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Informational Governance and the “Transparency Act”: implications for social sustainability

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Abstract

This thesis looks at what implications information used as a policy instrument may have on the social sustainability in the global food system, looking at the Norwegian “Transparency Act”. To investigate this topic, data were collected through interviews with relevant corporations, organizations, and the supervisory authority, as well through an analysis of the responses to the public hearing on the Ethics Information committee’s report. The findings indicate that information used as a policy instrument show more potential when utilized by collective actors, rather than individuals. Furthermore, the findings also indicate that the Transparency Act may come to serve a supporting role to national legislation in upholding human rights. However, its degree of success may hinge on how strict the act will be enforced in practice.

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List of abbreviations

CA – the Norwegian Consumer Authority

CSR – Corporate Social Responsibility

EEA – European Economic Area

EHN – Ethical Trade Norway

FIVH – Framtiden i Våre Hender

GUF – Global Union Federation

IFA – International Framework Agreement

ILO – International Labour Organization

NGO – Non-Governmental Organization

NIBIO – Norwegian Institute of Bioeconomy Research

OECD – Organisation for Economic Co-operation and Development

UN – United Nations

WTO – World Trade Organization

1 Introduction

By convention, the responsibility of ensuring citizens enjoy both human- and workers' rights have resided with the state. However, recent years has seen a fragmentation of this duty, in response to the recognition of the poor conditions that some workers endure, particularly in the Global South. The private sector entered the stage, through voluntary private governance mechanisms aimed at improving labor conditions. These mechanisms also frequently involve other non-governmental actors, such as consumers and NGOs. Some have seen these developments as the state giving up its dominant regulatory role, and as the coming of an epoch of private governing of such critical issues. However, a wave of what by some is dubbed home-state regulation (LeBaron & Rühmkorf, 2017), have seen the state returning to the playing field, attempting to secure human rights and decent working conditions in corporate supply chains, within and beyond its borders. The need for stronger legislation in the area became clear as private initiatives alone, have not been enough to secure the social sustainability of global supply chains. One such piece of legislation, on which this thesis is focused, is what in this thesis will be referred to as the Norwegian Transparency Act, with the official name being "Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold". The act is intended to serve the dual purpose of furthering corporations' respect for human rights and grant the public information on how corporations are tackling negative consequences for human rights and decent working conditions.

Although issues concerning workers' rights in global food supply chains have often received less attention than conditions in the textile or electronics industries, evidence from scholarly articles, NGOs and news media paints a grim picture. For instance, Oxfam International in a briefing note on workers' rights in supermarket supply chains state that previous investigations conducted by a variety of organizations "... show that, without a shadow of a doubt, the exploitation of workers in the food industry is not confined to a few problematic products or a few troublesome locations: it is systemic in our food system" citing, among other things, cases of labor exploitation in the tea industry in Indian state of Assam and from Brazilian fruit production (Oxfam, 2019, p. 6). As far as scholarly contributions go, Chen (2020) in his article on workers' rights in the coffee industry explains that while it often is assumed that abusive labor practices are most common in production plants that produce consumer goods, in reality "the abuse and exploitation of workers take place more frequently in the agricultural industry" (Chen, 2020, p. 5). Abusive practices in other sectors producing

food have also been researched, for instance Chantavanich, Laodumrongchai and Stringer (2016) account for the forced labor practices endured by migrant workers in the Thai fishing industry, an industry mainly geared towards producing goods for export markets. In Europe, Italian tomato production has come under scrutiny, for exploiting laborers who migrate from countries in Sub-Saharan Africa in search of work, a system which is laid out in detail for example by Melossi (2021). Such examples, as well as the estimate that 60 % percent of the world's child laborers work in agriculture, with the remaining 40 % split between services and industry (Chen 2020, p. 6) indicate that human- and workers' rights in the global food system, as well as how to remediate such problems is worth exploring.

Developing countries, where the economy sometimes relies heavily on so-called "cash crops", such as coffee, cocoa or sugar, are highly vulnerable to any disruptions to production caused by such uncontrollable factors as extreme weather or fluctuations in prices in international markets. Examples of such countries are Ethiopia and Guatemala, where coffee exports have sometimes made up as high a proportion of export earnings as 50 percent. With countries so heavily reliant on one crop, and disruption to their ability to export it potentially causing heavy damage to the economy, a common solution is to lower the costs of what they can control, namely labor, in order to increase international competitiveness. This can be done through introducing exploitative and abusive practices on farms. Governments sometimes ignore such issues due to the importance of the revenue the cash crops raise (Chen, 2020, p. 9). Internationally, there exists several mechanisms for labor protection, most prominently through the ILO and the UN. Labor standards are set through conventions, which close to all countries in the world have signed on to. However, in terms of enforcement, they remain weak. Guidelines issued by these international bodies are often voluntary, for instance the ILO can only "issue advisory opinions to address the violations of labor rights in individual countries", leading to an absence of legal ramifications when member states do not comply with the agreed upon standards, or are unwilling to implement advice given by the ILO, instead relying on "strong moral suasion to encourage nations to comply with the established guidelines" (Chen, 2020, p. 17). While the ILO cannot impose sanctions, demand that member states adopt legislation to address such violations or force them to report on labor rights violations, or even revoke the membership of states that repeatedly do not comply with the agreed upon standards, it instead relies on market-based strategies, such as "public embarrassment, condemnation from the international community, and a possible campaign to boycott the products from these countries" (Chen, 2020, p. 18). Such penalties, as is used by

other international bodies, have prompted some to argue that “the *enforcement* of international human rights law has always been seen as the weak link in the international legal system” (Chen, 2020, p. 18). A natural argument here might be that such standards should be strengthened, however that seems an unpalatable development, given that no countries are completely free of violations of human rights, causing states to refrain from calling other states non-compliance out, in order to avoid being accused of such violations themselves. States are also often unwilling to put bilateral relations on the line for such issues, making a stricter regime unlikely unless states become more willing to interfere with the internal affairs of others (Chen, 2020, p. 19).

Furthermore, the ILO core conventions have also inspired voluntary initiatives aimed at strengthening labor rights, as well as other international guidelines, such as the OECD guidelines for multinational enterprises (OECD, 2011, p. 37). Voluntary labor initiatives include codes of conduct, certifiable standards, and International Framework Agreements (IFAs). Codes of conduct can be multi stakeholder, an example being the Ethical Trading Initiative base code. A frequently used third-party certified standard is the Social Accountability 8000, which include many of the same elements as the base code, such as freedom of association, no harsh or inhumane treatment, providing a living wage and no excessive working hours. By signing up to the code, corporations also commit to implement and follow up on it in their supply chains (Robinson, 2010, p. 564-565). A key objection for many has been that such private initiatives, although they build on international agreements, represent the shifting of the regulation of labor standards from national or supranational actors to business itself. IFAs, however, have often been perceived more positively by labor organizations, due to the closer involvement of the Global Unions Federations (GUFs) and local trade unions in negotiating terms, which is assumed to be more effective in improving conditions for workers (Robinson, 2010, p. 565). Although such private governance mechanisms cannot be said to be a replacement for national legislation on workers’ rights, Robinson (2010, p. 570) conclude that they can serve a complementary role, by “helping to raise labour and employment conditions in countries involved in producing goods for exports”.

As this represents a new development in the governance of social sustainability in supply chains, investigation into its potential and limitations is appropriate. For this thesis, the focus will be on how the act and its mechanisms may affect social sustainability in food systems. While much focus on poor conditions for workers in global supply chains have centered on

industries such as textile and electronics, food supply chains are also plagued by poor working conditions, see for instance Oxfam (2019), Melossi (2021) or Chen (2020). The act applies to Norwegian corporations of a given size, and as such the relevant actors in the food system are large corporations in the Norwegian food sector. Furthermore, the act requires that corporations publish reports on how they handle human- and workers' rights in their supply chains, and by granting the public the right to request information on such issues from corporations, as well as mandating that due diligence be carried out in accordance with the OECD guidelines for multinational enterprises (OECD, 2011) (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022). This can also be said to represent a form of hybridity in governance, where traditional, more authoritative state measures are coupled with informational requirements, a development that Mol (2008, p. 83-84) points to as likely to occur.

While several definitions of the concept of *food systems* exist, the following definition was engineered for the UN food systems summit:

“Food systems embrace the entire range of actors and their interlinked value-adding activities involved in the production, aggregation, processing, distribution, consumption, and disposal (loss or waste) of food products that originate from agriculture (including livestock), forestry, fisheries, and food industries, and the broader economic, societal, and natural environments in which they are embedded” (von Braun, Afsana, Fresco, Hassan & Torero, 2020, p. 5).

Although this UN paper focuses its attention more on the environmental aspect of sustainability, others have paid more attention to the social aspect. For instance, Janker, Mann and Rist (2019), using a human rights-based approach as well as drawing on Maslow's needs hierarchy, have contributed to the understanding of social sustainability in agriculture. Given that the primary objective of farms is production, they argue that actors “involved in agricultural processes”, which are mainly farmers, but also other actors involved in production, such as family members and employees, are at the core of the agricultural system. Although the conditions for what is socially sustainable may vary with the local context, a minimum can be said to be upholding the basic human rights as formulated by the UN as well as the core conventions of the ILO (Janker, Mann & Rist, 2019, p. 36).

In terms of theoretical considerations, this thesis builds on Mol (2008) and his concept of informational governance, in order to make sense of (new) developments in governance. Informational governance draws on theories of the network society and information age, that have been developed by several prominent scholars, perhaps most notably Manuel Castells. Further, also included is a typology serving in classifying and distinguishing between features in modes of governance (Treib, Bähr & Falkner, 2007). Additionally, related to transparency and granting the public access to information on corporations' supply chains regarding human- and workers' rights, the gap between consumers' intentions and behavior is applied in order to explain why consumers are not necessarily likely to utilize such information (Carrington, Neville & Whitwell, 2014).

The thesis is qualitative in nature, employing semi-structured interviews with corporate actors in the food sector, organizations, and the Norwegian Consumer Authority. These actors were purposively sampled, and hence, were chosen due to their relevance to the phenomena studied. Additional data originates from the responses to the public hearing that was conducted in relation to the publication of the government appointed Ethics information committee's report and suggestions for the Norwegian Transparency Act. These responses include a variety of actors, giving a broader set of opinions on the Transparency Act.

1.1 Problem statement

The problem to be addressed in this thesis is the poor social sustainability that result from violations of workers' and human rights in the global food system. Private governing mechanisms have proven insufficient in addressing such issues in corporate (food) supply chains. Additionally, according to Chen (2020, p. 18) some have argued that "the *enforcement* of international human rights law has always been seen as the weak link in the international legal system" Consequently, the Norwegian state has launched a hybrid form of legislation, that in part relies on information used as a policy instrument, to improve conditions for people in corporate supply chains. Such problems persist, in spite of a wide array of private governance mechanisms aimed at raising standards. Such mechanisms are not regarded as direct replacements for national legislation, but Robinson (2010, p. 570) argue that they can serve to complement state-based regulation. LeBaron and Rühmkorf (2017) however, argue that home-state legislation that aims at steering private governance, may legitimize inefficient private regulation rather than strengthen it, but that which effect it has, relies on the design of the public regulation.

1.2 Research questions

For this thesis, the following are the research questions which will guide an investigation into the Transparency Act and its potential implications for social sustainability in the global food system:

RQ1: *How is the Norwegian governance regime surrounding food systems designed and how is informational governance integrated in it?*

RQ2: *How are corporations in the food sector adapting to the informational requirements in the Transparency Act?*

RQ3: *How may information used as a policy instrument affect social sustainability in the food system?*

1.3 Thesis outline

This thesis consists of seven chapters. Chapter one, the introduction, provides preliminary background information and a brief presentation of the chosen methods and theory. It also frames the problems that are investigated and presents the research questions that guides this investigation. Chapter two consists of background information on the Norwegian grocery and food sector and the governance regime that surrounds it.. Further, it provides background information on the Norwegian Transparency Act specifically, as well as international policy on corporate responsibility, in order to provide the reader with necessary information for engaging with the analysis and discussion. Chapter three lays out the theoretical perspectives utilized when analyzing and discussing the collected data, and serves to help the reader in discern what has been done, as well as the claimed findings. Chapter four consists of information on the methods that are utilized in this paper, as well as how they are applied, and considerations made in relation to them. The purpose of this is make clear to the reader how the study is designed, as well as justifying the decisions that were made. Chapter five consists of the analysis, and presents data from the conducted interviews as well as data from the public hearing held in relation to the Ethics Information Committee's report. This is viewed in relation to the theories presented in chapter three and provides a basis for discussion. Chapter

six consists of a discussion, where the findings are considered in relation to relevant scholarly literature, and the meaning, relevance and importance of the findings, and builds towards the conclusion. Chapter seven consists of the conclusion, which is a synthesis of main arguments, aimed at establishing the importance of the research.

2 Background

The purpose of this chapter is to provide general information on the Norwegian food sector, the Transparency Act, as well as on international policy on corporate conduct. First, this chapter provides an overview of the Norwegian food and grocery sector, including relevant actors, statistics, as well as public institutions pertaining to the food sector and trade agreements. Further, a detailed description of the Norwegian Transparency Act, as well as international policy on corporate responsibility concludes the chapter.

2.1 The grocery market and value chain

The value chain of groceries in Norway, from the bottom up, consists of suppliers and producers, who supply goods to wholesalers and distributors, before finally being sold by retailers. The market is dominated by a very low number of actors. NorgesGruppen being the largest, accounting for a 43 % share of the grocery market, which in 2017 totaled NOK 171.3 billion. The other large actors are Coop and Rema 1000, with a market share of 29.7 % and 23.4 % respectively. In addition to these three, Bunnpris holds a 3.8 % market share, leaving a 0.1 % market share for other grocery stores (Wifstad, Jenssen, Eide, Grünfeld & Skogli, 2018, p. 8).

The supply stage of the value chain includes both producers and actors who resell products to retailers. Suppliers operating in the Norwegian market are few, with Tine and Ringnes being the only actors distributing their products to retailers. On this note, a study found that from a selection of 18 selected product groups, three suppliers accounted for over 60% of the market share (Wifstad, et al., 2018, p. 9).

The wholesaler stage of the value chain comprises the actors who buy products from suppliers, as well serving to provide storage and logistics for retailers. This stage is integrated into the three grocery umbrella organizations, where each of the large retailers own a wholesaler. This trend has led to there being no independent wholesalers left in the Norwegian market (Wifstad, et al., 2018, p. 10).

Last is the retail stage of the value chain. As of 2017 there were 3843 grocery stores in Norway, with most belonging to a supermarket chain. Franchising is also quite common, a system where the grocer owns the store, while paying to use the concept of a supermarket chain. Further, grocery stores are divided into different segments, namely low price, super market, local stores and hyper markets. Each category is characterized by differences in, among other things, prices and assortment (Wifstad et al., 2018, p. 12).

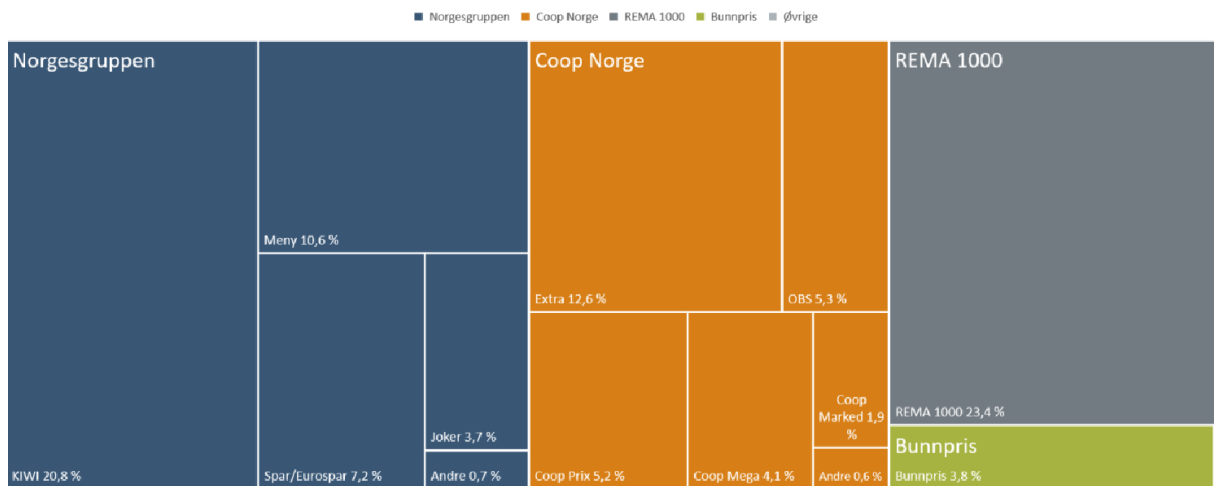


Figure 1: Overview of market share of Norwegian grocery chains (Wifstad, et al., 2018).

