MASTER THESIS

Titel der Master Thesis / Title of the Master's Thesis

„A human rights analysis of the Norwegian oil fund"

verfasst von / submitted by

Magnus M. Kristensen Fitz

angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of

Master of Arts (MA)

Wien, 2021 / Vienna 2021

Studienkennzahl lt. Studienblatt / Postgraduate programme code as it appears on the student record sheet:	UA 992 884
Universitätslehrgang lt. Studienblatt / Postgraduate programme as it appears on the student record sheet:	Master of Arts in Human Rights
Betreut von / Supervisor:	Dr. Karin Lukas, E.MA, LL.M.

ABSTRACT (EN)

The Norwegian oil fund – formally known as the "Government Pension Fund Global" – is the largest sovereign wealth fund in the world, with a value exceeding 12 trillion NOK, or 1.3 trillion USD. Through its commitment to socially responsible investing, the Oil fund aims to consider human rights and environmental issues in its investment practice. For these efforts, the Oil fund is often considered a best-in-class responsible investor, and a *gold standard* for other state-owned investment vehicles – a reputation that has implications for the financial performance of the fund. Importantly, the Oil fund also has value as a symbol of Norwegian foreign policy abroad.

This thesis aims to assess the socially responsible investment practice of the Norwegian oil fund, focusing specifically on the Oil fund's commitment to human rights. The thesis will include a three-part analysis: an institutional analysis, a quantitative analysis, and five qualitative case studies. By drawing on qualitative interviews, official documents, and secondary literature, the thesis will aim to assess the human rights performance of the Oil fund, while contextualizing this performance within the wider world of finance and responsible investing.

In short, the thesis finds that while the Oil fund holds relatively high standards of socially responsible investing compared to other sovereign wealth funds, its approach to ensure human rights compliance falls short of comprehensive. As such, it is consistent with the wider approach to human rights within the realm of business and human rights that it operates within.

ABSTRACT (GE)

Der norwegische Ölfonds, – offiziell als „Government Pension Fund Global" bekannt – ist mit einem Wert von über 12 Billionen NOK oder 1,3 Billionen USD der größte Staatsfonds der Welt. Durch sein Engagement für sozial verantwortliches Investieren zielt der Öl-Fonds darauf ab, Menschenrechts- und Umweltfragen in seiner Anlagepraxis zu berücksichtigen. Für diese Bemühungen wird der Ölfonds oft als erstklassiger verantwortungsbewusster Investor und als Goldstandard für andere staatliche Anlageinstrumente angesehen – ein Ruf, der Auswirkungen auf die finanzielle Performance des Fonds hat. Wichtig ist, dass der Ölfonds als Symbol der norwegischen Außenpolitik im Ausland einen Wert hat.

Ziel dieser Arbeit ist es, die sozial verantwortliche Investitionspraxis des norwegischen Ölfonds zu bewerten und dabei insbesondere das Engagement des Ölfonds für die Menschenrechte zu untersuchen. Die Arbeit umfasst eine dreiteilige Analyse: eine institutionelle Analyse, eine quantitative Analyse und fünf qualitative Fallstudien. Anhand qualitativer Interviews, offizieller Dokumente und Sekundärliteratur soll die Arbeit die Menschenrechtsleistung des Ölfonds bewerten und diese Leistung in die weitere Welt des Finanzwesens und des verantwortungsvollen Investments stellen.

Kurz gesagt kommt die These zu dem Ergebnis, dass der Ölfonds zwar im Vergleich zu anderen Staatsfonds relativ hohe Standards für sozial verantwortliches Investieren einhält, sein Ansatz zur Gewährleistung der Einhaltung der Menschenrechte jedoch nicht umfassend ist. Als solches steht er im Einklang mit dem umfassenderen Ansatz für die Menschenrechte im Bereich der Wirtschaft und der Menschenrechte, in dem der Fonds tätig ist.

ACKNOWLEDGEMENTS

First and foremost, I would like to thank my supervisor, Dr. Karin Lukas, for her time and experience. Her guidance has been nothing short of invaluable to my completion of this thesis.

Second, thanks are due to all four interviewees – Pia Rudolfsson Goyer, Guro Slettemark, Ingrid Thorsnes and Cecilie Hellestveit – for their generous participation, valuable insights, and interesting discussions. This study would not have been possible without them.

I would also like to thank all my colleagues and lecturers at the University of Vienna for being a source of inspiration and joy throughout the past two years.

Lastly, I am grateful to my family for their continuous support throughout my studies, and to my Torshov friends for always giving me a couch to sleep on when back in Oslo.

Magnus M. Kristensen Fitz
August 10, 2021, Oslo.

ACRONYMS

CE	Council on Ethics
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
ESG	Environment, Social, and Governance
GPFG	Government Pension Fund Global
HRW	Human Rights Watch
ILO	International Labour Organization
IMF	International Monetary Fund
INGO	International Non-Governmental Organization
MNC	Multinational Corporation
NBIM	Norges Bank Investment Management
NCP	National Contact Point
NGO	Non-Governmental Organization
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
SRI	Socially Responsible Investing
SWF	Sovereign Wealth Fund
UN	United Nations

CONTENTS

1 INTRODUCTION

Towards the tail end of 1969, Phillips Petroleum Company could inform the Norwegian government it had found oil in the North Sea, ushering in what would be dubbed the *Norwegian oil adventure*. Coinciding with the 1973 oil crisis, the Norwegian petroleum industry – and by extension, the country's economy – benefitted from a decade of high oil prices, before eventually stabilizing. And although the narrative of a poor pre-oil Norway has been challenged,[1] it is certainly true that the discovery of oil and gas allowed for a rapid development of Norwegian society. Before long, the oil industry had by far surpassed all other domestic industries, measured in gross domestic product. In 1996, the *Norwegian oil adventure* entered a second phase, when the government made its first transfer – nearly 2 billion NOK – into the Norwegian oil fund. A state investment vehicle, the Fund was established to ensure long-term management of oil and gas revenues and to shield a now oil-dependent Norwegian economy against fluctuating global oil markets. Through investments in stocks, property, government bonds and as of recently, renewable energy infrastructure, the total value of the Oil fund today exceeds 12 trillion NOK, or 1.3 trillion USD, making it the largest state-owned investment fund – or *sovereign wealth fund* – in the world. In many ways, Norway's *investment adventure* has been as great as its *oil adventure*, if not greater.

