation, the wider being “any individual or group who can either be affected or affect the corporation, whilst the narrow interpretation includes only the ones being “vital for the survival and success of the corporation”. To clearly identify the ‘narrow’ group of stakeholders, they are usually – customers, employees, stockholders, management, suppliers, and local communities.<sup>82</sup> As a theory, the stakeholder’s approach does not recognise that businesses have any explicit social responsibility.

Contrary to the stockholder theory - in normative stakeholder theory the purpose of the business is for the management to conduct business for the benefit of all stakeholders. “The stakeholder theory holds that management's fundamental obligation is not to maximize the firm's financial success, but to ensure its survival by balancing the conflicting claims of multiple stakeholders.”<sup>83</sup> Significantly the agreement is not between the stockholders and management, but is threefold – stockholders, stakeholders, and management, in this case management acts as agent for the stakeholder group.<sup>84</sup> For this approach, Immanuel Kants<sup>85</sup> idea of respect for persons might be the inspiration, as this theoretical category respect for the person as valuable in their own existence is vital.<sup>86</sup> A misconception with this normative business theory is that all stakeholders are part of the decision-making process. What it implies is the autonomy of all the stakeholders, that

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<sup>80</sup> Ibid, p.22.

<sup>81</sup> Hasnas, 1998, p.23.

<sup>82</sup> Ibid, p. 25.

<sup>83</sup> Ibid, p.26.

<sup>84</sup> Ibid.

<sup>85</sup> Kant, I, *Groundwork Of The Metaphysics Of Morals*, (1785).

<sup>86</sup> Hasnas, 1998, p.26.

they will not be forced to interact with the business without their consent. It refers to honouring their commitments as a business, fulfil the contracts they enter and to not act fraudulent.<sup>87</sup>

### Social Contract Theory

The normative *social contract theory* stems from thinkers such as Thomas Hobbes, John Locke, and Jean- Jacques Rousseau based on the state of nature,<sup>88</sup> and impose businesses “to enhance the welfare of society by satisfying consumer and employment [...]”<sup>89</sup> ‘State of nature’ which refers to the absence of a government, the contract is between members of society who grant businesses their right to exist in exchange for specific benefits.<sup>90</sup> It is the society who gives businesses the right to use the land and legal recognition as agents, in return businesses employ people from the society.

To give a company the right to exist there are two terms within the social contract theory: the social welfare term and justice term. The first term recognize that the authorization of a business is dependent on societies gain, it is only if the society gains from the business that they will approve of it, and the only way to gain from the business is either as a consumer or an employee. Second term, the justice term, impose that businesses do not systematically discriminate, abstain from fraud and deception, and they need to respect their employees and recognize them as human beings.<sup>91</sup>

Notably, normative social contract theory is much more complex and takes the context to consideration. Another interesting aspect is the acknowledgment that businesses can have a negative effect on consumers and employees by e.g., pollution, deplete natural resources, act corrupt and misuse political power, by treating staff degrading or deprive them of control over their working conditions.<sup>92</sup> Instead of looking at the social responsibility of a business as the previous examples described, or lack thereof, the social

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<sup>87</sup> Ibid, p.27.

<sup>88</sup> Hobbes. T, *Leviathan* (1651), Locke. J, *An Essay Concerning Human Understanding*, (1689), Rousseau. J, *Discourse on the Origin and Basis of Inequality Among Men* (1755).

<sup>89</sup> Hasnas, 1998, p.29.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid, pp.30-31.

<sup>92</sup> Ibid, p.30.

contract builds on requirements of the businesses to: 1) increase economic efficiency, stabilize distribution and increasing liability - consumers, 2) increase potential incomes, diffuse personal liability, ease income distribution - employees, while 3) minimizing pollution, use of natural resources, discrimination, and corruption - governance.<sup>93</sup>

All three categories serve its purpose for business management and provides different views on business responsibility. DD being the common denominator, by recognising the importance of its stockholders and stakeholders when making business decisions, it provides the analysis with the additional context of a business perspective that is missing when only applying a human rights-based approach. The most prominent element of DD is reflected in all three theoretical categories, the obligation for businesses to not act fraudulent, the importance of being transparent and honest.

For this research I will use these theoretical frameworks to identify how Ørsted work with their responsibility and to whom do they direct it. HRDD takes a human rights-based approach, the business perspective on responsibility is missing.

By applying these theories combined it will provide me with intersectionality perspective which was missing before. The combination of analysing from both perspectives will provide another dimension on how businesses also need to manoeuvre HRDD to fit their business model and purpose.

## 4.2 Method

I gave it great thought, whether this study was inductive or deductive, cause how do we really know what is what? What I realised is, that the choice of field to study was made deductively based on my former experience working for a sustainable business consultancy, however, the way this study progressed was done by themes, theories and methodological choices developing as the research unfolded, hence it is inductive.

This study is based on qualitative research methods,<sup>94</sup> a splash of quantitative analysis is

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<sup>93</sup> Ibid, p.30.

<sup>94</sup> Leavy Patricia, Introduction, The Oxford Handbook on Qualitative Methods. Oxford University Press, Oxford, 2020, p.2.

applied where it illustrates developments better. By studying the entanglement between responsibilities businesses have based on normative business theory combined with their responsibility to comply with international directives and growing global demand.

This case study aims to examine how and if businesses work with HRDD, by studying Ørsted in depth. However, it is not Ørsted as a company per se that is examined. They are analysed as an example, and the results will contribute to a greater understanding of companies' implementation of HRDD in general, and what challenges they might face.<sup>95</sup> To give an overview on this case study, a variety of observational styles has been applied by a mixture of method; Semi-structured interview, content analysis, and a layer of discourse analysis will be applied, which will be further explained below.<sup>96</sup>

#### 4.2.1 Semi-structured Interview

Aiming for a wider perspective of the complexity companies might experience while working with HRDD, it deemed important to hear from a company that have been working with the management system long before it became a legal requirement. A semi-structured interview is a great way to provide answers that reports and policies will not be able to. Semi-structured interviews incorporate open-ended questions as well as a combination of questions based on the existing praxis and more theoretical questions driven by data (in this case my secondary material as well as previous literature). The order in which the questions are asked should serve as a guide for the interview with the purpose of reaching deeper understanding of the research subject. Prior to deciding what questions should be included in the protocol, and in what order they should be asked, I did several trials and created different flows to establish a chronology that would provide the interviewee with the possibility to narrate their experiences naturally and freely.<sup>97</sup> As the interview progress a list of statements from the interviewee was collected and was followed by engagement with the participant by asking for clarifications and critical reflections.<sup>98</sup>

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<sup>95</sup> Gerring John, *Case study research principles and practices*, University of Texas at Austin, 2017, p.28.

<sup>96</sup> *Ibid*, p.29.

<sup>97</sup> Gallette Anne, *Mastering the Semi-Structured Interview and Beyond: From Research Design to Analysis and Publication*, NYU Press 2013, pp.45-48.

<sup>98</sup> *Ibid*, p.50.

A semi-structured interview invites for interaction between participants which gives possibility to follow up when there might be contradictions in the narrative, done with care and respect for the interviewee, it can open up subjects or reflections that the participant might not have considered.<sup>99</sup> This reflects a notion of reciprocity that was important to me, for us to be able to exchange experience and knowledge and build a relationship where the reciprocity gave possibility to get follow-up sessions.<sup>100</sup>

It is also important to register tone of voice, facial expressions, and body language to estimate when a topic have been exhausted, which is why it was important for me to conduct the interview in person.<sup>101</sup> Svend Birkman highlight that a risk when interpreting the interview is that too much focus is on the lived experience of the interviewee. For the interview to bare a deeper meaning and adding to the purpose of validity and transparency is to interpret the polyvocal meaning. By building it into the conversation with the interviewee it can even give them a chance for an objective interpretation of what they described.<sup>102</sup>

#### 4.2.2. Content Analysis

All reports and policies, as well as the interviews have been subject for content analysis. For this thesis the interest lays in understanding how Ørsted is working with HRDD through analysing what they have communicated in their reports, policies, and the interview itself.<sup>103</sup> By engaging in content analysis, I have analysed themes, words, oppositions, wordcount haven't been of any particular interest for the purpose of this research.