2.2 Norwegian food imports and exports

The Norwegian agricultural consists of approximately 38 000 farms as of 2021. Most farmers are employed in the production of meat and dairy, while the rest either produce plants, such as wheat, or a combination of the two (SSB, n.d.). While this national food industry accounts for a large part of food sold and consumed yearly, a significant proportion of what is sold in supermarkets is imported. According to a NIBIO report, written in collaboration with the Agricultural Directorate, about 27% or 22 out of 81 billion of food raw materials, NOK is estimated to be imported, whereas at the wholesale stage, around 25% is imported, which amounts to about 257 billion NOK. (Pettersen & Kårstad, 2021, p. 34).

While Norway imports a significant proportion of its processed agricultural products, its exports mainly consist of seafood. (Pettersen & Kårstad, 2021, p. 6) In 2019, the value of food exports was NOK 117 billion, while the value of imported foods was NOK 73 billion (Pettersen & Kårstad, 2021, p. 22).

2.3 Trade agreements

Trade in food, as with other products, is regulated by a wide array of agreements – bilateral and multilateral – that provide the rules of the game. Through membership in both the World Trade Organization (WTO) and the European Economic Area (EEA) Norway is obliged to conduct trade in accordance with what is set out in the trade agreements. These agreements

provide criterion for the sale of goods and services, including the regulation of customs tariffs (Landbruksdirektoratet, 2020, p. 22). In terms of trade in food, article 19 of the EEA agreement regulates the trade in basic agricultural products between Norway and the European Union (EU), while protocol 3 applies to the trade of processed agricultural products (Landbruksdirektoratet, 2020, p. 25). Further, Norway is a member of the European Free Trade Association (EFTA), through which Norway has 29 trade agreements with the other members. Furthermore, EFTA serves as an organization through which trade agreements can be negotiated, and Norway is currently in talks with, among others, China over a new free trade deal. China is Norway's largest trade partners, and the fourth largest for agricultural products, only exceeded by the EU, Brazil and North America (Landbruksdirektoratet, 2020, p. 26). Another free trade agreement has been struck between EFTA and Mercosur, which is made up of Brazil, Uruguay, Paraguay and Argentina, lowering barriers for Norwegian goods in their markets, while granting lower tariffs import quotas on agricultural products from the Mercosur countries (Landbruksdirektoratet, 2020, p. 27).

2.4 Public institutions

The trade and production of food is regulated by several institutions. The ministry of agriculture and food is responsible for Norwegian food and agricultural policy. These two areas include land-management, agriculture and forestry, reindeer husbandry as well as the development of new agricultural industries. Followingly, their general purpose is to ensure sustained agricultural production and to contribute to economic growth and employment in the agricultural sector. Additionally, some of the foundation of food and agricultural politics is grounded in general economic policies and trade policy, which is premised on WTO and EEA agreements (Landbruks- og matdepartementet, 2018).

Under the Ministry of Agriculture and Food are several institutions. The Directorate of Agriculture is a supportive organ to the ministry, aiding it in legal questions as well as with support schemes (Landbruksdirektoratet, n.d.). Another is the Norwegian Food Safety Authority, which role is, as the name implies, to ensure food and water is safe for the citizens. It does this through submitting rules and laws as well as providing guidance to actors, through supervision and through providing and spreading information and knowledge (Mattilsynet, n.d.). Additionally, the Norwegian Institute for Bioeconomy Research (NIBIO) fall under the ministry. The role of NIBIO is to provide knowledge on its main areas, which are agriculture, food, the climate and the environment, through research. In that way it is supposed to further

food security, sustainable resource management, as well as innovation and growth in the sectors it focuses on (Norsk Institutt for Bioøkonomi, n.d.).

2.5 Policy, legislation and enforcement

The grocery retailer sector in Norway is mainly made up a low number of large actors, albeit accompanied by some small actors which tend to specialize, such as the store chain Iceland, which mainly sell frozen foods (Nærings- og Fiskeridepartementet, 2020, p. 40). The growth of grocery retailers over time also incentivized them to gain a higher degree of control over more of the supply chain. Organized as franchise stores, with central control of purchasing, assortment, distribution, pricing and marketing lead to a need for increased control of the distribution link, resulting in the integration of wholesalers in the grocery chains. This trend may be the cause of the current situation, with no remaining independent wholesalers (Nærings- og Fiskeridepartementet, 2020, p. 21). The vertical integration, here meaning companies operating business on several levels of the supply chain, of the large grocery leads to significant advantages compared to competing (smaller) businesses. This, in turn, can also be argued to be a barrier for the entry for new actors aiming to enter the market (Nærings- og Fiskeridepartementet, 2020, p. 98). This is also a concern that has sparked debate in recent times, with government considering measures for limiting the market power of the large actors in Norwegian food system, with the main reasoning for such policies being an argument that the status quo may cause higher prices for consumers (NTB, 2022).

Furthermore, other laws, such as what is called “Lov om god handelsskikk i dagligvarekjeden”, a law setting a standard for fair conduct in relations between actors in the grocery sector are part of the governance regime surrounding the Norwegian food sector. Like many of the other policies and regulations mentioned in this chapter, some of the underlying motivation for the state to launch it was economic (inefficiency) concerns, as well as fears that certain practices the law seeks to redress could be disadvantageous for consumers (Nærings- og Fiskeridepartementet, 2020, p. 102-103).

2.6 The Transparency Act

The recently passed Norwegian “Transparency Act” is set to come into effect on the 1. Of July 2022. The act, which is formally named “Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold” and has a dual purpose. The first of these being to further corporations’ respect for basic human rights and decent working conditions. Second, it also seeks to ensure the public has access to information about

how corporations are handling (their) negative impacts on basic human rights and decent working conditions (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 1). The act sets out several demands towards corporation. They are, in line with OECD guidance for multinational corporations, to perform due diligence which should be performed regularly, and in accordance with the size of the corporation, where they operate, the nature of their operations as well as the perceived risk of violations of basic human rights and decent working conditions (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4). Followingly, corporations are also required to publish due diligence findings, and make them easily accessible through their own websites (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 5). Furthermore, the act also includes a right of the public to be given access to information, by request, about how a corporation is dealing with negative impacts on basic human rights and decent working conditions. This right applies to both general information, and information in relation to specific products or services (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 6).

2.6.1 Origins of the Act

The official name of the Norwegian Transparency Act is «Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold». However, for practical purposes, it will be referred to as the “Transparency Act” throughout this thesis.

The process that resulted in the legal text made into law, can arguably be said to have started as early as 2015, when the NGO Fremtiden i Våre Hender begun pushing for an ethics information Act that would order corporations to, by request, publish information on conditions (for workers) in their production. Subsequently, a coalition of political parties furthered a legislative motion to set up such an Act, and in June of 2016 the Norwegian parliament passed a motion to investigate whether introducing a law along those lines. It is further concluded that neither national nor international legislation would conflict with the passing of the Act, and the Ethics information committee is created to assess the utility of requiring corporations to publish ethics information (Leffler, 2021). The committee was tasked with producing a report on whether it was possible and appropriate to require corporations to publish information on where their products are produced and how

corporations work with social responsibility in their supply chains, and later to produce a suggestion for the text of the Act (Etikkinformasjonsutvalget, 2019, p. 16).

2.6.2 Details of the Act

As stated in the first of a total 15 paragraphs, the Act has a dual purpose. On the one hand, to further basic human rights and decent working conditions in connection with production of goods and services, and on the other to grant the public access to information on how corporations manage “negative consequences” for basic human rights and decent working conditions (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 1). Further, the Act applies to larger corporations, that either have sales totaling NOK 70 million or more, balance of minimum NOK 35 million, or people employed to fill the man-hours equal to that of 50 full-time employees (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 2-3).

“Basic human rights” refers to the UN’s internationally recognized human rights, laid out in the 1966 convention on economic social and cultural rights, the 1966 International Covenant on Civil and Political Rights, as well as the ILOs core conventions on fundamental principles and rights at work (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 3). While «decent working conditions» in this context refers to working conditions that upholds basic human rights as outlined above, health, safety and working environment at work, as well as earning a “living wage” (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 3).

Further, the Act includes a duty to conduct due diligence in accordance with the six steps described in the OECD Guidelines for multinational enterprises, and must be carried out in all parts of the corporation as well as throughout their supply chain (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4). Supply chain is defined in the Act as all suppliers and subcontractors that produce or deliver goods, services or other inputs that are part of a corporation’s supply of services or products, from the raw material stage to finished product (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4).

As previously mentioned, the contents of the duty to conduct due diligence is based on the OECD Guidelines for Multinational Enterprises (2011), which draws on the United Nations

Guiding Principles on Business and Human Rights (2011). This has then spawned the six stages the Act outlines to define what exactly must be done to fulfill this duty. First, corporations must “anchor” responsibility in their codes of conduct. Second, they must map and assess actual and potential negative consequences for basic human rights and decent working conditions. This applies to all such issues that the corporation has caused or contributed to, or that is directly connected to the corporation’s business operations, products or services through supply chains or business partners. Third, is the duty to implement appropriate action to end, prevent or reduce negative consequences based on the assessments made as a result of the processes in the third point. Fourth, is to follow up on how the measures decided upon is carried out, and what results derive from it. Fifth, is to communicate to stakeholders and rightsholders how negative consequences have been handled. Finally, and sixth, they must ensure themselves or cooperate to provide restoration and remuneration, where there are grounds for it (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4).

Additionally, corporations must publish a report that includes how they handle or plan to handle negative consequences on basic human rights and decent working conditions, what such negative consequences they have discovered or they have judged there to be risk for, and what measures are planned or have been taken (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 5).

Furthermore, the Act includes a second duty in addition to the due diligence requirements. It gives anyone, whether that be individuals, NGOs, other corporations or journalists, the right to request information from corporations on how they handle potential and actual negative consequences for basic human rights and decent working conditions. Such requests can be made in regard to general information, or be specific in demanding information about a particular product or service. However, there are some exceptions, namely that request can be denied if they are “manifestly unreasonable”, if they concern personal matters, if they concern information that is sensitive due competition reasons, or if it does not give enough background to discern what the demand concerns (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 6). The information should subsequently be provided to those who made the demand within reasonable time, which in this case is defined as within three weeks (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 7).

2.6.3 The Norwegian consumer authority and enforcement of the Transparency Act

The government body that has been tasked with enforcement and guidance in relation to the Act, is Forbrukertilsynet, the Norwegian Consumer Authority. It is a public supervisory authority that has as its primary tasks to supervise marketing and contract terms, enforce consumer protection laws and to mediate in conflicts between consumers and business actors (Forbrukertilsynet, n.d.a). With regard to the Transparency Act it has been given two tasks. First, it are to work towards the rules in the Act and decisions made in accordance with it are complied with through providing guidance, consisting of general information, advice and guides (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 8). Second, it has responsibility for enforcing the Act. It shall strive to ensure that corporations follow the regulations, primarily through negotiations with the corporation found to be in breach of the Act (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 9). Failing that, it possesses the power to impose sanctions, which can take the form of prohibitions or orders, coercive fines, or administrative fines (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 11). Further, the consumer authority states that, in the first period after the law comes into effect, their primary focus will be on guidance, explaining it understands that corporations will use some time in order to implement the duties in the Act. However, it also states that “extensive” and “obvious” breaches to the Act’s requirements, meaning that corporate actors that fail to start work on complying, may risk incurring sanctions (Forbrukertilsynet, n.d.b).

2.7 International policy on corporate responsibility in (food) supply chains

Among the policies aiming influence international business and transnational corporations’ practices are the United Nations Guiding Principles on Business and Human Rights. Although not formally binding, the principles are founded in the responsibility of states to “respect, protect and fulfill human rights”, and by extension the obligation of corporations to follow suit (United Nations, 2011, p. 2). International human rights law in general do not require states to prevent corporations that are based in their country from violating human rights in their operations abroad. However, the guiding principles argue for corporations’ home states to do so, due to a variety of reasons, including reputational concerns and “ensuring predictability for business enterprises” (United Nations, 2011, p. 4). Additionally, extra weight is put on influencing corporations that the state is directly involved in, trough for example ownership, as well as corporations the state buy from (United Nations, 2011).

In similar fashion, the Organisation for Economic Co-operation and Development (OECD) has its own set of guidelines for multinational corporations, which has incorporated the UN's Guiding principles. Further, the scope of the OECD guidelines also sets out recommendations for due diligence practices and sustainable management of supply chains (OECD, 2011).

Similar to the Transparency Act passed in Norway, the European Union, through the European Commission, has announced a new set of rules for corporations' duties regarding human rights and environment in their value chains. (European Commission, 2022). This new directive will, on the one hand, require corporations to conduct due diligence with regards to human rights and environment identifying breaches. When found to be contributing to breaches they will be required to "prevent, end or mitigate adverse impacts of their activities on human rights ... and on the environment" (European Commission, 2022).

Similar legislation exists in, among other states, the UK, which "has been at the forefront of introducing legislation designed to strengthen CSR" (LeBaron & Rühmkorf, 2017, p. 20). In 2015, the Modern Slavery Act was introduced. While the act mandated that corporations publish a statement either on what steps were taken to combat slavery and human trafficking in their supply chains, or a statement saying they had not taken any such measures. This entails that the corporations are not forced to combat these issues, if they follow the duty to release a statement. In turn, this amounts to the act being quite weak, in not introducing new legally binding demands (LeBaron & Rühmkorf, 2017, p. 20). Similar legislation has been passed in several places, for instance in California, France and Australia (LeBaron & Rühmkorf, 2017). While some of these laws are specific to issues, such as for instance modern slavery, but tend not to be specific to industries or sectors, rather imposing duties on all corporations of a certain size.

3 Theory

The theory chapter provides the reader with an overview of the theories applied in this thesis. First, Mol's (2008) theory on informational governance and informational regulation is presented. Further a typology of modes of governance by Treib, Bähr and Falkner (2007) is laid out in order to be able to later make sense of specific characteristics and differentiate between modes of governance. Finally, theory on ethical consumption (Carrington, Neville and Whitwell, 2014) and consumer power (Egels-Zandén & Hansson, 2016) is outlined to inform an understanding of these subjects.

3.1 Castells and the move from the network society to information age

Arthur Mol in developing the concept of informational governance, builds on the work of Manuel Castells, who theorized that the globalization and new technological paradigm of the 1980s and 90s would lead to a new social structure he called the global network society. Many other scholars have devised similar theories; however, Castells is arguably at least one of the most influential (Mol, 2008, p. 43). In the global network society, flows and networks take the place previously inhabited by states, societies and physical spaces and have become "the key constituting units, both in terms of physical infrastructures and social systems". Further, networks are also the way in which "the core activities that shape and control human life around the globe" are organized. (Mol, 2008, p. 43).

Following on from this the central concepts of "space of flows" and "space of places" in Castells' analysis. The space of flows is a new layer "emerging within and in between our societies" and should be interpreted as "a new kind of time-space organization of social practices (Mol, 2008, p. 44). It includes new concepts of time space and power, and points to the power elites who are best equipped to maneuver this new system and through it controls flows of money, capital and information. In turn, this dynamic comes at the expense of the "ordinary people" who are left in the space of places (Mol, 2008, p. 44). As such the space of flows has an exploitative character, which ordinary people retain little other than the option to protest and resist, an option Castells argues they will make use of should the "logic of the space of flows" show itself in the network society (Mol, 2008, p. 44). While earlier scholars who worked on what they called "the internet society", a theoretical predecessor to the network society attached much more positive connotations to the dynamics of a new society, Castells rather argues the new social order will be reveal itself as "meta-social disorder" which is "an order derived from the exploitative and uncontrollable logics of markets, genes and (information) technology" (Mol, 2008, p. 44). According to Mol (2008) the information

age literature, which emerged from the 1990s and onwards, can be distinguished from the writings of the information society scholars of the 60s and 70s on several key points, but most distinctively by the centrality of globalization processes in their analysis. This development was perhaps quite natural, given the dominant position the concept of globalization occupied during the 90s, when globalization dynamics produced by global communications and information systems became evident (Mol, 2008, p. 45). Globalization is also tightly connected to another key difference between information society and information age, in that it is connected to informational processes and technologies, that information age scholars have created a new global social structure. Further, such a radical shift also requires new sets of concepts. Hence, replacing changes in society and economy as the focus of analysis of change in modernity, are global networks and flows of information, capital and persons and how they reorder the world (Mol, 2008, p. 46). Although there are varying positions among information age scholars on how central informational developments are in changing the world, they mostly agree on the point that “information flows and the new technological paradigm ... are at the basis of fundamentally different global economic, political and social processes” (Mol, 2008, p. 47).

3.2 Modes of governance

While several methods of categorizing modes of governance exist, viewing them through three dimensions of governance – politics, polity, and policy – allows for distinguishing clearly between categories. In politics, modes of governance can be distinguished according to the degree of involvement of private actors. In policy, the differences are connected to whether there is legal bindingness or “soft law” and if the implementation process is strict or flexible, the presence of sanctions or lack thereof, whether regulation is procedural or material, and whether norms are malleable or fixed. Within polity modes can be categorized according to “market structure and dynamics vis-à-vis hierarchy, a central versus a dispersed locus of authority and institutionalised versus less formally institutionalised interactions” (Mol, 2008, p. 16-18). Modes of governance can also be categorized according to the actors involved and the steering modes utilized. For instance, hierarchical steering mode is used by traditional nation states only, while nonhierarchical steering modes includes the intergovernmental bargaining of public actors, the delegation of public functions to private actors, which, naturally, involves both the public and private sector, while the steering mode called private-interest government is exclusively private sector based (Mol, 2008, p. 17).

While the previous paragraph describes a way of distinguishing different aspects of governance modes, Treib, Bähr and Falkner (2007, p. 11) argue that it is necessary to limit the number of aspects included in analytical schemes used for classifying modes of governance or analyzing changes over time. Instead, they propose that scholars identify “a limited number of clearly specified dimensions”, something they argue is essential when moving “from classifying on the basis of individual dimension, ... to building analytically meaningful classification schemes and typologies of different modes of governance”. Such an approach can be carried out through a two-step-approach, by first creating separate classification schemes for policy, politics and polity, serving as a starting point for empirical investigations. Then, the analysis can be further developed through combining the findings from the different dimension, gaining the ability to produce a broader analysis all three, and how they are connected. For instance, “it may or may not turn out empirically that certain modes of decision-making are likely to produce certain policy outputs” (Treib, Bähr & Falkner, 2007, p. 13).

3.3 Informational governance

With the emergence of a new technological paradigm that utilizes “flexible and powerful information and communication technologies” as well as being tightly linked to globalization, Castells and a variety of other scholars argue that resulting changes materialize as a new “fundamentally different social and economic order” (Mol, 2008, p. 82). However, the effects of the Information Age do not stop there, but extends to politics, governance, civil society and culture. From the basis of an informational economy and informational politics, Mol (2008) develops a concept of informational governance of the environment. Informational governance, for Mol, refers to “the idea that information is fundamentally restructuring processes, institutions and practices of environmental governance, resulting in essentially different forms of environmental governance from the conventional modes” (Mol, 2008, p. 83). While conventional forms of governance, in this case of the environment, utilizes authoritative resources and state power, informational governance is based on information as a “crucial (re)source with transformative powers” (Mol, 2008, p. 83). States are no longer regulatory monopolists, resulting from the gradual shift of (environmental) struggles from state laws, policies and measures to “access to, production and verification and control over information” (Mol, 2008, p. 83). However, this is a process, rather than an instant shift, pointing to conventional forms of governance not disappearing altogether, but rather gradually take up a less dominant position. For instance, Mol suggests that it is likely that

“hybrids of continuities and changes” will appear, while making clear his argument is rather that (environmental) governance is changing, and to understand the changes, one cannot ignore the role of information and informational processes (Mol, 2008, p. 84).

Mol further goes on to explain four “wider social developments”, that functions to support the emergence of informational governance. These developments are not distinctly environmental. Hence, they support an argument of information’s increasingly important role for governance in general, not just for the governing of environmental issues. First of these developments is the evolution of information and communication technologies, with its related increased capability to generate, transmit, access and applicate information. This also leads to an increased capacity for actors to “collect, handle, store, spread and access (environmental) information over increasingly larger geographical scales in shorter amounts of time” (Mol, 2008, p. 84). Followingly, it is not an increased quality of information that is conducive for the “transformative capacities” of information, but rather that it can be more easily collected, transmitted, and used, leading to an increased amount of people and institutions having access to it, who in turn can make use of it (Mol, 2008, p. 84-85). Furthermore, gains also come from the possibility of increased transparency, as information can be made public on a much greater scale, and with the related lowered barrier for ordinary people to access it, can be spread much more widely. This eased access to, and distribution of information also carries over to economic, political, and social processes. Associated with these developments is an increased monitoring capacity through monitoring via the internet, the spread of information over great distances in no time, and the potential for, among other things, corporate misconduct reaching a global audience of communities, states and consumers (Mol, 2008, p. 85).

The second development closely related to the increased importance of information in governance, is globalization. As previously discussed, globalization processes are tightly connected to the development of evermore efficient ICT. The rapid technological development that characterized recent decades allows for the “geographical stretching and time compression and acceleration of all kinds of social and economic processes” (Mol, 2008, p. 86). Mol further goes on to argue that “the environmental profile of the new millennium is predominantly one of global (environmental) change” and given that “the causal interaction patterns, networks and structures that are at the foundation of much environmental stress are fundamentally global” as are the ways in which that stress materializes, it is no longer appropriate to “define environmental problems in terms of only place-bound localities or only

at the national level” (Mol, 2008, p. 86). As a result of this, Mol argues, “environmental governance is bound up with globalization, which changes the character of environmental governance”. This is due to a reduction in states’ power, accompanied by an increase in the importance of non-state actors, resources and rules, but also because information processes, consumption and circulation become global (Mol, 2008, p. 86-87).

A similar argument can be made with regards to the supply chains of (multinational) corporations. First, the connection to globalization is clear also here, as supply chains have come to span the globe, a development made possible by the same technological revolution that has enabled other globalization processes. Thus, the manifestations of problems in business operations, for instance those that are related to workers’ and human rights, have also become global in scope. Further, this change also affects the governance of such issues, with nation-states conceding power, and an increase in the importance of the non-state-based actors, resources and rules increase their importance. Examples of this is provided by Soma, Termeer and Opdam (2016) who in their literature review of governance for sustainability in the information age, identify three ways in which globalization and the development of communication technologies change the awareness of large corporations. The first, is an increase in the communication between business and consumers, leading to corporations adopting “more customer centric definitions of value”. In relation to this, a wide variety of certification schemes have been set up to verify the sustainability of commodities, which is part of what is commonly referred to as corporate social responsibility (CSR), a form of private, voluntary governance of business (Soma, Termeer & Opdam, 2016, p. 95). Secondly, an increase in the interaction between corporations and governments can be observed, which followingly results in sharing of paradigms, as well as new motivations for cooperation. Third is that private governance increases its ability to affect actors at different levels of supply chains. An example of this is that due to global information technology systems being able to monitor the sustainability of different inputs available, it is possible to selectively design the value chain based on the sustainability of the inputs (Soma, Termeer & Opdam, 2016, p. 95).

Third, the role of states shifting from that of gardener to gamekeeper – where “under conditions of globalization states lost the ability and willingness to detail the patterns, regularities and order of societies” and instead resorted to “regulating mobilities and ensuring the conditions for favourable interaction, processes and flows” (Mol, 2008, p. 87).

Traditionally, the nation-state has served to protect marginalized people, manage public goods and to safeguard general interests. Relatedly, the 90s saw an increase in the dependency of

states on global developments and nonstate actors when implementing policy, consequently threatening their authoritative monopoly and sovereignty (Mol, 2008, p. 87). Consequently, actors such as consumers, customers, NGOs, communities, and business associations, among others, have become crucial for governance. Supra- and subnational agreements have also come to play a bigger part in governance, complementing, or even bypassing, states governing actions. Information flows also here serve an important function, in that states use it to meet the challenges caused by failing authoritative resources and the “growing cross-border dimensions of governance” (Mol, 2008, p. 88).

3.4 Informational regulation

The term informational regulation was coined to describe the “growing importance of freely available information in environmental regulation” and can be defined as “rules requiring mandatory disclosure of information on environmental operations or performance of regulated entities to third parties” (Mol, 2008, p. 90). This dynamic, however, is also present with regards to governance of corporate supply chains relating to human- and worker’s rights. This type of governance mechanism relies on different nongovernmental forces, such as economic markets or public opinion, and can either complement more traditional forms of governance, or be a replacement for it altogether. Informational regulation can be separated from the broader concept of informational governance on several points. It addresses more the legal foundations of information disclosure, and thus less voluntary or nonlegal disclosures of information. It views information disclosure less broadly, seeing it as simply policy instruments, used instead of firmer regulatory or economic policy instruments. Further, informational regulation is also characterized by a “framing of information use strongly related to ... the relation between state and civil society”, a state-centric perspective, less of a focus on the relation between informational processes and the enabling role of ICT developments, as well as an approach centered on economics and law (Mol, 2008, p. 91).

3.5 Ethical consumption and the intention-behavior gap

In relation to supply chain transparency, it has often been argued that transparency is a tool that consumers and other stakeholders can use to “make informed evaluations of firms’ products and practices” (Egels-Zandén & Hansson, 2016, p. 380). Relatedly, transparency is also envisioned to enabling consumers to hold corporations accountable for how they operate, and as an avenue for transferring power from corporations to stakeholders. It has also been argued that transparency in supply chain is a “tool for improving the effectiveness of private regulatory systems, such as codes of conduct and auditing” which is thought to function

through the mechanism of “stakeholders, notably consumers and activists, put greater pressure on companies once they reduce the opaqueness of global supply chains by disclosing suppliers’ names and sustainability conditions” (Egels-Zandén & Hansson, 2016, p. 380). This whole argument, however, rests on the assumption that consumers will change their purchasing practices with increased transparency. Research on the topic of ethical consumption has identified several barriers for consumers, namely a “strong commitment to environmental and social justice”, if the consumer has sufficient resources, for instance economic resources, information, and knowledge. Consumers also have a wide array of labelling schemes to pick between, and must be able to recognize greenwashing. Additionally, they must keep up with recent issues related to social and environmental sustainability. Simultaneously, information is often argued to be the first step “towards being educated in sustainability” (Egels-Zandén & Hansson, 2016, p. 381). However, such information can be vague, vast, as well as employing difficult or technical language and spread out, making it harder for consumers to collect and make use of it. These issues can be, at least in part, remediated by civil society actors, such as NGOs, that have the capacity to translate such information into a more easily accessible form (Egels-Zandén & Hansson, 2016, p. 381).

Further insights into ethical consumption can be found in the field of psychology. “Despite embracing the values of ethical consumerism, most consumers rarely support their belief at the check-out counter” Carrington, Neville and Whitwell (2014, p. 2759) explains. This manifests in that, for instance in the UK, 89 % of consumers say they have “ethical issues of concern, which is only converted into “ethical purchasing intentions” for about 30% of consumers, while only 3% actually buy “ethical” products (Carrington, Neville & Whitwell, 2014, p. 2759). In Norway, a study on ethical consumption and human rights found that 20 % percent of consumers are ethical consumers. They also found that 80% of consumers stated that they would be willing to pay a higher price, if it meant better conditions for workers, excluding those who answered that “did not know” (Schjøll & Thorjussen, 2019, p. 61). Further, the phenomena that consumers’ values not necessarily translate into behavior, can be explained by what is referred to as the “intention-behavior gap”. Ethical consumers, as Carrington, Neville and Whitwell (2014, p. 2760) puts it, have “political, religious, spiritual, environmental, social or other motives choosing one product over another”. This, of course, entails that the understanding of what is ethical varies from consumer to consumer. Commonly, researchers have approached the question of how “ethical consumers” make their purchasing decisions, utilizing what is called “Theory of planned behavior”. Studies based on

this framework, tend to focus on factors like internal ethics, the quality and quantity of information, and values. Consequently, the focus becomes consumers' stated purchasing intentions, which is assumed to "directly determine actual purchasing behavior". In doing so, researchers fail to account for both empirical evidence and findings in social psychology, that reveal that this is not usually the case (Carrington, Neville & Whitwell, 2014, p. 2760). A further issue with survey research on this subject, is the prevalence of social desirability bias, namely that respondents tend to answer question in a manner they believe will be looked more favorably upon by others, which can result in "good", or in this case "ethical" behavior being overestimated, and "bad" or "unethical" behavior being underestimated (Carrington, Neville & Whitwell, 2014, p. 2760). Consequently, survey-based research, such as the Norwegian SIFO report on ethical consumers and human rights (Schjøll & Thorjussen, 2019) may be overly optimistic in their estimates of the proportion of "ethical consumers", when it comes down to decisions made at the check-out counter.

The underlying causes of the intention-behavior gap, e.g., the phenomenon that purchasing intentions often does not translate into actual purchasing behavior, can be explained by arguing that consumers' planning, "control over the buying experience" and "aspects of the buying environment" impact to what degree intentions turn into purchasing behavior (Carrington, Neville & Whitwell, 2014, p. 2760). Other research suggests that "cognitive strategies to minimize remorse and to justify contradicting their ethical intentions" are part of what lies behind the gap. Relatedly, a lack of cognitive dissonance has been found to facilitate the gap. This lack can be due to consumers' ability to "rationalize unethical purchasing behavior as being acceptable, though not ethical", and is thought to contribute to the observed intention-behavior gap (Carrington, Neville & Whitwell, 2014, p. 2760).

Furthermore, for consumers to implement ethical concerns in their day-to-day lives is no straight forward task. There are several aspects to this process, namely "becoming informed about the ethical issue, negotiating internal and external objectives, and persisting until the new behavior becomes habitual" (Carrington, Neville & Whitwell, 2014, p. 2762). It also requires prioritization on the part of the individual consumer, as to not be "paralyzed by the enormity of effort required by their full set of ethical concerns" (Carrington, Neville & Whitwell, 2014, p. 2762).

4 Methods

The methods chapter starts off with more general considerations of qualitative methods and why they are appropriate for this type of study. Further, sampling and data collection is discussed, followed by a section on how reflexivity and reactivity have been considered in the study. This is followed by an assessment of the trustworthiness of the study, before the method of analysis is laid out. Finally, a section on the ethical considerations that have been made throughout the research process concludes the chapter.

4.1 Qualitative methods

While scientific methods in general is “a set of guidelines to ensure that scientific activities are technically sound and carried out with sufficient quality” the suitable methods will vary on the phenomenon that is studied, although some methodological principles always apply (Grønmo, 2020, p. 29). As such, a consideration of what methods to use must be done in relation to the specific project being carried out. Given that this thesis falls under what would be considered the political sciences, a field that is characterized by methodological diversity, the field itself does not prescribe a particular method as being best suited (Grønmo, 2020, p. 40). This thesis is concerned with the Transparency Act’s effect on social sustainability in global food supply chains, viewing it in relation to the Norwegian food governance regime as well as theories of informational governance. Further, as the Act has not yet come into effect, any change it might lead to has not yet occurred. This entails that a qualitative approach is best suited to answer the research questions. Interviewing actors such as policy makers, corporations targeted by the Act, as well as civil society actors working with corporate responsibility can provide information on what changes might occur, which can then be analyzed in relation to theory, in order to assess the effectiveness on such new or changed behavior on the social responsibility of supply chains. Additionally, as the Transparency Act and the governance of the food system are inherently social phenomena. They are influenced by the actors in the system, as to how they are designed and operated. This links to what many qualitative scientists argue, that contrary to units of analysis in the natural sciences, people, who are commonly studied in the social sciences, do “attribute meaning to events and their environment” (Bryman, 2012, p. 399). At the same time, participants in this thesis have not been selected on the basis of who they are, but rather because of which organization or corporation they represent or work for. Still, this enables them to have intimate knowledge of the issues at hand.

On the other hand, some often cited criticisms of qualitative research are worth addressing. One of these is that qualitative research can be difficult, or even impossible to replicate. This is due to the lack of standard procedures followed, as well as the reliance on the researcher as being the “main instrument of data collection” (Bryman 2012, p. 405). What follows from this is that the focus of the researcher will follow from what they deem relevant, something that is further addressed in section 3.3. Further, findings in qualitative research are not normally possible to generalize (Bryman, 2012, p. 406). In this case, where the sample includes corporations in the food sector, and organizations, findings will not be applicable to all corporations or organizations. This is due to the sampling approach, which is not meant to be representative, but rather selected in a manner that makes it possible to answer the research questions, which is further addressed in section 4.2.

4.2 Sampling and data collection

Qualitative research can often lead the researcher to using a version of purposive sampling, a form of non-probability sampling, where “the sampling is conducted with reference to the goals of the research” in order to make sure that “units of analysis are selected in terms of criteria that will allow the research questions to be answered” (Bryman, 2012, p. 418). This thesis revolves around the Transparency Act, and what change it will lead to for corporations and civil society organizations, in order to be able to assess the Act’s effectiveness in increasing social sustainability in food supply chains. As such, the universe, which is “all the units that the research question applies to” (Grønmo, 2020, p. 153), are Norwegian corporations in the food sector covered by the Act for research question 2. For research question other actors is included as well, namely NGOs working with corporate responsibility. Additionally, other actors that can make use of the passive information requirement included in the act are also part of the universe of research question 3, as these types of actors are expected to make information request and, in turn, to inform the public of conditions of social sustainability in corporations’ supply chains. To be able to give an answer to these questions, organizations working with corporate responsibility, policy makers and corporations are best suited as units of analysis, as they are affected by the Act, and as such can provide information on what change might occur, which in turn can be evaluated in relation to theory and similar legislation in other areas or states. As Bryman (2012, p. 418) points out, when using this research strategy, researchers must be explicit in what criteria are relevant for the “inclusion or exclusion of units of analysis”. Followingly, units of analysis have been selected on the basis of being relevant to the research questions. These include

organizations who work with issues also covered by the Transparency Act, actors that were involved in designing the Act, as well as corporations that are subject to the Act.