The interview was read several times, going back and forth, first when transcribing the material, then repeatedly to grasp the content. By color-coding the interview, themes started to appear.<sup>104</sup> The themes became more recognisable by letting time pass between

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<sup>99</sup> Ibid, p.51.

<sup>100</sup> Ibid, p.78.

<sup>101</sup> Ibid, p.51.

<sup>102</sup> Birkman Svend, Unstructured and Semistructured Interviewing, *The Oxford Handbook on Qualitative Methods*, Oxford University Press, Oxford, 2020, p.439.

<sup>103</sup> Prior Lindsey, Content Analysis, *The Oxford Handbook on Qualitative Methods*. Oxford University Press, Oxford, 2020, p.543.

<sup>104</sup> Ibid, p. 557.

each reading session and my coding-scheme got confirmed by more and more sentences, words and oppositions appearing. Content analysis as a tool is a very straight forward approach where what is stated and communicated is analysed and more so structured, whereas what it means or can mean - will be analysed in a later state. Simply by putting the lens of content analysis on the reports, policies and interview, focus is on what have been said not on “feeling, thinking or meaning”.<sup>105</sup>

The following themes were identified by my content analysis: Territory, Due Diligence, Language, External impact & Image.

### 4.2.3 Discourse Analysis

Often when speaking of discourse analysis, we might think of it only in the sense that we study language as an abstract, what a word means or in what order the word should come in a sentence. This is a more general approach where structure and rules are the focus, but discourse is also shaped by the context you are in, how terms are used and what is the results from that.<sup>106</sup> For this research discourse analysis is applied to highlight when language is used in a way that is the opposite of its purpose, when semantics has such an effect that instead of strengthening the field, in this case BHR, it actually undermines it.<sup>107</sup>

## 4.3 Methodology

Getting insight to the company, reading what the business publishes and what material they make public is vital to gain a deeper understanding of company values, motivations, and goals. To give this study unbiased and nuanced understanding of Ørsted operational work with sustainability and HRDD - I chose to read their business policies, Code of Conducts (CoC), and reports prior to conducting the interview.<sup>108</sup>

This decision was important to not let the SSM influence or affect the analysis of the material with any arguments that might have come up during the interview.

When conducting the interview, I went to Ørsted headquarters in Gentofte, Copenhagen

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<sup>105</sup> Ibid, p. 545.

<sup>106</sup> Johnstone Barbara & Andrus Jennifer, *Discourse Analysis*, 4th ed. John Wiley & Sons, 2024, p.3.

<sup>107</sup> Ibid, p.5.

<sup>108</sup> Leavy Patricia, *Introduction, The Oxford Handbook on Qualitative Methods*, Oxford University Press, Oxford, 2020, p.6.



-Danmark. Initially when meeting with the SSM, we conducted in informal small talk in Danish and switched to English during the interview, since we both felt more comfortable to talk about sustainability and human rights in English. The SSM had received the interview protocol and the consent form a week before the interview was to take place. He was informed of the purpose of the interview and that he was free to decline his participation at any time. Before starting with the interview questions, I asked the SSM if he approved that the interview was audio recorded, which then got confirmed on the audio as well.<sup>109</sup>

The interview was scheduled to take approximately 45 minutes but ended up taking 60 minutes. The SSM was very considerate in letting me know that any follow-up questions or need for clarifications was welcomed on his behalf. I recorded the interview on my phone and took notes of statements that stood out or caught my interest in the moment. For transcribing the interview, I used an AI-tool in Microsoft Office - Word, which saved me tremendous amounts of time. I only had to go in and change random words where the AI could not detect the ones that had been said. The total number of transcribed pages for analysis is 13 pages (Times New Roman, 12pt, no line breaks).<sup>110</sup>

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<sup>109</sup> Gallette Anne, *Mastering the Semi-Structured Interview and Beyond: From Research Design to Analysis and Publication*, NYU Press 2013, p.46.

<sup>110</sup> Andreassen, Bård-Anders, Sano, H.-O. & McInerney-Lankford, Siobhán (red.) (2017). *Research methods in human rights: a handbook*. Cheltenham, UK: Edward Elgar Publishing. Chapter, p.2.

## 5 Investigation & findings

This section contains findings of my investigation of the public documents, reports and policies published by Ørsted.

### 5.1 Ørsted Reports & Policies'

The following reports and policies have been in review for this thesis; Sustainability report for 2022 (it was the latest version available at their website at the time of my thesis writing), Ørsted Global Human Rights Policy, Code of Conduct for Business Partners, and Global Labour and Employment Rights Policy. For the purposes of this thesis, I have only engaged with the material in the reports that are focusing on human rights and HRDD, hence, environmental, and economic areas won't be examined.

I recognize that these are all important parts of the 'triple bottom line' that companies need to assess on when doing their DD for it being considered 'Responsible Business Conduct', nevertheless, that is outside of the scope for this thesis.

#### 5.1.1 Sustainability Report 2022

Ørsted's mission is to integrate sustainability throughout their business. They have identified human- and labour rights as one of the five areas where they have the most material impacts from building green energy. They recognise that their operations impacts people across the organisation, supply chain as well as communities. To strengthen their work with human rights they are evolving their HRDD approach.<sup>111</sup>

The integration of HRDD in their management system and its development during 2022 was described. Ørsted have made a human rights impact assessment with help of a third party – expert consultancy. They identified their salient human rights risks across their entire value chain and a qualitative assessment of key business processes from a HRDD perspective.<sup>112</sup> Ørsted ensures that the full impact assessment will be published during 2023, which I was unable to find on their web site.

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<sup>111</sup> Ørsted Sustainability report 2022, p.31, accessed:2024.02.28.

<sup>112</sup> Ibid.

Furthermore, they list the international frameworks that they apply for guidance; UN Guiding Principles on Business and Human Rights (UNGPs), OECD Guidelines for Multinational Enterprises (OECD), IFC Performance Standards and ILO Core Conventions.<sup>113</sup>

Ørsted, being an energy company are dependent on minerals and metals, sourcing these materials often comes from countries “where the likelihood of negative impacts on human rights is high” whereas the aspiration to do no harm is of importance. There is an emphasis on supply chain transparency which is raised as a concern based on “The mining of minerals and metals, involves long and complex supply chains, where we as an end user have limited control and impact over activities”. When engaging with due diligence in this regard Ørsted mentions OECD due diligence guidance on responsible mining, to understand their suppliers and to develop proper management systems.<sup>114</sup>

To address risks of discrimination and alike, Ørsted work with diversity, equity, and inclusion (DE&I) to promote gender balance in the organisation as well as to attract a wider expertise in their workforce. Ørsted ensures their DE&I initiatives is evidence based and data driven. Employees are encouraged to develop their understanding and to learn more about DE&I and are encouraged to participate in trainings and e-learnings. There is an ambitious goal for gender balance set for year 2030 of having 40:60 women/men overall, also at all leadership levels. The gender balance in the company in 2022 in total work force was 33:67, leadership (management) 31:69 and senior directors and above was 22:78.<sup>115</sup>

The right to safe and healthy working conditions is a human right which most companies acknowledge as important. Based on the nature of Ørsted operations, they have had several work-related injuries, which increased with 5,4% from the previous year.