Still, issues that might arise using interviews as a method of collecting data can be that the respondent recollection of facts may be incorrect. Alternatively, respondents may consciously or unconsciously alter the way they represent themselves when communicating with the researcher, this is referred to as a reactive effect, which is elaborated on in section 4.4 (Grønmo, 2020, p. 200).

Furthermore, secondary data has also been collected. As a way of gaining a broader sense of corporations and NGOs view on the Act, responses to the public hearing conducted after the Ethics Information Committee made their suggestions, is another source of data. Here a larger pool of actors have made their views on the Act known, as well as suggested changes to it. Although these responses are not based on the final legal text, they nonetheless provide an overview of a wide array of actors' perceptions of the Act. Further secondary data includes scholarly articles, pertaining to relevant themes such as private and public governance and similar legislation in other countries. Moreover, the government appointed Ethics Information Committee's report, which provided suggestion before the finalized legal text was approved by the parliament, was read to get additional information on the considerations made in the process leading to the passing of the Transparency Act. This amounts to what Bryman (2012, p. 392) calls triangulation, which is to use "more than one method or source of data in the study of social phenomena".

4.3 Reflexivity and reactivity

While reflexivity can be understood in several ways, the understanding relevant here is that "social researchers should be reflective about the implications of their methods, values, biases, and decisions for the knowledge of the social world they generate" reflexivity also "entails a sensitivity to the researcher's cultural, political and social context" (Bryman, 2012, p. 393). In turn, this may influence how the researcher interprets the data, possibly causing their findings to not only be a result of the reality of the phenomenon they study, but also mirroring the researcher's way of thinking, which is a result their social background and experiences (Grønmo, 2020, p. 10). In my case, pertaining to this, is my study background in Development Studies, which gives a critical understanding of the history and current dynamics of globalization, as well as its impact on societies and environments (NMBU, n.d.)

On the other hand, I have also previously had an internship with the Norwegian Ethical Trading Initiative which has impacted my understanding of corporate responsibility.

Another methodological issue that can arise during data collection is reactivity. Reactivity refers to actors changing their behavior when being observed by the researcher, this of course also applies to responses to questions (Grønmo, 2020, p. 187). As it applies here, interviewees may alter their response, or exclude information they do not want to be public. To counteract this issue, it is important to provide “the actors with good information about the research and the current study” and to emphasize “the research ethics aspect of the study, with particular emphasis on privacy” (Grønmo, 2020, p. 188). Before conducting the interviews, the participants were informed that they had the option to be anonymized in the resulting study, and that the interview data would only be reviewed by the researcher and the supervisor. Additionally, they were informed that recordings and transcripts would only be kept until the end of the project. They were also on several occasions provided with information about the study, and were granted the opportunity to ask any questions they had.

4.4 Trustworthiness

Reliability “refers to the accuracy or trustworthiness of the data” and “reliability is high if the research design and data collection provide accurate data” (Grønmo, 2020, p. 275). In turn, reliability is normally shown through “the fact that we get identical data if we use the same design and methods for different collections of data about the same phenomena” (Grønmo, 2020, p. 275). However, this is not always possible, particularly when it comes qualitative research, due to these types of design frequently being “too complex or too flexible to be repeated in the same way” or that “many societal phenomena are constantly changing” (Grønmo, 2020, p. 275). In qualitative studies, however, assessments of reliability revolve more around that the “importance of the researcher is greater in collecting qualitative data than it is in quantitative data collection” (Grønmo, 2020, p. 283). Further, it also separates itself from quantitative data collection methods in that data collection methods are “developed during the data collection process itself” something that relies on “the researcher’ analyses and interpretations of data” (Grønmo, 2020, p. 283). This also applies to this thesis, due to the use of semi-structured interviews. During these interviews, the researcher tends to ask follow-up questions as the prepared questions are answered, to follow up on relevant subjects or statements made by the interviewee. In addition, the questions asked are adapted to the “context in which the data collection process take place” (Grønmo, 2020, p. 283). While some have argued that the term credibility might be better suited for assessing quality in qualitative

studies, it does, as is the case with reliability, entail that “findings are based on data about actual conditions” (Grønmo, 2020, p. 283).

While the terms reliability and validity have often been interpreted in a similar manner in qualitative methods as in quantitative methods, some have been critical of the realist view that “a single account of social reality is feasible”, instead arguing that “there can be more than one and possibly several accounts” (Bryman, 2012, p. 390). In relation to this, two criteria – trustworthiness and authenticity have been developed for assessing qualitative studies. Within trustworthiness are several criteria. The first of these is credibility, which parallels internal validity in quantitative studies. When the notion that several accounts of the social world are possible is accepted, it is “the feasibility or credibility of the account that a researcher arrives at that is going to determine its acceptability to others” (Bryman, 2012, p. 390). To strengthen credibility, research first has to be aligned with the “canons of good practice”. Further, credibility is also derived from techniques such as triangulation, which amounts to “using more than one method or source of data in the study of social phenomena” (Bryman, 2012, p. 392). This thesis includes data from interviews, as well as from responses to the public hearing on the Ethics Information Committee. Another measure under trustworthiness is confirmability, which while acknowledging that there is no such thing as total objectivity, “the researcher can be shown to have acted in good faith”, meaning that personal values or “theoretical inclinations” should not be apparent as having affected how the research was conducted or the resulting findings (Bryman, 2012, p. 392). This closely relates to reflexivity, which entails that “social researchers should be reflective about the implications of their methods, values, biases, and decisions for the knowledge of the social world they generate”. Additionally, this also emphasizes the implications and importance of the “researcher’s choices as both observer and writer” (Bryman, 2012, p. 393). A first point in this regard is that participants have been granted the opportunity to confirm and amend the quotes attributed to them in the analysis, as more extensively described in section 4.6 of this thesis, as to ensure they felt that the quotes attributed to them reflected what they intended to convey. Care was also taken in presenting the data in the context it was said, referring to the questions that were asked. As a further measure to limit bias, the questions asked were open-ended, as opposed to leading allowing for participants to share their own view on the subject at hand. Furthermore, related to confirmability, there may also be bias at the source of data. Participants may want to convey their own agenda, or there may be reactive effects, e.g. that people behave less naturally, for instance in an interview situation (Bryman, 2012, p. 496). Interviewees in

studies may have an agenda. In this case, for the corporate actors, violations of human rights in their supply chains and how they deal with such issues may cause public criticism.

Bryman (2012, p. 391-392) also writes about transferability, which entails to what degree the findings and design of the study can be applied or *transferred* to other cases or theoretical perspectives. He also cites *thick description* which amounts to whether the presentation of the findings give enough detail for readers to be able to assess whether they can be transferred to other cases “familiar to the reader”, or in other words “rich accounts of the details of a culture” (Bryman, 2012, p. 392). As the Transparency Act also applies to companies in sectors other than the food industry, the data deriving from interviews with actors such as the Consumer Authority, the Norwegian Ethical Trade Norway and Fremtiden i Våre Hender (FIVH) may be more general in nature, and hence apply more broadly. The interviews conducted with corporate actors in the food sector, may be more specific to this sector. Further, findings have been discussed in relation to previous literature, and in relation to the theory.

4.5 Analysis

Analysis of qualitative data is concerned with reducing the information that was collected, in order to be able to interpret it. When analyzing interview data, the first step in the process is to transcribe the audio recordings. Bryman (2011, p. 13) explains that as a start, the data have to be managed, which entails that researchers have to “check the data to establish whether there are any obvious flaws”. In the case of transcribing audio recordings, a pitfall is mishearing words or phrases, that alters the meaning of interviewees’ responses. To remediate this problem, before the analysis commenced, the transcriptions of interviews were sent back to the interviewees, granting them the opportunity to point out any misheard quotes. This thesis utilizes a thematic method of analysis, of which Braun and Clarke (2006) provide a thorough overview. Further, provided here will be an account of how thematic analysis was applied in this research project, and what the assumptions that informed the analysis were. This is necessary for others to be able to evaluate the research, as well as for being able to compare it with other studies on the same topic (Braun & Clarke, 2006, p. 80). Thematic analysis involves identifying themes within the data. Themes capture “something important about the data in relation to the research questions, and represents some level of *patterned* response or meaning within the data set” (Braun & Clarke, 2006, p. 82). When conducting the

data analysis, the data were grouped into three themes that relate to the research questions: Criteria/sanctioning, consumer power and actors' roles/mode of governance. This corresponds to what Braun and Clarke (2006, p. 84) calls theoretical thematic analysis, which often is “driven by the researcher’s theoretical or analytic interest in the area, and is thus more explicitly analyst-driven”. Choosing this approach, rather than the inductive approach, also relates to the coding being done in relation to a relatively specific research question. These themes were identified at the *semantic* level, meaning that the themes are identified “within the explicit or surface meanings of the data, and the analyst is not looking for anything *beyond* what a participant has said” (Braun & Clarke, 2006, p. 84). This then progresses from description, which is organizing the data, to interpretation of the data, attempting to “theorize the significance of the patterns and their broader meanings and implications”, something that commonly involve relating it to previous literature (Braun & Clarke, 2006, p. 84). This is also the case in the analysis in this thesis, as the data have been analyzed in relation to theory.

4.6 Ethical considerations

Ethics in social research center on two questions, according to Bryman (2012, p. 130) “how should we treat the people on whom we conduct research?” and “are there activities in which we should or should not engage in our relations with them?”. An important aspect of ethics in research, is that participants give their informed consent, which entails that they have been presented with information on the nature of the research, and its implications for them. Implementing that in practice can be difficult for several reasons, the most relevant for this thesis being that it is “extremely difficult to present prospective participants with absolutely all the information that might be required for them to make an informed decision about their involvement” (Bryman, 2012, p. 139). However, when interviews were conducted, participants were provided with informed consent forms, that consist of general information about the study, the research questions and the purpose of the study. The advantages of such forms, according to Bryman (2012, p. 140) is that it allows for participants “to be fully informed of the nature of the research and the implications of their participation at the outset”. The forms were written in line with the NSD’s template and are attached as appendices. Additionally, participants were given the opportunity to ask any questions about the study before interviews commenced, and were given general information about the study, as well as information about why they were receiving a request for an interview, in the e-mail sent to request interviews with participants. In line with the participants preference, based on time

constraints and working from home, interviews were conducted via Microsoft Teams, hence the participants were sent the informed consent forms, which they subsequently signed and sent back. Relatedly, to both check the accuracy of data and to give participants the opportunity to withdraw or correct statements they made in interviews, transcriptions of interviews were sent to the participants. They were also sent the quotes that were chosen to be included in the thesis. Mero-Jaffe (2011, p. 241) argues that in doing this, the researcher protects several rules of research ethics. First, is the “avoidance of treating people as simply automatons” by including them more closely in the research, giving them a degree of control over what is attributed to them in allowing them to make suggestions for clarifications of quotes or clearing up misunderstandings. Secondly, through sending them the transcript “care was taken of the interviewees’ well-being, and the researchers’ integrity was safeguarded” and finally, doing so “reflected the principles of free consent and informing interviewees” Furthermore, an application was sent to the NSD for approval of the research, which was subsequently approved. This is also included as an appendix.

5 Analysis

5.1 Outline of participants

Featured in the data collected through interviews are five different actors. Two are large, corporate actors who operate in the food sector in Norway, that are subject to the duties of the Transparency Act. Two are organizations, one working with corporations, advising them on responsible business conduct in supply chains, whereas the other occupies somewhat of a different role, advocating for social and environmental justice through campaigns, and other strategies. Finally, the Norwegian Consumer Authority, which is tasked with supervision of the act, as well as providing guidance in relation to the act to corporations. Furthermore, responses from different actors to the public hearing on the Ethics Information committee’s report, held in December of 2019 are also part of the analysis. The different actors have been given codes, which are as follows. EHN is the organization Ethical Trade Norway, its Norwegian name being “Etisk Handel Norge”. FIVH stands for Framtiden i Våre Hender, an

NGO advocating for social and environmental justice. The corporate actors have been anonymized, and have been given the codes Large Corporate Actor A (LCA A) and Large Corporate Actor B (LCA B). The Norwegian Consumer Authority is called CA. These codes are used to indicate where the different participants are quoted, as well as where their quotes are translated and paraphrased.

A first point to take notice of, is that all the actors interviewed have a generally positive outlook on the act, viewing it as something positive. For instance, EHN stated that *“Nei, det er jo ... den mest omfattende loven i verden på dette området. Så vi er jo veldig fornøyd med at dette her blir kjørereglene.”* Arguing that it is the most comprehensive act in this field in the world, and that they are very happy that that is established as the rules of the game. Further, large corporate actor A said that *“Du, loven er i all hovedsak kjempepositiv. Altså, fantastisk fint at vi har fått en lov, det tror jeg vil være med å sette bærekraft på agendaen, også oppe i styrerommene.”* (LCA A) Meaning that the act is predominantly a very positive thing, and that it is fantastic that we have gotten an act. The informant also believes that it will help put sustainability on the agenda, also in the board rooms. The other informants presented similar statements of support to the act. The strong support for the act was also apparent in the responses from different actors to the public hearing held in the spring of 2020, in relation to the proposed legal text that was written up by the Ethics Information Committee. For instance, the Confederation of Norwegian Enterprise state in their response to the public hearing that *“Utvalget konkluderte i statusrapporten med at det er hensiktsmessig med lovgivning. Vi er enig i dette.”* (Tveit, 2019), meaning that they agree with the committee’s stance that it is pertinent with legislation in this field. They go on to argue that legislation has the potential to strengthen the work, of corporations that have not started, or are lagging behind with regards to human rights.

On the other hand, some contentious issues reveal themselves both in the interview data and in the responses given as part of the public hearing. One of these points relates to how far the mandate of the Consumer Authority reaches in terms of not only supervising whether corporations respond to information requests, but also the content of the responses. In conversation about this topic an informant answered that *“Ja, forbrukertilsynet skal jo, så vidt jeg har forstått, ikke nødvendigvis vurdere kvaliteten på svaret. Men at vi har svart. Og selvfølgelig en viss grad av relevans i svaret.”* (LCA A). Entailing, as translated and paraphrased that their assessment is that the Consumer Authority not necessarily will look at the quality of the response, but rather that the corporation has responded, and that the

response has a certain degree of relevance (LCA A). However, the Consumer Authority argued that

Ja, vi mener det. At man skal.. man kan klage på manglende svar, åpenbart, hvis man ikke får svar overhodet, men også klage på det man mener er ufullstendig svar, eller ikke dekkende svar. For det er jo et krav i loven at det skal være dekkende. (CA)

This, as translated and paraphrased, entails that the Consumer Authority's assessment is that it is possible to complain to the Consumer Authority not only if a request goes unanswered, but also if the response is "inadequate", given that the act stipulates that responses should be "adequate" (CA). A term that may open up for differences in opinion, given that it is not explicitly made clear what exactly it entails. This ambiguity is also something that the Consumer Authority pointed out in the interview, explaining that

... i utgangspunktet er det som står i loven, paragraf 7, at det skal være dekkende og forståelig, det man får. Og så blir da spørsmålet, selvfølgelig, hva er, altså forståelig er jo greit nok, det kan man jo kanskje tolke at det er greit forståelig for den som mottar det, og at det er på et forståelig språk, dekkende blir jo da selvfølgelig utfordrende, men det må man nok vurdere i hver enkelt sak, hva som er nok, hva er tilstrekkelig. (CA)

Which when translated and paraphrased is taken to mean that while paragraph 7 (of the Transparency Act) states that responses should be understandable and adequate. They point to assess what is an adequate response might be challenging, and it probably will have to be assessed on a case-to-case basis (CA).

At the same time, all informants mentioned that considerations of whether a request is reasonable should be made, in relation to the risk-based approach that the act employs. In other words, that requests concerning countries, areas or industries that are perceived to carry a high risk of human- and worker's rights breaches, may yield a less detailed response.

Furthermore, some actors argue that additional duties should be included in the act. For instance FIVH explained that

Og en annen ting som vi også har snakket, eller som vi har spilt inn, det at allting som heter kontrollrapporter og tiltaksplaner for eksempel, ikke sant. Kontrollrapporter etter audits, altså etter kontroll på fabrikken eller bomullsfelt eller hva det måtte være. At det

også skal ligge åpent. Fordi at det er svært viktig at det er transparens rundt det, for hvis ikke kan man ikke måle hvor mye bedre, ja, utbedringer det har ført til da. (FIVH)

FIVH as it is translated and paraphrased here, argue that inspection reports that result from audits and action plans that derive from inspection of production sites be made public as well. Further posing the argument that this manner of transparency is important in being able to measure what improvements have resulted from it (FIVH). The NGO have also in their response to the public hearing on the act, argued for making the publication of where goods are produced mandatory. Relatedly, FIVH also make the case that publishing lists of suppliers would also be important as a supplement to a duty to disclose place of production (Riise & Leffler, 2020). Neither a duty to disclose place of production, that was suggested by the Ethics Information Committee, nor a duty to disclose a list of suppliers was included in the final legal text, and hence were not passed into law. However, the question was posed in the interviews conducted, to get the informants' opinions on such a duty.

While the corporate actors interviewed did not express that a duty to disclose where goods are produced would be an issue for their respective corporations, one stated that *“Men for vår del så tenker jeg det er uproblematisk også har jeg vel en viss forståelse for at en merkevareleverandør kanskje ønsker å holde noe som forretningshemmelighet.”* (LCA A). Which as translated and paraphrased here, entails that even though the informant views being open about place of production would be unproblematic for them, they could understand that brand retailers may want to keep some things as trade secrets (LCA A).

Objections to publishing information about suppliers on the grounds of keeping trade secrets, were also made in responses to the public hearing. For instance, Orkla (2020) in their response, argue that the considerations regarding transparency should be weighed against potential harm to the competitiveness of corporations, and that information regarding suppliers may be information that is sensitive for competition reasons. They also argue that a duty to publish the place of production, would require a lot of resources, and question how much value such a duty would have.

5.2 Enforcement of the act

For the Transparency Act, the Consumer Authority (Forbrukertilsynet) is the supervisory authority, tasked with both providing guidance to corporations and enforcing the Transparency Act. In an interview conducted with a representative for the Consumer Authority the informant explained that they will have 13 full-time employees working with the Act, with expertise in different fields including law, the social- and the political sciences. Simultaneously, the informant also explained that, while these 13 employees are the manpower set aside for the law as a starting point, the Consumer Authority is organized in a way that allows for shifting personnel between different parts of the organization, depending on where they are most needed, leaving the opportunity to re-prioritize should there be a larger workload than expected associated with the Act.

Further, in relation to how they will follow up on the different duties of the act, the Consumer Authority said that that is what they are currently working with, as they were only given responsibility for the act in January, and consequently could not start work on it before then. Further, the informant added that

Så helt overordnet så er det jo på en måte tilsynsmyndigheten, da bruker vi de samme prinsippene som vi gjør i resten av forbrukertilsynet som er primært dialog da, det er vår viktigste arbeidsmetode. Det er dialog og samarbeid med næringsdrivende, fremfor det å bruke de her sanksjonsreglene, som også ligger i loven. De er der, og de er viktige, men vi vil alltid prøve å gå i dialog først og det er jo det som ligger til grunn for det vi tenker vi i tilsynet også (CA).

As translated and paraphrased, the Consumer Authority's primary way of operating is, as stated in the quote above, through guidance and dialogue, which is something that they will always try first. There is possibility of sanctions included in the act, which the informant looks upon as important, but they put more emphasis on the importance of dialogue, which as they stated, is a foundation for how the authority operates (CA). This approach also underlines the relative "softness" of such an instrument, in contrast to the stricter economic or regulatory policy instruments traditionally employed by the state, and corresponds quite closely to what Mol (2008, p. 91) calls informational regulation. Where it differs from that, however, is in that it does not only mandate information disclosure. According to the Consumer Authority, they are not only mandated to sanction non-compliance with the

information disclosure requirements, but also the seven steps of due diligence, taken from the OECD Guidelines for Multinational Enterprises (OECD, 2011). The informant also stated that

har virksomheten forankret ansvarlighet, som det står i virksomhetens retningslinjer, har de kartlagt og vurdert potensielle og faktiske negative konsekvenser på grunnleggende menneskerettigheter. Har de iverksatt egnede tiltak, har de fulgt med på gjennomføring og resultater, har de kommunisert med berørte interessenter og har de sørget for eller samarbeidet om gjenopprettning og erstatning. Altså alle punktene da, etter loven, har vi myndighet til å gå konkret til verks og se om er utført, og i hvilken grad det er utført, og om det er utført korrekt. (CA).

Which when translated and paraphrased, amounts to the Consumer Authority arguing their mandate extends to assessing all the due diligence requirements, how and to what extent they are fulfilled, and if they are done in the correct manner (CA). However, as there are only 13 employees tasked with oversight of these duties, and although some additional resources can be allocated based on the workload, it can seem unrealistic to expect that such in-depth oversight will be conducted on all the reporting of the more than 6000 corporations that are subject to the act. As the Consumer Authority admits “*Nå er det jo sånn at vi er jo totalt 13 personer over sommeren, og det er jo 6000 bedrifter som er omfattet av åpenhetsloven, så vi har jo ikke kapasitet til å veilede 1-til-1, for alle*” (CA). Which is translated and paraphrased to mean that, as they are a total of 13 people working with the act, and there are 6000 corporations that are subject to the act, they do not have the capacity to conduct one-to-one guidance with them all (CA). This leads on to another of the characteristics of informational regulation outlined by Mol (2008, p. 91), namely that this form of regulation frequently enlists the assistance of nongovernmental actors. As also came up during the interview, the Consumer Authority may act on tips or complaints from the public, in addition to their own investigations. In that manner, although being overseen by a state supervisory authority, the enforcement of the act may also rely on non-state actors, such as NGOs or consumers.

Furthermore, several elements in the enforcement of the Transparency Act are not wholly clear. Firstly, in relation to the passive information requirement, the act mandates that responses from corporations from corporations should be “understandable” and “adequate”. As the Consumer Authority points out, “understandable” may be understood to mean that the response should be in a written in a way that those who made the request are able to understand it, however what is required for it to be “adequate” is more of an open question. Here, the Consumer Authority states that an independent assessment must be made in each

case. This can be construed as leaving it up to corporations themselves to assess what, and how much information is necessary to provide. This opaqueness has also shown itself in interviews, with one corporate actor arguing that:

jeg mener at hvis en forbruker spør meg om et produkt som jeg ikke har prioritert, så kan jeg si det. Takk for spørsmålet, dette produktet, vi gjør en en... beskriver hvordan vi gjør aktsomhetsvurdering, hvordan vi henter inn uavhengige kilder på det, og hvordan vi har prioritert. Det produktet du nevner, det har vi ikke prioritert i år, men takk for spørsmålet og vi skal... vi setter det på listen for neste år. Det mener jeg er godt nok dersom ikke det er åpenbart at produktet burde vært prioritert. (LCA A)

The informant argues, as translated and paraphrased, that if the product someone requests information about have not been prioritized, it is sufficient to give a general description of due diligence practices, and how they have made their prioritizations, and that they will “put the product on next years list”. That being if it is not “obvious” that the product should have been prioritized (LCA A). However, another corporate actor has a slightly different interpretation:

Jeg tror jo, vi må jo bare se hvor strengt tilsynet ønsker at det skal være, men sånn som vi har signaler og slik vi tolker loven må man jo på en måte fortelle helt ned til råvarestadiet ikke sant. Man skal helt tilbake i verdikjeden, og kunne fortelle hvordan et produkt er produsert, og hvordan man har sikret at det ikke er noen brudd på menneskerettigheter eller arbeidsforhold der. Så det tror jeg nok at man, vi må på en måte kunne svare. Men så klart hvis man får på en måte, man vil jo aldri ha helt, helt oversikt, ikke sant. Det vil jo alltid dukke opp saker som man kanskje ikke har gjort en aktsomhetsvurdering, eller som står på prioriteringslista at man skal gjøre. For det må man jo gjøre ut fra hvor det er størst risiko, hvor er det vi tenker at det er størst risiko. Så vil man jo og kunne si at her må vi undersøke mer også, det er jo et svaralternativ. Og komme tilbake til, ikke sant. Hvis man ikke kunne... klarer å svare ut med en gang (LCA B).

This informant, as translated and paraphrased, has interpreted the act to entail that one has to be open about how products are produced, and that this duty applies all the way to the bottom of the supply chain. They also, however, make a similar reservation the other corporate actor in explaining that requests may concern issues that are not prioritized or where due diligence have not been conducted. In that case, they explain that they will return with more information later, after investigating the issue at hand (LCA B). This is also something that

the Transparency Act allows for, under the conditions that the person who requests the information is informed that the deadline for responding is extended, why it is extended, and when the information can be expected to be provided (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 7).

When it comes to other actors, the NGO interviewed were very clear in stating that they expect to get responses to information requests that correspond to the level of detail in the request, particularly in relation to specific products. At the same time, they acknowledge that requests for information on sectors or countries that are not perceived as being particularly “risk-filled” may not yield a response, due to the risk assessments, as explained in the OECD guidelines for multinational enterprises, that should guide a selection of suppliers that are prioritized for conducting due diligence. This prioritization should be based on where the risk for “adverse impacts” is high, as per the risk-assessment. Adopting such a risk-based strategy is particularly encouraged for corporations that have many suppliers (OECD, 2011, p. 24). This is relevant because the Transparency Act states that due diligence shall be conducted in line with the OECD guidelines (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4).

The vagueness in terms of how to interpret the passive information duty may in part be due to the Transparency Act not coming into effect yet, and as such no practice has been established by the supervisory authority, but it may also indicate that several interpretations may be possible to justify.

5.3 Consumer power

A general finding throughout my data collection is the limited belief in consumer power, at least in terms of being the primary tool for increased social sustainability in supply chains. For instance, one informant, that was involved in the legislative process leading to the Act being passed in its current form, stated in relation to consumer power that

en kampanje hvor forbrukere sender e-poster kan jo føre til at den enkeltbedriften får kritikk, og kanskje arbeider på en annen måte, eller at det de allerede har gjort av gode ting kanskje ikke har blitt så godt kommunisert. Men det som virkelig monner, det er jo når hele bransjen går sammen (EHN)

They argue, as translated and paraphrased, that while a consumer e-mail campaign directed at a corporation can lead to that corporation attracting criticism, and possibly to that corporation changing their practices, however, they argue, real effectiveness comes from whole sectors working together (EHN). This also relates to envisioned mechanisms of consumer power, namely that consumers can hold corporations accountable for their practices based on information (Egels-Zandén & Hansson, 2016, p. 380), which is perceived as too narrow in scope.

As paraphrased and translated, the informant further argues that the informational duty in the Act can act as a “corrective” or a “help” towards keeping focus on corporations operating in a way that protect human rights (EHN). In other words, this informant sees the informational duty, which is the possibility for stakeholders, such as consumers, to demand information, and in turn enact their power, not as the primary driver for change in the Transparency Act. In that manner, this can indicate that consumers’ role in relation to the Act here is perceived as more of a supporting mechanism to the other duties of the act, namely the due diligence requirements, as opposed to an independent mechanism that in itself leads to substantial improvements with regards to social sustainability in supply chains.

Among the corporate actors interviewed, however, there were somewhat divergent accounts of to what extent consumers seek out ethics information from them. One informant responded, when asked about information requests from consumers that *“Lite, særlig på menneskerettigheter så er det... Hvis ikke det har vært noen helt spesielle ting i media og sånn, men selv da så er det lite altså. 10 i året, kanskje. Maks.”* (LCA A). As paraphrased and translated, the Informant explains that such requests are few, particularly when it comes to human rights, and estimates that, at most, the corporation get 10 such requests a year (LCA A). This very limited number points to the argument that implementing ethical consumption is demanding on the consumer, among other things, in terms of becoming informed about an ethical concern. Additionally, a prioritization is necessary on the part of the consumer, to avoid being overwhelmed and paralyzed by the effort that goes into implementing every single ethical concern they may have in their day-to-day life (Carrington, Neville & Whitwell, 2014, p. 2762). Hence, that consumers will make such requests on a large scale, is probably unlikely. Relatedly, as Egels-Zandén and Hansson (2016, p. 381) explains, ethics information is often spread out, which can act as a barrier to consumers being able to make use of it. A system that provides ethics information to the public, based on information requests can be said to be just that.

On the other hand, as Egels-Zandén and Hansson (2016, p. 381) also outlines, civil society actors, such as NGOs can play the part of intermediaries, or “infomediaries” as they put it, and remedy some of this issue. This can happen through such actors collecting information and reworking it to make it more accessible. As one informant from an NGO told me

FIVH, andre organisasjoner, journalister og så videre, kan lage litt større kartlegginger på grunnlag av den informasjonstilgangen som vi nå kommer til å få, ikke sant. Og som kan enten legges ut som en artikkel på vår hjemmeside, det kan være saker som blir slått opp i media, ikke sant. Og da er det plutselig kanskje en million som leser det, og ikke bare et svar fra en bedrift som går til ett menneske, så det er veldig mange måter som denne loven kan bidra til mer informasjon for forbrukerne generelt, da. (FIVH)

They point to, as translated and paraphrased, NGOs, journalists and others creating more voluminous mappings based on the new access to information, that can then be presented to the public in the form of articles on the NGOs website or through the news. That way, they argue, there may be “a million” people that reads it, rather than just one response from a corporation that reaches one person, before pointing out that there are several ways in which the Act can contribute to more information reaching consumers in general (FIVH). As an example, this fits with the concept of NGOs acting as “infomediaries”. Much the same case can be made for news media having potential for occupying a similar role.

So far, the single aspect discussed have been consumers being informed with regards to ethical issues, which as Carrington, Neville and Whitwell (2014, p. 2762) explains, is one of the challenges for the individual consumer in implementing ethical consumption practices. However, simply being informed does not automatically translate into ethical consumption, due to the intention-behavior gap between stated purchasing intentions, and actual purchasing decisions. Among the informants interviewed, several expressed uncertainties in terms of either if consumers will take the opportunity to request information, or more general doubt towards the effectiveness of consumer power as a solution in itself. For instance, the NGO quoted above, explained that they would try to facilitate the process of getting information for consumers through educating members of the organization’s local chapters on how to use the Transparency Act, whom in turn can spread awareness of that in their community. Secondly, the informant explained that they are dedicating part of their webpage to what information one can ask for, and how to ask for it, before stating that “Og så får vi se om forbrukerne vil benytte den eller ikke, det blir spennende, men vi kommer i hvert fall til å gjøre vårt for at det skal skje” (FIVH). Put shortly, as translated and paraphrased, the informant says that time will

tell if consumers will make use of the law, but that the NGO will do what they can to make that happen (FIVH). Further, another example of doubt in terms of the effectiveness of consumer power, is from an informant representing an organization that works with guiding corporations on the field of responsible business conduct stated that they do not believe that there are many that think that consumer power only is enough, with regards to improving the conditions for workers in global supply chains.

5.4 New mode of governance

One informant stated that

Den 1. juli så får vi en lov som faktisk pålegger selskapene om å gjøre aktsomhetsvurderinger. Det vil si ha en etisk tilnærming til sin leverandørkjede, men de må også langt på vei være åpen om, ikke bare hva de finner, men også hvordan de jobber for å bedre etikken og sikre menneskerettigheter i egen leverandørkjede. Alt dette har tidligere vært frivillig langt på vei, og det har også vært opp til selskapene hvorvidt de skal være åpne om både hva de finner, og hvordan de jobber med etikken. Så vi går fra frivillighet til pålegg. Og det er nettopp det som var det vi ønsket, da. For at vi ser at med frivillighet så kommer man svært, svært kort. (FIVH)

The informant explains, as translated and paraphrased, that the act mandates that corporations conduct due diligence, which entails having an ethical approach to their supply chains, as well as being open about not just what they find, but also how they work to improve ethics and secure human rights in their supply chains. All this was previously voluntary, as well as the degree to which they should be open about what they find, and how they work with ethics. The act, in the informant's view, represents a move from voluntary standards to statutory obligations, something the informant views as positive, as they find that voluntariness is insufficient (FIVH).

In making such duties mandatory, at least in part, responsibility for human rights breaches can be argued to be transferred to corporations. As Mol (2008, p. 87) points out, the state has traditionally served to protect marginalized people, such as those who get their human rights violated. At the same time, a relevant dimension in this case, is that the act is not primarily aimed at addressing human- and workers' rights in Norway, but rather in jurisdictions overseas, where the prevalence of such issues is much higher, and where all types of imported goods are made. Mol (2008, p. 88) argues that states use information flows to meet "the

growing cross-border dimensions of governance”, as well as a response to failing authoritative resources. In terms of the Transparency Act, it does make use of information flows, through reporting on due diligence and information requests. It is further a governance mechanism aimed at issues that are international in nature, namely the social sustainability of corporations’ supply chains, with products originating from all over the world.

Simultaneously, the act also includes a somewhat “harder”, more authoritative measure, in that the Consumer Authority can issue sanctions based on non-compliance. Related to their mandate to enforce the act, the Consumer Authority stated that

Vi tenker at vi er gitt tilsyn med åpenhetsloven, og at ... i det ligger det at vi har myndighet til å føre tilsyn med de konkrete aktsomhetsvurderingene, også de vurderingene som virksomheten har gjort, de kan vi vurdere selv og se om de er i henhold til OECDs retningslinjer og loven. Hvis ikke vi gjør det, så ville ikke... Ville det være vanskelig å oppnå formålet med loven. Det ville være lett for virksomhetene å si det at – ja men vi har foretatt, for eksempel denne risikoprioriteringen, og det har ikke dere noe med. Også da kan man jo enkelt velge de risikovurderingene man ønsker da, i virksomheten, og sånn sett oppfylle loven på en veldig enkel måte. Vi mener at for å føre et tilstrekkelig og effektivt tilsyn så må vi også kunne gå i dybden på aktsomhetsvurderingene, og se helt konkret på de faktiske vurderingene som er foretatt, og ta en vurdering av de. (CA)

This, as translated and paraphrased, entails that their view is that they are mandated to supervise the concrete due diligence conducted by corporations, and to assess whether the corporations’ considerations comply with the OECD guidelines and the act. They argue that if it were not for that, it would be hard to achieve the purpose of the act. It would be easy for corporations to say that they have prioritized risk for adverse impacts on human rights and workers’ rights a certain way, and that that is none of the Consumer Authority’s business, and in that way be able to comply with the act very easily. They go on to argue that to be able to supervise effectively, they must be able look at concretely and in-depth the actual considerations that have been made and assess them (CA).