Stress is an important factor of safe and healthy working conditions and Ørsted have had

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<sup>113</sup> Ibid.

<sup>114</sup> Ibid, p.32, OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition, 2016, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264252479-en>, accessed:2024.05.21.

<sup>115</sup> Ørsted Sustainability report 2022, p.33, accessed:2024.02.28.

an increase of experienced stress by its employees of 12,7% from year 2020 to 2021, and an increase of 8,9% from year 2021 to 2022, that is a total increase of 22,7% in just two years.<sup>116</sup> To engage with one of their stakeholder groups, they give an annual ‘employee satisfaction survey’ which shows a decrease in the last three years with approximately 3 percent.<sup>117</sup>

When it comes to Ørsted business relationships, they work with their HRDD approach “to collaborate with suppliers and business partners on improving their adherence to our social, environmental, and ethical expectations”.<sup>118</sup> Their DD process is used to assess the suppliers and partners compliance with Ørsted’s Code of conduct for business partners (CoCBP). When establishing new business partners, the CoCBP is always included, followed by “[...] identify[ing] performance gaps through a combination of risk screenings, extended risk screenings, and CoC assessments, either before or after contract signing, which takes category and country risks into consideration.”<sup>119</sup> The improvements of their HRDD processes, striving to live up to the expectations represented in the EU Directives CSRD, (coming CSDDD) and ESRS is continuous work.<sup>120</sup> The assessment also includes ‘good business practices’ and evaluations of; if their business partners live up to expected standards concerning human rights, labour rights, environment, and anti-corruption.<sup>121</sup> Ørsted have a whistleblower mechanism in place and the number of cases reported through this mechanism has increased with 60% between year 2021 & 2022.<sup>122</sup>

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<sup>116</sup> Ibid, p.34.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid, p.39.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid, p.41.

<sup>122</sup> Ibid.



Figure 1, SDG.s noticed in Ørsted's Sustainability report 2022.

In Ørsted Sustainability report 2022, all the SDGs (see Figure 1) except for 1 - No poverty and 2 - No hunger, are targets the company pursue to engage in and strives to have a positive impact on.

### 5.1.2 Ørsted Global Human Rights Policy

This policy has a wide scope of stakeholders including own employees, contractors, suppliers, global business partners, communities and societies affected by their operations. It is mentioned that as a company they strive to make progress on the SDGs, acknowledging that most of the SDGs correspond with human rights obligations. To guide Ørsted on their sustainability mission, they adhere to UN Global Compact Principles.<sup>123</sup>

The UNGPs and OECD are considered as authoritative global frameworks which Ørsted rely on for responsible business conduct, the following conventions are highlighted as important to respect for the company: The international Bill on Human Rights, ILO declaration on Fundamental Principles and Rights at Work, which ensures the following: Freedom of association, right to a living wage, right to not be subjected to forced labour, right to not be subjected to child labour, non-discrimination – equal opportunity (work life related), non-discrimination – indigenous peoples & minorities or vulnerable groups, right to peaceful assembly, freedom of expression.<sup>124</sup>

Respecting human rights involve conducting regular impact assessments for own operations, supply chain, and projects - before and during. To address their human rights risks in supply chain they mention their CoCBP, as an instrument to live up to the

<sup>123</sup> Ørsted Global Human Rights Policy, p.1, accessed: 2024.02.29.

<sup>124</sup> Ibid.

expectations from UNGPs and OECD. Ørsted engage with their employees through human rights trainings to wider the understanding on how human rights issues can have both a negative and positive impact on their operations. External stakeholders such as suppliers are being offered capacity building activities “based on risk and potential improvement gaps”.<sup>125</sup> The policy continuous by describing Ørsted’s access to remediation and grievance. Remediation is provided to harmed individuals, workers, and local communities where Ørsted have identified that they have caused or contributed to an adverse impact. With suspicion on violation against the policy, a report can be filed in the Whistleblower mechanism. Reports received through the Whistleblower mechanism will be handled by Internal Audit, who report directly to the Board of directors, every case will undergo investigation and human rights experts will be involved in the process.<sup>126</sup>

### 5.1.3 Code of Conduct for Business Partners

In the CoCBP, Ørsted describes what they aspire to do and requires their business partners (BP) to do the same by respecting the minimum standards and continue with that - they themselves will comply with applicable legislation (international and national) and expects BP to abide as well. The CoCBP requires all BP to collaborate and engage in HRDD, if neglected, Ørsted reserves the right to terminate the contract. Further description is a bit more detailed in what these expectations mean for the BP, “Our business partners must cooperate with Ørsted in connection with the performance of risk/impact assessments, inspections, monitoring, reporting, stakeholder engagement and grievance mechanisms, and they must implement steps to mitigate any risks identified. They should apply appropriate policies, procedures, management systems and HRDD measures in their own operations and cascade the requirements of the CoC in their supply chain.”<sup>127</sup>

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<sup>125</sup> Ørsted Global Human Rights Policy, p.2, accessed:2024.02.29.

<sup>126</sup> Ibid.

<sup>127</sup> Ørsted Code of Conduct for Business Partners, p.1, accessed:2024.03.01.

In the CoCBP Ørsted presents their requirements, and aspirations which intends to go beyond the minimum standard to improve their BP sustainability performance. The areas being handled is labour- and human rights, environment, and business ethics (economic impacts), each section describes the expectations Ørsted have on their BP. For labour- and human rights, the expectations are to respect workers' rights and culture, to treat workers equally, to comply with prevailing legislation and to follow human rights standards. The requirements are referring to; abolish child labour, freedom of movement, right to a living wage, right to work and adequate pay (living-wage), non-discrimination, freedom of association, safe and healthy working conditions, to not be subjected to torture, harassment or other degrading treatment, and security.<sup>128</sup> The aspiration's include wage-review against living-wage, poverty line, offer training on e.g., DE&I, regulate working hours in terms of overtime work, assess gender pay gap, keep records and publish performance data on health and safety.<sup>129</sup>

It continuous with their stakeholder engagement, this involves respecting local communities where they operate, indigenous peoples' rights, land rights, rights defenders, and the right to information, to be able to give free and prior consent as well as having a grievance mechanism in place. The aspiration is to pursue solutions and maximize job opportunities for the local communities, including vulnerable groups and to improve living standards for them who are being relocated or experience other land-related impacts.<sup>130</sup>

#### 5.1.4 Global labour and employment rights policy

This policy document was implemented in the company February 1<sup>st</sup>, 2024, and includes all employees in all Ørsted entities. With this policy Ørsted wants to demonstrate in what ways they respect employees, labour- & human rights as well as international standards and conventions such as the International Bill of Human Rights and ILO Declaration on Fundamental Principles and Rights at Work.<sup>131</sup>

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<sup>128</sup> Ørsted Code of Conduct for Business Partners, p.3, accessed:2024.03.01.

<sup>129</sup> Ørsted Code of Conduct for Business Partners, pp.2-4, accessed:2024.03.01.

<sup>130</sup> Ibid, p.4.

<sup>131</sup> Ørsted Global labour and employment rights policy, p.1, accessed:2024.03.01.

Focus areas for this policy is working hours, fair and equal pay, social-security, freedom of association and work-life balance, safe and inclusive work which corresponds with the DE&I initiatives on inclusive workforce which provides access to different channels directed towards people who identify with any marginalized groups and potential issues of discrimination.

Ørsted commitment to eliminate all forms of forced or compulsory labour and ensures that all employees are working voluntary and that they do not detain or withhold employee's passport or similar if not needed because of local legislation.<sup>132</sup> In conclusion there is information on how Ørsted engages with different stakeholders and employees and that there are several options available for employees to report any grievance or complaint and as mentioned in the previous policies a Whistleblower mechanism as well.<sup>133</sup> Like many of the other policies by Ørsted, this also includes prohibition of child labour, non-discrimination, forced labour, freedom of association, safe and healthy working condition, and more. This policy stands out by being a little bit more progressive in what is included by e.g., mentioning work-life balance and social protection against loss of income.<sup>134</sup>

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<sup>132</sup> Ibid, p.3.