Such a rigorous supervision, as addressed previously, is something that there may not be enough resources to carry out with regards to all the corporations that are covered by the Transparency Act. However, as the Consumer Authority also points out, they may act on tips, or supervise specific industries more thoroughly if they are found to often be in violation of

the act. It also entails that non-state actors, such as NGOs will be important in the implementation of the act, as they are expected to operate as so-called “watchdogs”. Such an important role for non-state actors in the enforcement mechanism, as well as the dependency of the state on this function in governance, is something Mol (2008, p. 87-88) argues increased during the 90’s and has led to non-state actors serving a crucial role in governance.

A further aspect to this governance mechanism, is that although it is aimed at ultimately improving the conditions for workers and stakeholders in supply chains, through furthering corporations’ respect for human rights and decent working conditions, and ensuring the public has access to ethics information, it does not sanction human- or workers’ rights violations. Rather it includes a possibility of sanctioning insufficient due diligence, not publishing a report based on the due diligence and violating the information requirement. The Consumer authority also said about the economic sanctions available to them that *“Men de sanksjonene er jo skjønnsmessig basert, det er ingen retningslinjer som er satt for beløpene, som er faste etter de.”* (CA). As translated and paraphrased, they state that how sanctions are applied at their discretion, and that there are no guidelines for the amounts to be paid. Additionally, they also said that *“Og med åpenhetsloven så vil det jo være mest aktuelt med påbudsvedtak, det vil si at vi fatter et vedtak hvor vi sier at virksomheten må utføre aktsomhetsvurdering, må rapportere om aktsomhetsvurderinger, og må overholde informasjonsplikten.”* (CA). As translated and paraphrased, this is taken to mean that issuing decrees commanding corporations to comply with the due diligence, reporting and information requirements of the act, will be the type of sanction that is most commonly issued.

This, points to the act to some extent being hierarchical in nature, which “gives one or a few actors the possibility to reach collectively binding decisions without the consent of the others” (Treib, Bähr and Falkner, 2007, p. 9). The Consumer Authority has the power to make decisions on how to enforce the law – decisions that they do not need others to consent to. On the other hand, corporations have some freedom in choosing in what ways, and where due diligence is conducted in their supply chains. The act, as discussed previously, states that due diligence shall be conducted in line with the OECD guidelines for multinational enterprises (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4). The guidelines leave room for interpretation for the corporations in such matters as how due diligence should be conducted. For instance one passage state that human rights due diligence conducted by corporations should be carried out

“as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts” (OECD, 2011, p. 31).

A further dimension of modes of governance concern whether norms are fixed or malleable, which amounts to the “more or less fixed and context-dependent character of the norms included in a particular policy instrument”. In what sometimes is referred to as “new governance” norms are often “comparatively more open-textured, revisable and integrated with other norms and policies” (Treib, Bähr and Falkner, 2007, p. 7). A first point in this regard, in relation the Consumer Authority and how they will assess whether and how to sanction non-compliance. During the interview, they stated that

Det blir fra sak til sak, også blir det å vurdere på en måte hvor stort er overtrampet, hva slags virksomhet er det snakk om, har vi gitt på en måte tilstrekkelig veiledning, er også en vurdering. Eller har de fått så mye veiledning som er mulig, men likevel ikke innretter seg. Ja, det er en helhetsvurdering. Også må man også se på hensiktsmessigheten, hva er det man oppnår ved å bruke sanksjonene. Vi ønsker jo at loven formål skal oppnås, også prøver vi å legge opp arbeidet etter det. Så det blir en sånn individuell vurdering fra hver enkelt sak. Vi har jo ikke som mål å sanksjonere flest mulig i seg selv. (CA)

As translated and paraphrased, they state that they will consider each case individually, assessing the magnitude of the breach, what kind of operation it concerns. They will also consider whether they have provided sufficient guidance, or whether the corporation has received as much guidance as possible, and still fail to comply. It is an overall assessment. The expediency also has to be considered, what is accomplished by using the sanctions. Our goal is for the act’s purpose to be accomplished, and we try and organize our work around that. To sanction as many as possible, is not a goal in itself (CA).

This speaks to the relatively open texture of the act, in that cases are assessed individually, in relation to a variety of criteria. Through this the supervisory authority are left to develop in practice how to enforce the act, considering the concrete circumstances of each case. Another point to the act resembling “new governance”, is, as previously discussed, its integration with the OECD guidelines. These are also characteristics of what is called “soft law”. On the other hand, soft law is commonly associated with non-binding instruments, such as recommendations or opinions, as opposed to the legally binding provisions included in the act, which are typical of “hard” or legally binding governance (Treib, Bähr & Falkner 2007, p. 6)

5.5 Governance of food supply chains

Given that the corporate actors included in the collected interview data operate in the food sector, the descriptions given in those interviews of how they work with human rights and workers' rights in their supply chains relate to how this is dealt with in the food system.

With regards to prioritization of issues to tackle, which as discussed is an element of the act, one informant stated that

**LCA A* sine verdikjeder er jo på mange måter et bilde av den verden vi lever i i dag, vi lever i en verden med mye korrupsjon, med fattigdom, med klimaendringer, dårlige rettigheter for arbeidere i land der fagforeninger ikke er lov, og så videre. Slik at vi må prioritere der vi tror vi kan skape endring og selvfølgelig også der risikoen er størst. Det gjelder både *LCA A* som har kanskje over 40000 forskjellige produkter i sortiment, men også en liten leverandør som kanskje kjøper inn fire råvarer, da. Skal de fokusere på sukker eller vanilje, eller kakao hvis de lager en sjokolade, da? Kanskje det er bedre at en liten leverandør fokuserer på en av de områdene. Kanskje de skal fokusere på migrantarbeidere, og ikke på sukker som er helt annet, mye større tema. Så dette med prioritering er viktig (LCA A).*

The informant, as translated and paraphrased, argues the corporation's supply chains, in many ways, is an image of the world we live in. "A world where there is corruption, poverty, climate change, poor conditions for workers in countries where unionizing is banned, and so forth" Thus, they argue they must prioritize where they believe they can create change, and where the risk (of violations) is high. Further they argue that this applies to large corporations who carry thousands of products, such as them, but also to smaller actors who "maybe buy only four commodities" In an elaboration on this point, they pose the question of whether a corporation that make chocolate should focus on sugar or vanilla or cocoa, before answering it with that it may be that it is better for a small actor to focus on only one of those commodities, or that the case may be that such actors should focus on migrant workers, instead of the much different and larger subject of sugar (LCA A).

This speaks to some of the limitations of corporations as regulators, as it indicates not all issues are possible for them to solve, dependent on the tools they have available, their size . Additionally, that role allows them to decide which issues are most important, and where they are more likely to succeed in improving conditions, which are decisions that are important in terms of effectiveness.

Furthermore, a question posed in interviews revolved around certification of human rights. To this, a response from an informant was

Og hvordan skal du sertifisere en fabrikk eller en gård på menneskerettigheter. Du kan sertifisere systemer, men med en gang jeg reiser fra en bondegård så kan jo arbeidere ha gjemt seg bak en driftsbygning. Og det er jo realiteten, ikke sant. Sånn er det, det er livet. Kommer man til Italia så tror jeg personlig at migrantarbeidere har fått det mye bedre. Hvis det regner mye og traktorene står fast i søla, så kommer det en busslast med migrantarbeidere ut på gårdene, ut på jordene, og jobber. Jeg klarer ikke, ingen klarer å sikre alle arbeidere til enhver tid, det ser vi jo i kakaosektoren, eller i sukker eller vanilje eller... På en gård, ikke sant. Så, jeg er litt redd for at sertifiseringsordning på menneskerettigheter fort kan bli litt sånn grønnvasking. (LCA A).

As paraphrased and translated here, they asked how one would certify a factory or a farm on human rights, stating that systems can be certified, but at once they leave a farm, workers may have hid behind a farm building. Arguing that is the reality of things. They also stated that they believe that in Italy, conditions for migrant workers have gotten much better. However, they also cited the example of if heavy rainfall causes the tractors to be stuck in mud, “a busload” of migrant workers are sent out to farms and fields to work. Further, they argue that no one can secure all workers at all times. Something they argue can be seen in the cocoa sector, in sugar or vanilla - or at a farm. Before stating that because of that, they are concerned that certification schemes on human rights is in danger of becoming “a little bit like greenwashing” (LCA A).

In their response to the public hearing on the Ethics Information Committee’s report, Fairtrade Norway criticized a lack of focus on a living wage in the legal text, arguing that such an omission fails to account for the raw material stage of production, and that for the small-scale farmers that produce 70-80 percent of the worlds agricultural commodities unionization might not be the most relevant, hence a living wage is important in order for farmers to be able to send their children to school, rather than to work (Lefébure-Henriksen, 2020).

“I henhold til menneskerettserklæringens artikkel 23 er levelønn og leveinntekt en menneskerett. Fattigdom er ofte hovedårsaken til de verste former for slaveri som barne- og tvangsarbeid, derfor er det essensielt at levelønn og leveinntekt får en plass i lovteksten om

aktsomhetsvurderinger. Fagforeningsfrihet blir ofte brukt som et argument for at levelønn er på plass og viktigheten av levelønn i lovtekst minskes. Med det argumentet har man ikke tatt høyde for råvareledet, hvor risiko for medvirkning til brudd på menneskerettigheter er den høyeste. Det er småskalabønder som produserer 70-80 prosent av verdens råvarer og for dem er ikke fagorganisering nødvendigvis relevant. Levelønn og leveinntekt må ligge til grunn for å kunne ha mulighet til å sende barna sine på skole og ikke i arbeid. Det foreligger i dag metodologier for å definere begge, se eksempelvis til The Anker Methodology for Estimating a Living Wage². I tillegg er mangel på levelønn og leveinntekt en kjent risiko ved en rekke råvarer, eksempelvis kakao der majoriteten av vestafrikanske kakaobønder lever langt under fattigdomsgrensa hovedsakelig fordi inntjeningen på kakao er for lav” (Lefébure-Henriksen, 2020).

In the final legal text, a living wage is included as part of the definition of decent working conditions. The definition of supply chains includes the raw material stage of production, and as part of the supply chain by definition, due diligence will have to be conducted at, for instance farms (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 3).

6 Discussion

6.1 Disagreements over enforcement

As the date when the Transparency Act enters into force nears, it has attracted some attention in the news. For instance, two representatives for the advisory and revision firm BDO in an op-ed in *Finansavisen* pointed out the lack of regulations issued by the Ministry of Children and Families in connection to the act, something they argue could have made act clearer. They argue that the extent of corporations' duties is unclear, due to, among other things, making international conventions into law, without making clarifications (Høegh & Hartvigsen, 2022). In addition to the conventions, the act coopts the OECD guidelines for multinational enterprises (OECD, 2011). When asked about what can be seen as ambiguity in what the public can demand to get information about, the leader of the Ethics Information Committee, Ola Mestad, replied that he agrees that the "OECD-language" can be somewhat difficult to deal with, while stating that he believes the incorporation of the guidelines is a good thing. He further argues that the whole point (of the act) is to investigate human rights and workings conditions, and that information is the key and the road. He also goes on to state that sanctions can only be issued for violations of the duties to provide information, whereas having knowledge of violations of human rights in the supply chain is not punishable (Kvamme, 2021). This diverges in some respect from the interpretation of the role of the Consumer Authority. As highlighted in the analysis, the Consumer Authority argues that, in addition to overseeing whether information is provided in the form of reports and responses to inquiries, they have the authority to assess the concrete considerations made in corporations' due diligence, as for instance the basis for their prioritizations of risk, and followingly which areas or suppliers they have chosen to follow up on. In such a sense the Consumer Authority's interpretation is one that involves stricter oversight by state authorities, in that it potentially makes inadequate due diligence punishable, which also include how corporations remediate violations of human rights and decent working conditions. Hence, public actor oversight extends beyond enforcing the public's access to information, to also regulate the policies corporations implement in their supply chains.

While this is a somewhat subtle difference, it carries some implications when arguing over the degree to which private or public actors are dominant in this type of governance mode. As Treib, Bähr and Falkner (2007, p. 9) argue, a mode of governance never has only private or public actors, but one can ascertain which one is dominant. If the Consumer Authority could

not consider how due diligence has been undertaken, the act would be more resemblant of a market structure in that actors would to a larger extent “remain free to choose their desired course of action” (Treib, Bähr & Falkner, 2007, p. 9).

6.2 Home-state regulation for corporate accountability

Norway is by no means alone in introducing legislation aimed at improving conditions for workers in global supply chains. France, the UK and the US, among others, have passed legislation which, with differences in scope, take aim at such issues. These relatively new developments in the governance of human- and workers’ rights, at least in part spawned from the insufficiency of private regulatory mechanisms, have garnered scholarly interest. LeBaron and Rühmkorf (2017, p. 16) map differences in the institutional design of such policies, contesting that “the integration and legitimation of private governance initiatives within legislation may not always produce positive synergies and optimized form of hybrid governance”. These types of policies, branded home-state regulation, “is grounded in assumptions about the complementarity of public and private governance” (LeBaron & Rühmkorf, 2017, p. 17). All such regulation has as its purpose to utilize national law in order to steer corporate social responsibility. However, they differ from each other on several points in terms of the institutional design. While most previous research has focused on “*private* governance instruments and regimes”, less attention has been paid to the quality of public governance instruments” (Lebaron & Rühmkorf, 2017, p. 17). As this thesis is also concerned with the quality of a public governance instrument, namely the Norwegian Transparency Act, discussing it considering other legislation designed to strengthen CSR in supply chains is pertinent.

This form of regulation may also be difficult to align with “existing conceptualizations of the links between public policy and CSR”. These have in general emphasized the voluntariness of CSR, and that the type of policy instruments used are “soft”. However, such categories do not fit with the design of home-state regulation, and the definition of CSR has followed along as well, with the European Commission changing it to “the responsibility of enterprises for their impact on society”, which importantly no longer defines CSR as voluntary. The implications of this are that law can mandate that directors consider CSR issues, require reporting, or “give legal force to soft CSR standards” (Lebaron & Rühmkorf, 2017, p. 18-19).

Furthermore, they develop a continuum “to capture the different forms of public and private governance interactions at play in recent home state regulations” (LeBaron & Rühmkorf, 2017, p. 16). On the continuum, what is termed “transparency legislation” represent the least strict, or softest form of law. Located on the other end of the scale, is the “due diligence liabilities model”, which is the strictest, or “hardest” form of law. The UK Modern Slavery Act is an example of transparency legislation. It includes a duty which requires corporations to publish a slavery and human trafficking statement each year, which should include what steps they have taken to ensure that they have no such issues in their supply chains, or that “the organization has taken no such steps”. Such regulation does not necessarily strengthen private standards and compliance mechanisms, according to LeBaron and Rühmkorf (2017, p. 19), citing that “companies could be compliant with the new laws merely by reporting that they are doing nothing to address the problems of labour abuse”. However, the Norwegian Transparency Act, as is described in the analysis, is stricter in this sense. Corporations are required to publish yearly reports on all steps of due diligence, as outlined here (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4), including what measures they have in place to remediate violations of human rights and decent working conditions. Non-compliance with these requirements may risk sanctions from the Consumer Authority. On the other hand, as outlined in the analysis, the supervisory authority has limited resources, making oversight dependent on complaints and tips. Nevertheless, the risk of financial penalties, and the Consumer Authority’s stated willingness to assess the specific due diligence requirements in-depth indicate that the reporting requirement may not be as easily circumvented in the case of the Transparency Act.

LeBaron and Rühmkorf (2017, p. 16) argue that when legislation adopts existing private regulatory mechanisms, it may end up legitimizing rather than strengthening them. Abbot and Snidal (2010, p. 326) contend that international organizations can through orchestration strengthen and steer regulatory standard setting both in the private and public sector. In a sense, the Transparency Act is also steered by an international organization, due to its cooptation of the OECD guidelines.