<sup>133</sup> Ørsted Global labour and employment rights policy, pp.4-5, accessed:2024.03.01.

<sup>134</sup> Ørsted Global labour and employment rights policy, pp. 2 & 4.



## 6 Analysis

This section will highlight the problems and challenges implementing HRDD business might encounter using Ørsted as an example. Firstly, a clarification on common misconceptions that the material has presented, when companies believe they are conducting HRDD but why it is undermining the management system instead.

### 6.1 Lack of Coverage

In Ørsted Human Rights Policy they describe that to support the development of their sustainability efforts they *adhere* [emphasis added] to Global Compacts Principles. Global Compact is a voluntary initiative and therefore nothing to adhere to as such.

The 10 principles that Global Compact refers to<sup>135</sup> only touches on a fraction of all human rights stipulated in International Bill of Human Rights and therefore does not live up to the international minimum standards and are not enough to enforce HRDD. This illuminates the risks described by Deva et al. and Leite of HRDD not being fulfilled as intended based on UNGPs and that it might be perceived as a “tick-box” exercise.<sup>136</sup> Nevertheless, Global Compact is a great sustainability network - with their Global reach of approximately 24 000 members in 167 countries.<sup>137</sup>

As mentioned in section 2, businesses easily assimilate SDGs in their sustainability strategies. In Ørsted *Sustainability report 2022* all the SDGs in *figure 1* are included in their strategy of improvements. Furthermore, in *Ørsted Global Human Rights Policy – Ørsted* states that most SDGs correspond with human rights obligations. Figure 2 clearly illustrates how many rights are left unassessed when using SDGs as a guideline, hence not applying proper HRDD in a company’s risk analysis, and thereby not reaching the international minimum standard in their sustainability efforts. Not saying that Ørsted have not conducted HRDD, however, this is an indication of how SDGs might serve a communicational purpose more than a purpose for businesses to take their responsibility to respect human rights and conduct proper HRDD.

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<sup>135</sup> Berliner & Prakash, 2015,p.116.

<sup>136</sup> Deva et al., 2023, p.133 & Leite, 2023, pp.199-200.

<sup>137</sup> <https://unglobalcompact.org/>, accessed:2024.05.05.

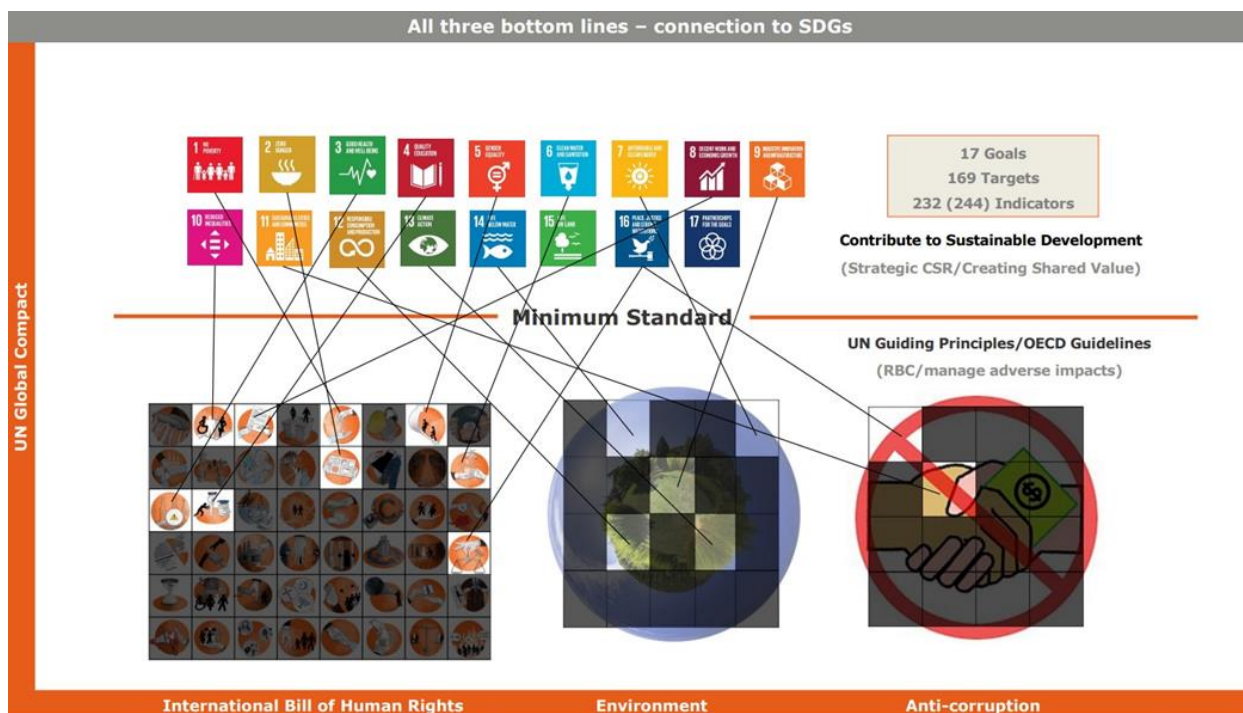


Figure:2 Picture borrowed by GLOBAL CSR, Sustainability Impact Assessment LAB, 2024.02.08.

In the Sustainability report 2022 Ørsted describes how they “identified their salient human rights risks across their entire value chain [...] from a HRDD perspective”.<sup>138</sup> When applying the saliency approach across their entire value chain, a couple of concerns must be raised. One being the difficulty to know where in the value chain the severe impact has occurred, which secondly makes it difficult to mitigate and assign resources and responsibility to assure that the impact will not reoccur. This reflects a risk of missing the core issue and it is difficult to identify who Ørsted is directing its responsibility to, maybe the idea is to cover all the theory categories but that is not able to be interpreted.<sup>139</sup>

I would like to demonstrate a risk when highlighting the areas emphasised by Global Compact and when conducting saliency approach as HRDD. In *Ørsted Global Human Rights Policy* as well as in their *CoCBP*, there is acknowledgments of how important it is to respect international conventions where several rights are being listed. The right not to be subjected to child labour is one of them (this is one of the 10 rights that Global Compact focus on and is often a risk when conducting saliency approach due to “country risk

<sup>138</sup> Ørsted Sustainability report 2022, p.31, accessed:2024.02.28.

<sup>139</sup> Choudhury, 2023, p.180.

assessments” included in that approach). When particular focus is mentioned on a specific right, I interpret that as the company having identified severe adverse impacts on this right, which led me to ask about it in the interview. It turned out Ørsted had not experienced any impact on the right not to be subjected to child labour, hence, why should it be mentioned in the report or CoCBP? It is of importance to emphasise that the CoCBP should not communicate on what rights the BP shall focus on. It should accentuate the importance for the BP to conduct their HRDD, in which they will get the results of which adverse impacts they need to mitigate.<sup>140</sup> The SSM explained it might have to do with trying to align reporting demands in line with the new directive – CSRD, whilst phrased in a way that is easy to misunderstand. This might result in a discriminatory action when approaching certain countries and it will not address the core issues instead it is a guessing game on presumed impacts.<sup>141</sup> The explanation from the SSM display the vagueness Nolan argue can make implementation of HRDD have undesirable impacts.<sup>142</sup>

## 6.2 Responsibility & HRDD

Ørsted Global Human Rights Policy declare that stakeholder theory is very present in how Ørsted recognises their responsibilities and how there needs to be an interaction between the company and its stakeholders.<sup>143</sup> Ørsted goes beyond what is required when offering capacity building activities for external stakeholders such as suppliers, this could be seen as a step further in their HRDD approach, an example of ‘best practice’, and how to work with taking responsibility in extension to their supply chain. However, this can only be done if the supplier is amenable to improvements.<sup>144</sup>

In Ørsted CoCBP it is said that BP must cooperate with their HRDD efforts in all regards, this includes that the BP needs to “cascade” the requirements of Ørsted CoCBP in their supply chain as well. I would like to argue that this is how the social contract theory will evolve with the new EU directive - CSDDD - the demands from companies to cascade

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<sup>140</sup> UN Guiding Principles on Business & Human Rights (UNGPs), Principle 17.

<sup>141</sup> Ibid.

<sup>142</sup> Nolan, 2022, p9.

<sup>143</sup> Ørsted Global Human Rights Policy, accessed:2024.02.29.

<sup>144</sup> Ibid.

HRDD will be what decide which companies can continue to do business or not in the future.<sup>145</sup> This represent the vernacularisation process described by Duval, Ørsted independently of state influence, becomes an agent of human rights promotion.<sup>146</sup>

Further on in Ørsted CoCBP when talking about stakeholder engagement focus on: local communities, indigenous peoples' rights, land rights, rights defenders and the right to information, shows their commitment to social contract theory by considering how to act responsible towards communities affected by their business activities and how to gain acceptance.<sup>147</sup> If Ørsted experience resistance from right defenders, local community or alike, this can in turn impact both stakeholders and stockholders. For Ørsted to 'get their license to operate' it is pivotal to have a strong commitment that reflects the social contract theory otherwise it will influence their operational commitments that supports the stockholder theory. I intend to illustrate how they are all interconnected: If Ørsted have gotten a project to execute, founded by investors (*stockholders*), and then receive resistant from local community (*social contract*) with issues about e.g., 'land grabbing', this can lead to the project being protracted, then stockholders might lose their investments, Ørsted employees (*stakeholder*) might lose their jobs, and so it continues.<sup>148</sup> This shows how important HRDD is and will be onwards for all actors, throughout projects and processes, in order to conduct socially sustainable businesses.

Ørsted engage with their employees through human rights trainings to wider the understanding on "how human rights issues can impact our business in both positive and negative ways".<sup>149</sup> The initiative to widen employee's knowledge in human rights is a great way to make them aware of their own rights and how they might be affected due to where they work. However, the formulation is interesting in the sense that it should be the opposite, *how their operations can have both positive and negative impacts on human rights*. Arguably it should be two separate focus points, one being training the

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<sup>145</sup> Ørsted Code of Conduct for Business Partners, p.1, accessed:2024.03.01.

<sup>146</sup> Duval, 2023, pp.289-290

<sup>147</sup> Ibid, p.4.

<sup>148</sup> Hasnas,1998, p, 26.

<sup>149</sup> Ørsted Global Human Rights Policy, p.2, accessed: 2024.02.29.

employees to know their rights so they also can claim them. Second being understanding the impacts - positive and negative, *their operations have on human rights*. What this illustrates is what challenges emerges when human rights language is merged in a business context, resulting in undermining the argument trying to be made.<sup>150</sup> Ørsted wants to highlight the responsibility they feel to respect human rights but the way the sentence is constructed the opposite is achieved.<sup>151</sup>

### 6.2.1 What About Image

What have mostly been described so far in Ørsted HRDD management system is ‘hard values’ but there are also ‘softer values’ that come up during the interview. This can be evident in overall brand reputation and when looking at new talent, employee engagement, and retention is all important parts. Investors, employees, and customers tend to evaluate how a company performs and if they are better than their competitors before engaging in their business. Ørsted has avoided to make human rights a “*a race to the top*”, the SSM with his team do not see human rights as a competition, it is fundamental and says that if they do not have the fundamental in order “*we will be a very easy target*”.<sup>152</sup> They want it to be good for the communities they operate in and that it serves the purpose of “*benefit sharing*”.<sup>153</sup>

This means creating new job opportunities and being part of the solution of the transition that the industry is facing,

“We have a lot of companies that before were servicing the oil and gas or the maritime industry that is now becoming more relevant for the green energy industry. We need to make sure that those jobs we are creating or taking over from those industries are decent jobs basically”.<sup>154</sup>

Being “part of the solution” reflects a strong commitment to stakeholders,<sup>155</sup> the company

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<sup>150</sup> Leite, 2023, pp.199-200.

<sup>151</sup> Johnstone & Andrus, 2024, p5.

<sup>152</sup> Interview with Ørsted SSM March 14, 2024 – SSM when talking about the importance of Human Rights for the company and how they organise around it.

<sup>153</sup> Interview with Ørsted SSM March 14, 2024 – SSM talking about what they as a company can do for the communities they are active in.

<sup>154</sup> Interview with Ørsted SSM March 14, 2024 – SSM explaining their commitment to benefit sharing.

<sup>155</sup> Hasnas, 1998, p.26.

see it as their responsibility to have a positive impact. Ørsted does not want to leave anyone behind only to benefit as a company which reflects the connection the company have to social contract theory; they want to contribute to the community they are active in.<sup>156</sup>

When asking if their sustainability efforts and if the connection they make between climate change and human rights are unique, the SSM answers that he don't think so. If looking at the Business & Human Rights Resource Centre benchmark,<sup>157</sup> Ørsted still have a long way to go with their social sustainability. The companies are being evaluated based on what they communicate, it is transparent and give concrete examples on why they have been rated the way they are. Ørsted expressed that they are also very critical to some of the expectations articulated in the benchmark publication. They expect the companies to *“promote expectations to our suppliers that they should have senior leadership responsible for forced labour. [...] But you can't tell them how they should organize in their boards.”*<sup>158</sup>

The expectations from Business & Human Rights Resource Centre benchmark, means that businesses might be in a situation where they need to go against their investors, and this is in opposition of what stockholder theory suggests.<sup>159</sup> This implies that senior leadership should be responsible for forced labour, and the only way they can be responsible for that is by not conducting HRDD in own operations and by neglecting to stop if they cause or contribute to forced labour. That statement would go against the purpose of HRDD and in extension also go against coming legislation CSDDD.<sup>160</sup> It suggest that the senior leadership in the supply chain is fine with forced labour and the claim is quite discriminatory based on presumption.

When talking about future goals for Ørsted social sustainability and HRDD they have a very clear focus, and their approach is more pragmatic.

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<sup>156</sup> Ibid, p.29.

<sup>157</sup> [https://media.businesshumanrights.org/media/documents/2023\\_Renewable\\_Energy\\_Benchmark\\_EN.pdf](https://media.businesshumanrights.org/media/documents/2023_Renewable_Energy_Benchmark_EN.pdf), accessed: 2024.04.05.

<sup>158</sup> Interview with Ørsted SSM March 14, 2024 – SSM explained that they experience that Business & Human Rights Resource Center takes the expectations of HRDD to far.

<sup>159</sup> Hasnas, 1998, pp.21-22.

<sup>160</sup> UN Guiding Principles on Business & Human Rights (UNGPs), Principle 17.

“Making sure that our due diligence management systems meet those guidelines *UNGPs* [added] and basically at the end of the day, what I want to make sure is, that we don't run a business that has adverse impacts on any rightsholders, I don't think that we or any company in any industry will be human rights risk free. But what I think and hope for is that we take our responsibilities serious, and implement proper management systems and, that we consciously consider the issues that we find and mitigate them and learn from those.”<sup>161</sup>

### 6.2.2 Territory & Country Risk

When it comes to risk analysis there is a clear distinction of risks in own operations and supply chain.