The most stringent type of legislation on the continuum is due diligence liabilities legislation. An example of such legislation is the UK bribery act, which establishes extraterritorial liability, making companies liable for bribery if a “person associated with it bribes another person intending to obtain or retain business for the company, or to obtain or retain an

advantage in the conduct of business” (LeBaron & Rühmkorf, 2017, p. 18). However, companies have a defense against such offences “if they can prove that they had in place “adequate procedures” which are designed to prevent anyone associated with it from committing bribery”. Such adequate procedures can be, according to the bribery act, due diligence mechanisms (LeBaron & Rühmkorf, 2017, p. 20-21). This type of legislation goes further than the Transparency Act, in that it establishes criminal liability in other jurisdictions than the home state. The Transparency Act would be located somewhere in between these two on the continuum, in that it includes reporting requirements similar to that of the Modern Slavery Act, differing in that they cannot report that no measures have been taken. It also falls short of establishing extraterritorial criminal liability, and instead sanctions non-compliance with reporting and due diligence requirements. For it to be directly corresponding to the Bribery Act, companies would have had to be made criminally liable for human rights violations throughout their supply chains, which they are not. Furthermore, LeBaron and Rühmkorf (2017, p. 26) show that the stringency of policies corporations apply to different issues in their supply chain varies with the stringency of the home-state regulation, with corporations addressing bribery more effectively than modern slavery, and the stricter model leading to change in corporate policies. Whether effects of the Norwegian Transparency Act on corporate policies will resemble those of the Modern slavery or Bribery act is not possible to ascertain before it comes into effect. However, different aspects of its stringency can be pointed to. On one hand, it is legally binding, and includes the possibility of economic sanctions in cases of non-compliance. Additionally, the act mandates as part of the due diligence that corporations implement measures to both prevent and remediate human rights and workers’ rights breaches. These aspects may point in the direction that change to corporate policies will occur. On the other hand, the strictness of enforcement remains to be seen. As pointed to in the analysis, the Consumer Authority has interpreted their duty as to extend to having the ability to scrutinize every aspect of due diligence that is included in the Transparency Act. As such non-compliance can be expected to lead to some sort of reaction, although the Consumer Authority also indicated that guiding the corporations will be the first step. This may indicate that some the issues with the Modern Slavery act, namely that corporations could simply report that they had taken no measures to address issues in their supply chain (Lebaron and Rühmkorf, 2017, p. 19). It can also be argued to, with regard to corporations operating in Norway, address some of the issue with lacking enforcement of international human rights law, as Chen (2020, p. 18) points out is regarded as a central issue in the international legal system. On the other hand, as discussed previously there is some

disagreement over how enforcement will be implemented in practice, which is something that likely will be clearer when the act has come into effect, and practice can be established.

6.3 Food systems and the governance of social sustainability

As covered previously in this thesis, the concept of food systems is broad, in that it includes all actors and activities that are involved in production, consumption, distribution, processing and disposal of food. It also includes all the different sectors from where food originates, namely agriculture, forestry, fisheries and food industries (von Braun, Afsana, Fresco, Hassan & Torero, 2020, p. 5). Intertwined with these processes and activities, are corporate food supply chains, stocking super-markets with products originating from all over the world.

Further, home-state regulation, such as the Transparency Act, is no such substitute to national legislation either, as it simply mandates that due diligence is conducted, in line with the OECD guidelines corporations will have to implement measures such as codes of conduct and standards in their business operations (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022, § 4). There are several reasons why such measures may not lead to significant change in the conditions of workers on the ground. First, while “it is one thing to formulate standards, to define principles and criteria that back up an eco-labelling scheme, to define the norms in codes of conduct, to write good sustainability or CSR reports, to issue sustainability guidelines, and so forth.” It is another to make sure that these are followed (Boström, Jönsson, Lockie, Mol & Oosterveer, 2015, p. 3). Difficulties in implementation may stem from neglecting the issues in the local context. An example of this from the agricultural sector, is the case of banana plantations in the Philippines, where GLOBALG.A.P, a certification scheme for the agricultural sector, failed to account for the history of violence and conflict connected to the use of agricultural land in the area, while instead implementing measures connected to worker health, safety and welfare, parameters which the plantations were already performing quite well on. A lack of systems for monitoring and verification also led to issues with confirming compliance (Lockie, Traverro & Tennent, 2015).

6.4 Ethics information, consumers and civil society

In the Ethics Information Committee's report from 2019, they lay out different actors in society they view as driving forces for improvement. They include corporations that work systematically towards improvements, governments who have the main responsibility for human rights, and pass on their expectations, as well as politicians that highlight censurable conditions. At the same time, the committee also points to civil society actors, such as consumers, news media, organizations, and labor unions, and that these actors focus on human rights violations and instigate dialogue with corporations. Further, they argue that transparency and the related access to information is essential for different actors to contribute to improvements in global supply chains (Etikkinformasjonsutvalget, 2019, p. 23). The mandate for the report is grounded in that a duty to provide the public with information on how corporations handle human rights and decent working conditions in supply chains and that this will provide the consumers with the opportunity to make better informed purchasing decisions (Etikkinformasjonsutvalget, 2019, p. 95). However, how much of an influence this will have on actual consumer behavior is worth questioning. The committee also touches upon this in their report. On the one hand they cite research that show that many consumers request more ethics information, and that 40 % say they have chosen not to buy products over suspicion of child labor. On the other, they also acknowledge that, in this area, there is a significant discrepancy between what people say they do, and what they actually do. (Etikkinformasjonsutvalget, 2019, p. 96). This hints to that the belief in consumers making ethical purchasing choices may not have been that strong, at least among members of the committee.

A finding from the interview data is that informants play down the mechanism of transparency and its assumed effect of consumers altering their purchasing decisions or exerting pressure on corporations as a less important feature in the Transparency Act. For instance, EHN argued that although they believe that consumers pressuring a corporation might cause that corporation to change its practices, more substantial change comes from whole industries cooperating. Further, the organization FIVH see their role as facilitating for information reaching consumers, through collecting and spreading it through various channels. They did not, however, have a definitive opinion on whether consumers would act

on it. Previous research on supply chain transparency as a consumer tool may explain such modest expectations. For instance, Egels-Zandén and Hansson (2016, p. 390) in their case study of the clothes manufacturer Nudie jeans. They found that consumers do not leverage supply chain transparency to pressure disclosing corporations. They also argue their findings, at least in the context of that case, points towards “that supply chain transparency *in practice* fails to support a dialogue that influences the decisions of companies”. As an explanation for these findings, they argue that two factors may lead to the lack of pressure from consumers, namely comprehensibility and comparability. In the Nudie case, the sustainability information published was in a language that the ordinary consumer would struggle to understand e.g. incomprehensible, and also very difficult to compare to those of other brands’ suppliers. They cite the example of an audit finding “the exit sign in the warehouse is not properly marked” as something consumers would have difficulties with assessing whether is better or worse than findings elsewhere (Egels-Zandén & Hansson, 2016, p. 390). A feature in the Norwegian Transparency Act that potentially can help ameliorate such an issue is the stipulation in §7, that responses should be understandable (Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold, 2022). As the Consumer Authority explains, “understandable” should be interpreted as the response being in a language those requesting information can understand. Furthermore, as Egels-Zandén and Hansson (2016, 392) point out, NGOs can leverage transparency by acting as “infomediaries”, and empower consumers through making information more accessible. Though they did not find indications of NGOs filling such a function in the case of Nudie, the researchers argue that that might be due to the relatively mild violations found and that the study was conducted shortly after the transparency project was launched (Egels-Zandén & Hansson, 2016).

Findings from the analysis indicate, at least the NGO interviewed, sees the role of NGO’s and media as functioning similarly to this. FIVH argued that there are many ways the Transparency Act can give consumers increased access to information, mentioning mappings done by NGO’s which are subsequently published as articles on their home pages or news media publishing articles on issues in corporate supply chains. Such articles are likely to be easier to comprehend for the public, given that they often are written with the goal of reaching a mainstream audience. Nevertheless, such a mechanism of consumer pressure causing corporations to adopt sustainable policies, rests on the assumption that consumers leverage the increased transparency. A case can be made that simply being informed is insufficient. As Bradu, Orquin and Thøgersen (2014, p. 286) argue, socially responsible business practices are

“experienced as less personally relevant by most consumers than issues that directly affect their personal lives”. Followingly, most consumers are expected to have a relatively low involvement with social sustainability issues.

Moreover, researchers have identified a gap between peoples’ *intentions* and their *behavior*, consequently causing people who are ethically minded to often not follow through on their beliefs when making purchasing decisions (Carrington, Whitwell & Neville, 2014). This builds on the point that even though consumers have information on social sustainability in supply chains, that does not automatically translate into behaving more “responsibly” or to leveraging that information to pressure firms. On the other hand, others argue that consumers may influence corporate conduct, not through individual, spontaneous behavior but as a result of the “organized and strategic conduct by collective actors who are highly attuned to the potentials of consumer-activism” (Reinecke & Donaghey, 2015, p. 723). Highlighted is also coalitions of unions and social movements, that constitute a “form of coalitional power” which has been shown to in cases be effective as a way to “increase buyer responsibility for labour rights” and “improve the governance of private labour standards” (Reinecke & Donaghey, 2015, p. 724). This indicates that organized pressure from movements that organize consumer power, may show more promise than the effect of individual consumers leveraging their power to influence corporations.

Another way of looking at the Transparency Act, is to see it as a tool that can be leveraged by other actors involved in the regulation of corporations and business practices. Civil regulation broadly consists of Western activists that “seek to improve business practices in developing countries by placing pressures on global firms that have a highly visible presence in the United States and Europe” it is a global movement that aims to “politicize consumer and financial markets in developed countries in order to socialize market practices in developing ones” and “represents a political effort to extend regulation to a wide range of global business practices” (Vogel, 2010, p. 71). The role of civil society in regulation of global business practices, is connected to globalization and the regulatory gap that has emerged between “global markets and global firms on the one hand and government regulation of multinational firms on the other” with a central argument being that the state has lost some of its capacity in providing public goods, and struggles to tackle “problems of international scope” (Vogel, 2010, p. 73). Mol (2008, p. 86-87) presents a similar argument, with regards to environmental problems, arguing they are bound up with globalization, which has implications for governance, in that states’ power have decreased, while non-state actors, resources and rules

grow in importance. He also emphasizes the role of the globalization of information processes, consumption and circulation in the changing nature of governance. Civil regulation utilizes these developments, and the related eased access to and distribution of information, in so-called “naming and shaming” campaigns, which involves publishing damning information on corporations and their supply chains, and functions as a way in which NGOs can gain leverage (Vogel, 2010, p. 77). Such public campaigns rarely have an effect on sales or share prices of the corporations that are “shamed”, yet many corporations have responded with aligning with civil regulations. Particularly corporations that sell products to consumer are vulnerable to this tactic, fearing loss of revenue as a consequence of public criticism, although little evidence exists that indicate such consequences are likely (Vogel, 2010, p. 77). Further, Vogel (2010, p. 79-80) argues for the *relative* effectiveness of civil regulation citing on the one hand that it has helped in making corporations accept a certain degree of responsibility for social and environmental issues, and that “many business codes have measurably improved many aspects of business conduct”. On the other, the bulk of civil regulations have generally had little effect on the social and environmental issues they have sought to mitigate. Reasons for that being poor enforcement and that civil regulations usually have not covered all relevant business actors within sectors.

As such, an argument can be made that the Transparency Act may ameliorate some of the challenges faced by civil regulation. The increased access to information may aid NGOs in their public campaigning, in that corporations are forced to grant them access to information about their supply chains and workers’ and human rights. However, a possible issue, as raised in the analysis, is that independent verification of that information can be difficult, due to corporations not being required to publish lists of suppliers, reports following from social audits as well as action plans. This informational regulation, namely requiring corporations to publish information on their operations as well as performance with regards to workers’ and human rights (Mol, 2008, p. 91), and its reliance on non-governmental forces, such as public opinion related to NGOs campaigns, may also be argued to complement the stricter, more traditional regulatory measures, represented by the due diligence requirements of the Transparency Act.

7 Conclusion

While private governance mechanisms may be argued to be too weak to replace national legislation on workers' rights, they can be complementary to legislation, in contributing to elevate standards for working conditions in countries that produce for export markets. The Norwegian Transparency Act may also come to serve such a complementary role if it is successful in changing corporate practices in supply chains. This can, however, rely on how the supervisory authority performs its duties in practice, as less stringent previous regulation has previously had less effect than stricter approaches.

Consumers may on the surface seem to lack power in affecting working conditions in supply chains. Implementing ethical choices in daily life is difficult, which is observed in relation to the intention-behavior gap, as well as previous indications that consumers rarely leverage increased transparency, which can be due to a variety of reasons. However, this focus on the individual actions and "power" may be the aspect of consumer power that shows the least potential. What may show more promise is the organizing of consumer power by collective actors. Organized pressure, exerted by coalitions of actors, such as NGOs, who are experienced in making use of such power. This has been shown to have the potential to have a positive effect on the responsibility of buyers, as well as improving private governance mechanisms.

Relatedly, civil society's role in regulation is also that as civil regulators, where activists in countries pressure corporations that have a high visibility in Europe and the US, to assume more responsibility for social concerns in their supply chains. Such efforts can be said to have been relatively effective, as corporations often have chosen to align themselves with the demands of civil regulators. The increased access to information that the Transparency Act provides, may be a help to such actors. This is due to it granting them the right to, by inquiry, access information on corporations' supply chains, as well as what measures they take to handle such issues in their supply chains. In turn, this may put pressure on corporations that perform poorly with regards to human- and workers' rights.

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Appendices

Vil du delta i forskningsprosjektet

Informational Governance and the “Transparency Act”: the Case of the Norwegian Food System

Dette er et spørsmål til deg om å delta i et forskningsprosjekt hvor formålet er å *undersøke hvilke endringer åpenhetsloven vil føre til for bedrifter og organisasjoner, og videre om loven vil føre til økt sosial bærekraft i leverandørkjeder*. I dette skrevet gir vi deg informasjon om målene for prosjektet og hva deltakelse vil innebære for deg.

Formål

Prosjektet er en masteroppgave og har som formål å samle inn informasjon om hvordan bedrifter i dagligvare/mat-sektoren vil tilpasse seg til åpenhetsloven, og hvilke endringer de vil gjøre i forhold til den. Samtidig vil det også bli samlet inn informasjon fra NGOer for å undersøke hvordan de ser på loven, og hvordan de eventuelt vil bruke det passive informasjonskravet i loven. Videre, vil dette, i kombinasjon med data fra andre åpne kilder, lede ut i en analyse om lovens effektivitet med tanke på sosial bærekraft.

Forskningsspørsmålene er som følger:

RQ1: *How is the Norwegian governance regime surrounding food systems designed and how is informational governance integrated in it?*

RQ2: *How are companies in the food sector adapting to the informational requirements in the transparency law?*

RQ3: *Does information used as a policy instrument increase social sustainability in the food system?*

Hvem er ansvarlig for forskningsprosjektet?

Institutt for Internasjonale miljø- og utviklingsstudier, Noragric ved NMBU er ansvarlig for prosjektet.

Hvorfor får du spørsmål om å delta?

Dere får spørsmål om å delta fordi dere er en bedrift i en relevant bransje for dette prosjektet. Forespørselen vil også bli sendt til andre bedrifter innenfor samme bransje.

Hva innebærer det for deg å delta?

Hvis du velger å delta i prosjektet, innebærer det et personlig intervju, gjennomført av meg. Intervjuet er estimert å ta mellom 30-60 minutter. Intervjuet vil innebære spørsmål om hvordan dere stiller dere

til åpenhetsloven, samt hvilke tilpasninger, hvis noen, dere planlegger å gjøre som følge av loven. Opplysningene er også planlagt registrert ved bruk av lydopptak, for senere å transkriberes.

Det er frivillig å delta

Det er frivillig å delta i prosjektet. Hvis du velger å delta, kan du når som helst trekke samtykket tilbake uten å oppgi noen grunn. Alle dine personopplysninger vil da bli slettet. Det vil ikke ha noen negative konsekvenser for deg hvis du ikke vil delta eller senere velger å trekke deg.

Ditt personvern – hvordan vi oppbevarer og bruker dine opplysninger

Vi vil bare bruke opplysningene om deg til formålene vi har fortalt om i dette skrivet. Vi behandler opplysningene konfidensielt og i samsvar med personvernregelverket.

- Det er kun studenten og veilederen ansvarlig for dette skrivet som vil ha tilgang til opplysningene som innhentes.
- Opplysningene vil lagres på min harddisk, der kun jeg har tilgang.

Hva skjer med personopplysningene dine når forskningsprosjektet avsluttes?

Prosjektet vil etter planen avsluttes når oppgaven blir godkjent, som etter planen er i august 2022. Etter prosjektslutt vil datamaterialet med dine personopplysninger slettes.

Hva gir oss rett til å behandle personopplysninger om deg?

Vi behandler opplysninger om deg basert på ditt samtykke.

På oppdrag fra *Norges Miljø- og Biovitenskapelige Universitet* har Personverntjenester vurdert at behandlingen av personopplysninger i dette prosjektet er i samsvar med personvernregelverket.