“If you take our full value chain, the supply chain is where we've been collaborating with companies around responsible business conduct for the longest. And that's also where we have the most mature part of our management system. Then we have our own operations, which is less risky because we mainly employ highly skilled people. We don't have any sweatshop like other industries; we don't have any you know factories in Myanmar or other traditional high-risk countries. So, the people that are employed in Ørsted, we need of course to make sure that their rights are protected and that's something we do very much in collaboration with our human resource departments.”<sup>162</sup>

There is a clear connection to stakeholder theory when talking about their responsibilities which cover a wide range of stakeholders.<sup>163</sup> Interestingly what the quote highlights is that focus has been on “high-risk” countries, which has left the management system in own operations underdeveloped. It is not an easy thing to “*massage*” it to fit the complexity of the business and where they have tried to focus on the complexity of the supply chain the SSM explains.

“Supply chains are becoming more and more complex in the sense that they are longer and more interconnected and interdependent. You know, your

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<sup>161</sup> Interview with Ørsted SSM March 14, 2024 – SSM answered this when we talked about what long-term results they are hoping for.

<sup>162</sup> Interview with Ørsted SSM March 14, 2024 – SSM when talking about the operational aspect of working with HRDD.

<sup>163</sup> Hasnas, 1998, p.26.

impact is very often beyond tier one, so how do you create transparency, traceability and how do you address the most salient issues that you know in the industry?”<sup>164</sup>

This illustrates what was highlighted in section 6.1, how challenging it is to create transparency, traceability, and accountability when entertaining the saliency approach. The quote brings evidence of what Ørsted suggest in their CoCBP, that BPs’ need to cascade the requirements of HRDD onwards in their supply chain to make these efforts pragmatic.<sup>165</sup> The responsibility needs to lay in each and everyone’s own operations otherwise the HRDD process has not been fulfilled.

Ørsted runs a business that is highly capital intensive and operate big assets which means that at a certain time they will need investors. Sustainability efforts are important in investors decision making process.

“In our project’s investors have a great interest and a great focus on human rights. Of course, they have different views, depending on whether you are operating on a non-designated or designated country as defined by the Equator Principles, as their expectations will then differ. Investors’ expectations are also very much driven by the IFC Performance Standards, and we see that they also start to ask questions in more developed markets.”<sup>166</sup>

Investors have the stockholder roll and are the ones that will control what direction and what actions the company will take,<sup>167</sup> that the investors have “a great focus on human rights” will push the agenda Ørsted will pursue, that can also be translated as part of the vernacularisation process to tighten the ‘governance gap’ where the investors become the agent of human rights promotion.<sup>168</sup>

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<sup>164</sup> Interview with Ørsted SSM March 14, 2024 – SSM about some of the challenges when working with HRDD.

<sup>165</sup> Ørsted Code of Conduct for Business Partners, p.1, accessed:2024.03.01.

<sup>166</sup> Interview with Ørsted SSM March 14, 2024 – SSM on investors’ expectations which require commitment to HRDD.

<sup>167</sup> Hasnas, 1998, pp.21-22.

<sup>168</sup> Duval, 2023, 289-290.



That there are different human rights risk depending on where businesses operate is evident. This also results in different strengths and weaknesses in the management systems as the SSM explains specifically for the energy sector.

“Many of the oil and gas companies have very strong human rights management systems in place because that's been required for that industry, something that has been around for a while. But oil and gas companies also have a lot of issues in their supply chains and operations often because they are operating in parts of the world with a lot of human rights risks, for example in West Africa, but they also have really strong management systems in place. We don't have the same exposure to the global south and human rights risks there, as they have because we are mainly on the northern part of the of the hemisphere. We're working in Europe, North America, and the Asian Pacific Region. However, I don't think our management system is strong enough in its current shape.”<sup>169</sup>

The responsibility and stakeholder commitment stretches all over the organisation, no matter where they operate and as reflected above it needs to be an evolving process. This typical issue reflects a neo-colonial approach, common when criticizing human rights in general. That the problem often is viewed as originating from the Global South hence, it makes sense that the management systems are more developed in those areas. However, with the knowledge we have today and the discourse in UNGPs it is obvious that human rights risks occur anywhere in the world.

“In some geographies the regulatory frameworks are weaker, and in some situations, they are directly in opposition to the international conventions and authoritative guidelines. Then you know that there are potential risks out there and we need to ‘know and show’ that we understand that. It's not distrust, it's just based on the fact. However, you don't need to go outside Europe to experience these risks, - No, it's also Europe despite relative stronger regulatory frameworks. A lot of suppliers in Europe still uses migrant workers, as there is a shortage of a lot of different types of labour. I think I read something around a shortage of around 45 or 50,000 skilled

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<sup>169</sup> Interview with Ørsted SSM March 14, 2024 – SSM when talking about how he thinks there is other actors with stronger management systems based on the context they operate in.

workers all important for the green energy transition. Global labour moves around between regions and countries depending on supply and demand, and in a way - that I think gives you a clear idea about the potential risks this entails.”<sup>170</sup>

The statement above shows that this is part of a much larger problem than ‘only’ businesses needing to respect and address the human rights impacts they have. It is a systematic oppression which businesses cannot solemnly be held accountable for which Nolan suggest stems from lack of reluctance from states to comply with legally binding standards.<sup>171</sup>

I got a feeling that by using the saliency approach there might be a risk that the company starts to value human rights against each other, whereas I felt compelled to ask the following question: “Impacts might be different based on context but nevertheless they are there, I wonder are we then starting to value human rights and weighing them against each other?”

“I guess, at least in the definition of saliency of human rights impacts, it's not necessarily the number of people impacted that decides the relevance for you, however it's those human rights issues that stand out because they are at risk of driving the most severe negative impact through the company's activities or business relationships, independent on the number of people impacted. I would therefore rather do a big difference on a severe salient issue in a “small part” of our supply chain than to run the resources across a prominent issue that may impact a larger group of people, however which is deemed salient.”<sup>172</sup>

The SSM continues to explain that this is one of the reasons they have a third part look into their sustainability efforts to not get blinded or biased. By taking in a third part to scrutinize their sustainability efforts is one way to approach the responsibility towards their stakeholder’s honouring their commitment by ensuring they do not act fraudulent.<sup>173</sup>

The engagement shows that for Ørsted - HRDD is not just “the new shiny thing” as

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<sup>170</sup> Interview with Ørsted SSM March 14, 2024 – SSM reply to if there are a misconception about businesses in Global South not being able to conduct their business in a responsible manner.

<sup>171</sup> Nolan, 2022, p, 9.

<sup>172</sup> Interview with Ørsted SSM March 14, 2024 – SSM about how to priorities impacts that occur.

<sup>173</sup> Hasnas, 1998, p.27.

suggested by Nolan.<sup>174</sup> However, if third parties are used to conduct impact assessments, based on saliency, there is a risk of undermining the purpose of HRDD and that the organisation end up not knowing their actual impacts.

### 6.2.3 “Comply or Die” – License to Operate

The human rights mission is being described as a fundamental responsibility and obligation especially as a Global company located in Scandinavia being a Danish company. At the same time external drivers such as legal expectations and market driven requirements is important, as that will be their ‘license to operate’ in those areas.

“In the markets where we operate, being Germany, UK or Netherlands, there is a legal landscape that we want to live up to, of course and for obvious reasons.”<sup>175</sup>

The obvious reason being that otherwise the company will not be attractive to do business with, as the legal landscape is moving from voluntary efforts to legal compliance.<sup>176</sup>

The new EU Directive (CSDDD) could be of advantage for the companies that have already started their journey on social sustainability and who are already working with HRDD.

“Of course, you can say with legislation coming up, companies are expected to meet that legislation, so in that way it can be, it can be a competitive factor because some companies may not be able to live up to it and others are”.<sup>177</sup>

The requirements that are being put on BP is the same requirements that also Ørsted themselves need to live up to if they are to be aligned with the agreed international minimum standards UNGPs/OECD. The SSM explains that it is not something that should just be considered as an over-and-done with task, but rather it is a process that the BP might need some time to ease in to.

“It's not ‘comply or die’ for our business partners and suppliers. The same thing also accounts for us because we are not by far perfect at all on this. And I think some of the challenges for us is first of all to make sure

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<sup>174</sup> Nolan, 2022, p, 9.

<sup>175</sup> Interview with Ørsted SSM March 14, 2024 – SSM answered this when we talked about why human rights is important for the company.

<sup>176</sup> Deva et al., 2023, p.133.

<sup>177</sup> Interview with Ørsted SSM March 14, 2024 – SSM when talking about if there are any advantages when working with HRDD.

that it's an integrated part in the business and not a parallel".<sup>178</sup>

The engagement with stakeholders and the notion of how implementation of HRDD is part of a process to reach the demands not only for Ørsted but their suppliers as well, indicates a sense of responsibility that can be translated into the vernacularisation process.<sup>179</sup>

#### 6.2.4 Lost in Translation

In the UNGPs it is clearly stated that HRDD should be integrated to all processes in the operation, this seem to be a more challenging task than might have been expected.

“I think some of the challenges for us is first of all to make sure that it's an integrated part in the business, that it's not a parallel process, and that it feeds into the overall decision-making process in the management system.”<sup>180</sup>

I interpret this as one of the challenges is that businesses have so many inputs to consider when acting responsible with respect to human rights. If they must consider all three categories - based on the normative business theory - in decision making processes it might add complexity.

If proper HRDD has been conducted it should contrary, make the process easier – since the purpose is that HRDD as a management system should be integrated in the entire organisation.

One issue is how the field is developing and that it is not only about a compliance set-up, but the intention should be to make a real impact which Ørsted SSM described, “*I've always been an advocate for not developing paper tiger management system*”<sup>181</sup>, it is enforcement and accountability that is of importance. The SSM goes on to describe one of the concerns that he experiences in his organisation.

“I think there is a high literacy in this organisation when we talk about e.g., climate. The way the agenda for us has developed has very much in the beginning

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<sup>178</sup> Interview with Ørsted SSM March 14, 2024 – SSM on that the implementation of HRDD is an ongoing process.

<sup>179</sup> Duval, 2023, pp. 289-290

<sup>180</sup> Interview with Ørsted SSM March 14, 2024 – SSM answered this when we talked about why human rights is important for the company.

<sup>181</sup> Interview with Ørsted SSM March 14, 2024 – SSM answered this when we talked about why human rights is important for the company.

been around exactly climate impact. How can we reduce our CO2 emissions from energy production? How can we reduce the CO2 footprint in our value chain. So, all that is very well integrated - it's well integrated into a lot of the different business processes. But I think the human rights agenda, is a lot less mature. I think there is a sort of human rights illiteracy, on many levels, and that's a big challenge for us in developing proper management systems. A lot of companies have a focus on climate, they all know that it's required and expected to take part in addressing climate change – and it is more tangible as you can make your calculations on what you see, and what your emissions are. Respecting human rights is a different challenge and agenda that is a lot more dilemma filled and likely more complex, and therefore building understanding, capacity and knowledge is a core focus in the coming period for us”.<sup>182</sup>

A lot of focus is on importance of semantics and how the human rights language might act as a barrier for proper implementation.<sup>183</sup> Nevertheless, Ørsted shows in their Sustainability Report 2022,<sup>184</sup> that it is possible to also measure impacts on human rights. The challenge described by the SSM involves both stakeholder- and stockholder theory as it is of importance that both investors and employees develop the knowledge of human rights and how that will shape a responsible business.<sup>185</sup> Lack of knowledge and understanding the field might pose a risk that adverse impacts are being overlooked which in return can affect the business and its reputation.

Semantics is something reoccurring when talking about HRDD, Ørsted SSM describes how sometimes they need to change one word in their human rights policy to get points for it.

“In Human Rights benchmarks semantics are extremely important. As an example, we didn't get full points for our human rights policy because I had used the word comply, instead of respect. Respect is part of the human rights language,

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<sup>182</sup> Interview with Ørsted SSM March 14, 2024 – SSM about getting everyone in the organisation to understand what the management system entails.

<sup>183</sup> Leite, 2023, pp.199-200.

<sup>184</sup> Ørsted Sustainability Report 2022.

<sup>185</sup> Hasnas, 1998, p.26.

but comply is for me still a very, very committing word.”<sup>186</sup>

There is a double translation always taking place because the human rights language has not been properly adopted in business terminology, this is a challenge when sustainability teams try to integrate HRDD in the entire organisation.

“We have a little bit of a double translation role because we as human rights experts in the company, need to take the external human rights language, and then first translate that into a business near language. We then need to work with it in our management systems, to make sure that the company understands what it means. For example, internal stakeholders may not know what a grievance mechanism is, and what access to remedy is. So, we need to work with it, and implement it in a business near language, and then we need to translate it back again to the human rights language for external reporting purposes and to transparently report on our efforts.”<sup>187</sup>

To get all stakeholders on the same track, it takes a lot of work back and forth just to start talking the same language. This is what Leit explains as the need for merging terminologies creating ‘marketization’ and ‘humanization’.<sup>188</sup>

This might effectively have an impact on what the business are willing to do to improve their sustainability efforts. If they do not understand the language and why this commitment is important, the sustainability teams might be met with resistance from senior management and board members. From that perspective it might be that the stockholder approach will be triumphing the alignment of international standards.<sup>189</sup>

### 6.2.5 Levelling the Playing Field

The new legislation is a window for “*levelling the playing field*” and Ørsted is working on meeting those expectations which the SSM describes as “a daunting task in itself”.

Ørsted are working with both Global Compact and UNGPs, but how effective are these as tools for their HRDD performance?

“The guiding principles is what we navigate around. It's been around since 2011

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<sup>186</sup> Interview with Ørsted SSM March 14, 2024 – SSM talking about how semantics plays a roll to be considered compliant or not.

<sup>187</sup> Interview with Ørsted SSM March 14, 2024 – SSM explaining the difficulties when not everyone in the organisation knows the ‘industry language’.

<sup>188</sup> Leite, 2023, p.204.

<sup>189</sup> Hasnas, 1998, pp.21-22.

and I think that it is what most companies are referring to when they're trying to develop their management system and programs and I would also add that the guidelines are a concrete tool on how we should set up our process and management system approach.”<sup>190</sup>

Described as very helpful at the same time it is as a learning experience that takes time to maturing companies’ understandings.

“It’s kind of the common language everyone can talk around, and it is also what the human rights benchmark is based on, and it is what the legislation *CSDDD* [added] is based on as well.”<sup>191</sup>

*CSDDD* aims to levelling the playing field as expectations of what responsible business conduct should be, will be much clearer. The SSM also refers to a ‘common language’ which could help companies reach joint understanding of what actions need to be taken combating the vagueness argued by Nolan.<sup>192</sup>

“As a company that wants to take our responsibility seriously, [...] I really like to have a level playing field legislatively. This will help me internally also, saying that we are not doing something that others should not also be doing, and that we need to meet these standards [added]. It's really, really important. Mandatory human rights due diligence legislation on an EU level will make it easier for us to drive the agenda internally compared to explaining that we do so because of investor expectations, NGO expectations, internal values, and local legislation. So, for me it will be almost like the silver bullet for us to have the EU legislation in place.”<sup>193</sup>

It shows that there is a need for engagement with all theoretical categories, there needs to be applied an intersectionality perspective to effectively implement HRDD to include own operations as well as supply chain.<sup>194</sup>

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<sup>190</sup> Interview with Ørsted SSM March 14, 2024 – SSM on what tools they use to conduct HRDD.