Dine rettigheter

Så lenge du kan identifiseres i datamaterialet, har du rett til:

- innsyn i hvilke opplysninger vi behandler om deg, og å få utlevert en kopi av opplysningene
- å få rettet opplysninger om deg som er feil eller misvisende
- å få slettet personopplysninger om deg
- å sende klage til Datatilsynet om behandlingen av dine personopplysninger

Hvis du har spørsmål til studien, eller ønsker å vite mer om eller benytte deg av dine rettigheter, ta kontakt med:

- *Norges Miljø- og Biovitenskapelige Universitet* ved student Benjamin Gøtestam på mail benjamin.gotestam@nmbu.no eller tlf 40120958 eller veileder *Lars Kåre Grimsby* på mail lars.grimsby@nmbu.no
- Vårt personvernombud: Hanne Pernille Gulbrandsen på e-post personvernombud@nmbu.no
- Hvis du har spørsmål knyttet til Personverntjenester sin vurdering av prosjektet, kan du ta kontakt med:
- Personverntjenester på epost (personverntjenester@sikt.no) eller på telefon: 53 21 15 00.

Med vennlig hilsen

Lars Kåre Grimsby
(veileder)

Benjamin Gøtestam
(student)

Samtykkeerklæring

Jeg har mottatt og forstått informasjon om prosjektet *Informational Governance and the “Transparency Act”: the Case of the Norwegian Food System*, og har fått anledning til å stille spørsmål. Jeg samtykker til:

- å delta i *intervju*
- at opplysninger om meg publiseres slik at jeg kan gjenkjennes
- at opplysninger om bedriften publiseres slik at den kan gjenkjennes

Jeg samtykker til at mine opplysninger behandles frem til prosjektet er avsluttet

(Signert av prosjektdeltaker, dato)

Vil du delta i forskningsprosjektet

Informational Governance and the “Transparency Act”: the Case of the Norwegian Food System

Dette er et spørsmål til deg om å delta i et forskningsprosjekt hvor formålet er å *undersøke hvilke endringer åpenhetsloven vil føre til for bedrifter og organisasjoner, og videre om loven vil føre til økt sosial bærekraft i leverandørkjeder*. I dette skrevet gir vi deg informasjon om målene for prosjektet og hva deltakelse vil innebære for deg.

Formål

Prosjektet er en masteroppgave og har som formål å samle inn informasjon om hvordan bedrifter i dagligvare/mat-sektoren vil tilpasse seg til loven, og hvilke endringer de vil gjøre i forhold til den. Samtidig vil det også bli samlet inn informasjon fra NGOer for å undersøke hvordan de ser på loven, og hvordan de eventuelt vil bruke det passive informasjonskravet i loven. Videre, vil dette, i kombinasjon med data fra andre åpne kilder, lede ut i en analyse om lovens effektivitet med tanke på sosial bærekraft.

Forskningsspørsmålene er som følger:

RQ1: *How is the Norwegian governance regime surrounding food systems designed and how is informational governance integrated in it?*

RQ2: *How are companies in the food sector adapting to the informational requirements in the transparency law?*

RQ3: *Does information used as a policy instrument increase social sustainability in the food system?*

Hvem er ansvarlig for forskningsprosjektet?

Institutt for Internasjonale miljø- og utviklingsstudier, Noragric ved NMBU er ansvarlig for prosjektet.

Hvorfor får du spørsmål om å delta?

Dere får spørsmål om å delta fordi dere er en organisasjon som har som del av deres arbeid å jobbe med ansvarlig næringsliv.

Andre organisasjoner som har lignende fokusområder vil også bli kontaktet med samme forespørsel.

Hva innebærer det for deg å delta?

Hvis du velger å delta i prosjektet, innebærer det et personlig intervju, gjennomført av meg. Intervjuet er estimert å ta mellom 30-60 minutter. Intervjuet vil innebære spørsmål om hvordan dere stiller dere

til åpenhetsloven, samt hvilke tilpasninger, hvis noen, dere planlegger å gjøre som følge av loven. Opplysningene er også planlagt registrert ved bruk av lydopptak, for senere å transkriberes.

Det er frivillig å delta

Det er frivillig å delta i prosjektet. Hvis du velger å delta, kan du når som helst trekke samtykket tilbake uten å oppgi noen grunn. Alle dine personopplysninger vil da bli slettet. Det vil ikke ha noen negative konsekvenser for deg hvis du ikke vil delta eller senere velger å trekke deg.

Ditt personvern – hvordan vi oppbevarer og bruker dine opplysninger

Vi vil bare bruke opplysningene om deg til formålene vi har fortalt om i dette skrevet. Vi behandler opplysningene konfidensielt og i samsvar med personvernregelverket.

- Det er kun studenten og veilederen ansvarlig for dette skrevet som vil ha tilgang til opplysningene som innhentes.
- Opplysningene vil lagres på studentens harddisk, der kun studenten har tilgang.

Hva skjer med personopplysningene dine når forskningsprosjektet avsluttes?

Prosjektet vil etter planen avsluttes når oppgaven blir godkjent, som etter planen er i august 2022. Etter prosjektslutt vil datamaterialet med dine personopplysninger slettes.

Hva gir oss rett til å behandle personopplysninger om deg?

Vi behandler opplysninger om deg basert på ditt samtykke.

På oppdrag fra *Norges Miljø- og Biovitenskapelige Universitet* har Personverntjenester vurdert at behandlingen av personopplysninger i dette prosjektet er i samsvar med personvernregelverket.

Dine rettigheter

Så lenge du kan identifiseres i datamaterialet, har du rett til:

- innsyn i hvilke opplysninger vi behandler om deg, og å få utlevert en kopi av opplysningene
- å få rettet opplysninger om deg som er feil eller misvisende
- å få slettet personopplysninger om deg
- å sende klage til Datatilsynet om behandlingen av dine personopplysninger

Hvis du har spørsmål til studien, eller ønsker å vite mer om eller benytte deg av dine rettigheter, ta kontakt med:

- *Norges Miljø- og Biovitenskapelige Universitet* ved student Benjamin Gøtestam på mail benjamin.gotestam@nmbu.no eller tlf 40120958 eller veileder *Lars Kåre Grimsby* på mail lars.grimsby@nmbu.no
- Vårt personvernombud: Hanne Pernille Gulbrandsen på e-post personvernombud@nmbu.no
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- Hvis du har spørsmål knyttet til Personverntjenester sin vurdering av prosjektet, kan du ta kontakt med:
- Personverntjenester på epost (personverntjenester@sikt.no) eller på telefon: 53 21 15 00.

Med vennlig hilsen

Lars Kåre Grimsby
(veileder)

Benjamin Gøtestam
(student)

Samtykkeerklæring

Jeg har mottatt og forstått informasjon om prosjektet *Informational Governance and the "Transparency Act": the Case of the Norwegian Food System*, og har fått anledning til å stille spørsmål. Jeg samtykker til:

- å delta i *intervju*
- at opplysninger om meg publiseres slik at jeg kan gjenkjennes
- at opplysninger om organisasjonen publiseres slik at den kan gjenkjennes

Jeg samtykker til at mine opplysninger behandles frem til prosjektet er avsluttet

(Signert av prosjektdeltaker, dato)

[Meldeskjema](#) / [Informational governance and the Norwegian Transparency Act: the ca...](#) / Vurdering

Vurdering

Referansenummer

568652

Prosjekttittel

Informational governance and the Norwegian Transparency Act: the case of the Norwegian food system

Behandlingsansvarlig institusjon

Norges miljø- og biovitenskapelige universitet – NMBU / Fakultet for landskap og samfunn / Institutt for internasjonale miljø- og utviklingsstudier

Prosjektansvarlig

Lars Kåre Grimsby

Student

Benjamin Gøtestam

Prosjektperiode

10.01.2022 - 01.08.2022

[Meldeskjema](#) 

Dato

23.03.2022

Type

Standard

Kommentar

OM VURDERINGEN

Personverntjenester har en avtale med institusjonen du forsker eller studerer ved. Denne avtalen innebærer at vi skal gi deg råd slik at behandlingen av personopplysninger i prosjektet ditt er lovlig etter personvernregelverket.

Personverntjenester har nå vurdert den planlagte behandlingen av personopplysninger. Vår vurdering er at behandlingen er lovlig, hvis den gjennomføres slik den er beskrevet i meldeskjemaet med dialog og vedlegg.

DEL PROSJEKTET MED PROSJEKTANSVARLIG

For studenter er det obligatorisk å dele prosjektet med prosjektansvarlig (veileder). Del ved å trykke på knappen «Del prosjekt» i menylinjen øverst i meldeskjemaet. Prosjektansvarlig bes akseptere invitasjonen innen en uke. Om invitasjonen utløper, må han/hun inviteres på nytt.

TYPE OPPLYSNINGER OG VARIGHET

Prosjektet vil behandle alminnelige kategorier av personopplysninger frem til den datoen som er oppgitt i meldeskjemaet.

LOVLIG GRUNNLAG

Prosjektet vil innhente samtykke fra de registrerte til behandlingen av personopplysninger. Vår vurdering er at prosjektet legger opp til et samtykke i samsvar med kravene i art. 4 og 7, ved at det er en frivillig, spesifikk, informert og utvetydig bekreftelse som kan dokumenteres, og som den registrerte kan trekke tilbake.

Lovlig grunnlag for behandlingen vil dermed være den registrertes samtykke, jf. personvernforordningen art. 6 nr. 1 bokstav a.

PERSONVERNPRINSIPPER

Personverntjenester vurderer at den planlagte behandlingen av personopplysninger vil følge prinsippene i personvernforordningen om:

- lovlighet, rettferdighet og åpenhet (art. 5.1 a), ved at de registrerte får tilfredsstillende informasjon om og samtykker til behandlingen
- formålsbegrensning (art. 5.1 b), ved at personopplysninger samles inn for spesifikke, uttrykkelig angitte og berettigede formål, og ikke behandles til nye, uforenlige formål
- dataminimering (art. 5.1 c), ved at det kun behandles opplysninger som er adekvate, relevante og nødvendige for formålet med prosjektet
- lagringsbegrensning (art. 5.1 e), ved at personopplysningene ikke lagres lengre enn nødvendig for å oppfylle formålet

DE REGISTRERTES RETTIGHETER

Så lenge de registrerte kan identifiseres i datamaterialet vil de ha følgende rettigheter: innsyn (art. 15), retting (art. 16), sletting (art. 17), begrensning (art. 18), og dataportabilitet (art. 20).

Personverntjenester vurderer at informasjonen om behandlingen som de registrerte vil motta oppfyller lovens krav til form og innhold, jf. art. 12.1 og art. 13.

Vi minner om at hvis en registrert tar kontakt om sine rettigheter, har behandlingsansvarlig institusjon plikt til å svare innen en måned.

FØLG DIN INSTITUSJONS RETNINGSLINJER

Personverntjenester legger til grunn at behandlingen oppfyller kravene i personvernforordningen om riktighet (art. 5.1 d), integritet og konfidensialitet (art. 5.1. f) og sikkerhet (art. 32).

Ved bruk av databehandler (spørreskjemaleverandør, skylagring eller videosamtale) må behandlingen oppfylle kravene til bruk av databehandler, jf. art 28 og 29. Bruk leverandører som din institusjon har avtale med.

For å forsikre dere om at kravene oppfylles, må dere følge interne retningslinjer og/eller rådføre dere med behandlingsansvarlig institusjon.

MELD VESENTLIGE ENDRINGER

Dersom det skjer vesentlige endringer i behandlingen av personopplysninger, kan det være nødvendig å melde dette til oss ved å oppdatere meldeskjemaet. Før du melder inn en endring, oppfordrer vi deg til å lese om hvilke type endringer det er nødvendig å melde: <https://www.nsd.no/personverntjenester/fylle-ut-meldeskjema-for-personopplysninger/melde-endringer-i-meldeskjema>
Du må vente på svar fra oss før endringen gjennomføres.

OPPFØLGING AV PROSJEKTET

Personverntjenester vil følge opp ved planlagt avslutning for å avklare om behandlingen av personopplysningene er avsluttet.

Lykke til med prosjektet!

Intervjuguide bedrifter:

1. Kan du fortelle meg om bedriften du jobber i, og hva dere jobber med?
2. Kan du fortelle meg om deres eksisterende arbeid knyttet til ansvarlig næringsliv?
3. Generell holdning til loven, positive og negative aspekter
4. Hvilke tilpasninger til kravene i loven, hvis noen, må bedriften gjøre?
5. Hvilke konsekvenser, hvis noen, vil disse tilpasningene komme til å få for bedriften?
6. Har dere tidligere fått forespørsler fra forbrukere om informasjon om etikk i leverandørkjedene deres? Har dere eventuelt gjort endringer i driften basert på dette?
7. Hvordan ser dere på plikten om å på forespørsel gi innsyn i etikkinformasjon?
8. Har dere gjort forberedelser for å kunne ta imot slike forespørsler?
9. I tilbakemeldinger fra kunder, får dere ofte ønsker om mer etisk produserte varer, eller er det andre aspekter ved varer dere opplever det legges vekt på?
10. På hvilke måter, hvis noen, ser dere for dere at økt tilgang til etikkinformasjon for allmennheten kan føre til et mer ansvarlig næringsliv?
11. Hva mener dere om sanksjonsmulighetene loven legger opp til?
12. Tidligere i arbeidet med loven var det foreslått et krav om åpenhet om produksjonssted. Hva er deres innstilling til en slik plikt?
13. Har dere planer om å promotere produkter som sosialt bærekraftige, på lignende måte som med miljøvennlige produkter?
14. De butikkansatte er jo de som kunden møter når de handler fra dere. Vil de kunne svare på spørsmål fra forbrukere i butikken om etikkspørsmål knyttet til varer? Eventuelt er det planlagt at de skal kunne det?
15. Er det noe du vil legge til?

Intervjuguide Etisk Handel Norge

1. Kan du si litt om EHNs rolle i sammenheng med åpenhetsloven?
2. Hva er deres generelle syn på loven?
3. Er negative sider eller mangler dere vil peke på ved loven?
4. Siden dere jobber direkte med rådgivning opp mot næringslivet, er det noen utfordringer med implementeringen av loven som dere vil peke på?
5. I høringsvaret sier dere også at deres nåværende rapporteringskrav ofte vil kunne oppfylle kravene i loven. Er det allikevel nye tilpasninger medlemmene deres vil måtte gjøre i forhold til loven?
6. Har dere noen formening om hvor sterk åpenhetsloven er i forhold til lignende lovgivning i andre land, som for eksempel i Storbritannia, California eller Frankrike?
7. I sammenheng med den passive informasjonsplikten, hva ville dere sagt at et svar fra en bedrift på en innsynsforespørsel på generelt grunnlag må inneholde?
8. Tidligere i lovarbeidet har det vært forslag om en plikt om åpenhet om produksjonssted. Har dere noen formening om det ville vært mer hensiktsmessig eller ikke?
9. Hva tenker dere om sanksjonsmulighetene lover legger opp til?
10. Loven har også som intensjon at allmenheten skal få økt innsyn i informasjon. Hvilken effekt tror dere denne økte åpenheten vil ha?

Intervjuguide forbrukertilsynet:

1. Loven vil antagelig bety et betydelig tilsynsarbeid. Er dette noe dere vil sette av mye ressurser til?
2. Loven består av flere «deler», herunder både en passiv og en aktiv informasjonsplikt. På hvilken måte vil dere følge opp de ulike pliktene?
3. Mer spesifikt om den passive informasjonsplikten, så lurere jeg på hva som vil være sett på som et tilstrekkelig godt svar, fra en bedrifts side, på forespørsel om innsyn?
4. Mer generelt vil jeg også spørre litt om hvilke sanksjoner som kan ilegges de som eventuelt ikke følger loven, og hva som skal til for å utløse sanksjoner?

Intervjuguide Fremtiden i våre hender

1. Kan du si litt generelt om hvem dere er og hva dere gjør?
2. Hva er deres syn på loven generelt, slik den endelige lovteksten ble?
3. Er det flere mangler dere vil peke på enn at åpenhet om produksjonssted ikke kom med?
4. Er det aspekter av loven dere ser på som spesielt positive?
5. På hvilke måter ser dere for dere at åpenhet, slik det legges opp til i loven, kan bidra til et mer ansvarlig næringsliv?
6. Hva mener dere om sanksjonsmulighetene loven skisserer?
7. Tror dere den økte åpenheten om leverandørkjeder som følger av loven vil føre til norm- og atferdsendringer blant forbrukere?
8. Har du eksempler på at forbrukermakt har vært brukt med suksess?
9. Hvis dere skulle bedt om innsyn i etikkinformasjon om en vare, hva forventer dere, på generelt grunnlag, at svaret fra bedriften vil inneholde av informasjon?
10. Dere nevner at sertifiseringsordninger tidligere har vært effektive på sine områder. Hvor gode resultater tror dere loven vil få sammenlignet med disse, og hvorfor?
11. Er det noe dere skulle ønsket hadde vært inkludert i loven som ikke ble med i den endelige lovteksten?
12. Er det noe du vil legge til?



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