<sup>191</sup> Interview with Ørsted SSM March 14, 2024 – SSM talking about the use of the tools they use for HRDD.

<sup>192</sup> Nolan, 2022, p.9.

<sup>193</sup> Interview with Ørsted SSM March 14, 2024 – SSM expressing what advantages the new legislation can amount to.

<sup>194</sup> Hasnas, 1998, pp. 20-30.

## 7 Discussion

Human Rights Due Diligence is an ongoing process that means that it will evolve and change over time based on the organisational development and what decisions the company will take. When it comes to taking stakeholders consideration in as part of your decision-making process it becomes a little bit difficult. The stakeholder category as described in the theory section, does not imply that stakeholders are to be part of decisions, it only suggests that their engagement is voluntary, that they keep their autonomy.<sup>195</sup> That approach mirrors the intentions of the UNGPs quite well. If businesses suddenly need to take all its business relationships, all its business relationships employees, customers etc. – input to consideration when making a business decision, there will no longer be any business. All stakeholders will have different interests and priorities, which likely derives from what the company's business model is founded on.

As a company you are responsible for *your* business conduct and to comply with accurate legislation in all the areas you are operating. This means that you will do your human rights due diligence for your headquarters, your production facilities, all your employees, every product or service you may offer, and in return you ask of your business relations to conduct their human rights due diligence. Hence, you can ask to see their impact assessment prior going into business with a company that you might not be familiar with. If a business you want to work with, give you their impact assessment that e.g., does not show an impact on the right to living wage, but after certain amount of time, a report comes out about employees working at this company - cannot survive on the salary they are being paid. Then you would have the possibility to stop your cooperation based on faulty information when you went into business together. Another option would be to follow the guidelines in UNGPs and use your leverage or build leverage and make the company stop under-paying their employees. If they do not correct and mitigate you can end the business relationship, or you will have to live with the consequences of being affiliated to a company that does not pay their employees a living-wage.

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<sup>195</sup> Ibid, p.27.



It is of importance to understand that no one benefits from leaving the global south or other areas deemed as 'high risk countries'. If the Global south shall have the possibility to adjust their production in a sustainable manner, West needs to provide them with the right conditions. The problem is not that the Global south does not want to readjust, the problem is West demands on lowering the costs by any means which makes it near impossible for them to address human rights and environmental impacts.

If businesses and enterprises conduct proper HRDD this will most likely add to their business value. As well as decreasing their costs for third party audits and external guess work. A company can save time by not making up standards, policies, reports that does not fulfil the minimum requirements. At the same time, they can avoid liability since it is now becoming mandatory to do your HRDD as a business. It will most likely improve your position as a valuable business partner and make you more attractive for investors and alike. By taking the time to understand that HRDD is of importance for your organisation, to create greater value, which could lead to gaining market shares and profitability.

Businesses responsibility must not to be taken lightly, with the influence businesses have today, they can be the ones pushing the discourse and change the paradigm. Companies have enormous power and within that power is potential to transform the political landscape. If companies make it their mission to respect human rights, it will put pressure on states to reinforce legislation and whatever else is needed for companies to continue to invest in that state territory. The governance gap needs to be tightened and vernacularisation through HRDD and businesses acting responsibly might be the answer.

## 8 Conclusion

Conducting this research, many more questions and topics of interest has occurred. I will follow the development of this field with anticipation and aims to contribute to a positive development in BHR.

This study has aimed to answer the following questions:

- a) What challenges are there to implement human rights due diligence for businesses?
  - b) Can human rights due diligence create blue washing for companies?
  - c) Is there any incentive for companies to adhere to Business & Human Rights obligations?
  - d) Are we missing the core issue?
- 
- a) The challenges that this study illustrates is that the human rights language is difficult for businesses to implement. The need for translating human rights within the organisation can have many different explanations. One being that there is a general lack of knowledge about human rights, but also a lack of knowledge from the ones giving advice in the field. It also sends an important signal to policymakers and human rights experts, that human rights might be too theoretical in its expression. The study also shows that there are challenges in getting everyone in a company to understand the added value HRDD can create, both from a business perspective, but also for everyone being affected by the operational conduct such as employees and communities. The UNGPs specifically express how to work with HRDD, but there are many other sustainability initiatives which is also applied, hence there becomes confusion on what counts as conducting proper HRDD. Some of the other initiatives even undermine the purpose of HRDD. When applying initiatives, not aimed at businesses, the challenge becomes trying to transform them into a context it was not meant for.

- b) Blue washing is when companies state that they are doing things to e.g., better a community or improve employees working condition, and then it turns out they have not done anything in those areas.

If conducted properly - HRDD cannot create blue washing, however, it can improve a company's image - which is fine. Companies that engage in social sustainability, with genuine intention to improve and make their company attractive to achieve e.g., higher retention of employees or create a diverse workforce, might not be taken seriously with their efforts. It is easy to portray a company as guilty of blue washing especially if there might be a financial interest behind it, but that is not what blue washing refers to. What should be examined is if a company have conducted the actions for improving social sustainability as stated or not. If a company engage in HRDD, depending on the engagement and commitment of the company, a lot of positive outcomes can follow, which can yield increased revenue even if that was not the intended purpose.

- c) The incentive that this thesis demonstrates is that companies will experience that if they do not get aligned with the minimum standards and the legal requirements for sustainable business conduct, they will lose their 'license to operate'. Even if a company is not bound directly by the CSRD and CSDDD, demands put forward by suppliers or customers will widen the scope of who must conduct HRDD. Larger companies have a responsibility to inform their BR and require them to conduct HRDD, otherwise they are not living up to their side of the requirements. Without possibility to 'know and show' your impacts, 'business as usual' cannot prevail.

- d) Now the final and most difficult question... Are we missing the core issue? The "core issue" could be identified from two perspectives, firstly by identifying the core issue of own operations. If HRDD are not conducted properly, if there is lack of knowledge from the people performing the impact assessment (being in own operations or by third party) it could compromise the results. The risk of adverse impacts might not be extensively investigated.

This implies that the core issues of the company would go by un-assessed and un-noticed and thereby - missing the core issue.

The second perspective have a much wider scope, the answer will not be exhausted in this thesis, but I will declare what it could be from my point of view. The core issues we face as a global community, it is a larger systematic issue. Which is, that the global supply- and demand exchange, are constructed in the same old colonial structure, where the global south is continued to be taken advantage off. It is a paradox that West has created the issues in the Global south, which they then send auditors to report back on - issues themselves are responsible for. As you can tell this statement is like opening pandora's box, and I shall not continue to develop these thoughts, however, it made me see that there is a need for further investigations and nevertheless, it open-up for interesting discussions.

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# Appendix

## Interview Questions

- 1.) Why do you comply with international human rights standards and why is human rights important for Ørsted?
- 2.) What have you found to be a struggle working with DD?
- 3.) Is HRDD practical to work with?
- 4.) Why does human rights and social sustainability work for Ørsted?
- 5.) How is it a part of your industry and sector?
- 6.) What kind of long-term results are you hoping for?
- 7.) What goals do you have with your work on due diligence?
- 8.) How do you follow up and measure progress?
- 9.) What is your opinion on Global Compact and UNGPs as a tool?
- 10.) How does HRDD bring value to your customers?
- 11.) Have you faced problems of human rights impacts at the sights and / or business partners that you audit?
- 12.) How much of a change has there been since CSRD came to force?  
(Strategically, management, resources)
- 13.) Do you receive any incentives from states or business partners (or alike) for your sustainability efforts?
- 14.) What is the 'carrot' for companies to work with due diligence?