Arguably, the Norwegian oil fund has done quite *well*. Yet by practicing its own brand of socially responsible investing, the Oil fund aims to do *well* while doing *good*. The Fund's commitment to responsible investment practice is articulated in its investment mandate, and reiterated recently by CEO Nicolai Tangen in a speech marking the 25th anniversary of the Fund's first deposit: "… the possibilities provided to us by the Fund entails commitments – we must invest responsibly."[2] This responsibility is two-fold. Relating to its performance, the Oil fund has a long-term inter-generational responsibilty, as it

[1] S. Knutsen, 'Hvorfor ble Norge rikt?', Aftenposten, 28 June 2004, https://www.aftenposten.no/meninger/kronikk/i/LM1L1/hvorfor-ble-norge-rikt, (accessed 22 May 2021).
[2] 'Oljefondet 25 år' [online video], 2021, https://www.regjeringen.no/no/aktuelt/statens-pensjonsfond-utland-25-ar/id2850882/, (accessed 17 July 2021).

manages the savings of the Norwegian people, to do *well*. In addition, it has moral responsibilities related to human rights and the environment – responsibilities, in other words, to do *good*. Doing *good*, in the context of the Oil fund, means weeding out "unethical" companies from the portfolio, through the efforts of its independent ethics body, and engaging with companies through dialogue or through the exercise of ownership rights, with aims of improving company conduct – the latter duty falling to the Fund's management. To this end, ethics guidelines were implemented shortly after the Oil fund became operative, establishing the grounds for disinvestment. For its commitment to socially responsible investment, the Norwegian oil fund has been dubbed a "gold standard" for sovereign wealth funds,[3] and consistently ranks high on metrics such as transparency, accountability, and governance. In the academic literature, the fund is often used as a benchmark when discussing sovereign wealth funds and socially responsible investing and its reputation as a socially responsible investor is likely to positively impact the Fund's financial performance. Importantly, the Oil fund is valuable to Norway also as a symbol of its foreign policy, lending its moral legitimacy to the country's image abroad.

Clearly, the Oil fund – and by extension, Norway – benefits both financially and politically from its perceived commitments to doing *good*, and as such, this commitment deserves closer inspection. With the aim of contributing to a discussion about the Norwegian oil fund and socially responsible investing that is very much alive, the present thesis will offer an analysis of the Fund's socially responsible investment practice. Specifically, the thesis will focus on one social dimension of this practice, namely the compliance of the fund with relevant *human rights* standards. And while this in itself is a worthwhile endeavor, examining the so-called "gold standard" of sovereign wealth funds should hopefully offer valuable insight into a broader discussion on sovereign wealth funds, socially responsible investing and human rights and business. Put differently, the thesis will aim to assess the extent to which the Oil fund is doing *good*, while doing *well*.

---

[3] A. Doyle, 'Norway urges Exxon, not Statoil Hydro, to cut CO2', Reuters, 23 April 2008, https://www.reuters.com/article/us-climate-norway-exxon-idUKL2162720320080423, (accessed 2 August 2021).

2 METHODOLOGY

2.1 Research question

This thesis posits the following research question: *To what extent does the Norwegian oil fund comply with relevant human rights standards?*

As the research question aims to assess the ‘human rights compliance’ of the Oil fund, a brief discussion on the exact contents of this phrasing is necessary. As alluded to, the aim of this paper will be a *general* assessment of the human rights compliance of the Norwegian oil fund, and while this remains the aim of paper, certain limitations to the scope have been imposed. The Oil fund is a complex institution, and its infrastructure for socially responsible investment has overlapping features. Formally known as the Government Pension Fund Global (GPFG), the Fund is technically a deposit account within the Norwegian central bank (Norges Bank). It is managed by Norges Bank Investment Management (NBIM), while its principal organ for ensuring the Fund’s compliance with its ethical guidelines is the Council on Ethics (CE; The Council) – the primary focus of this thesis. However, the Council is not the only body within the Fund with responsibilities related to human rights and corporate social responsibility (CSR). This thesis has already touched upon – and will continue to demonstrate – how NBIM, through its own SRI practice, also fills such functions. The institutional dynamic between the two institutions should therefore be explored, but while this thesis will aim to give a comprehensive account of the Fund’s SRI practice, it will not include an independent analysis of NBIM and its functions related to *human rights* and *socially responsible investing* (SRI). While recognizing that no SRI/CSR/ESG study of the Fund is complete without also analyzing this important component, it falls outside the scope of this paper for a few reasons. Firstly, the main mechanism used by NBIM to ensure human rights compliance from the companies in the GPFG portfolio is *active ownership*, but due to limited transparency on the part of NBIM, and the time-constraints of this thesis, it will not be possible to assess e.g., how effective this mechanism is at changing the conduct of companies.

A second discussion is necessary regarding *compliance*, as it is understood in the context of the research question. Compliance, as an important concept within the human rights literature, can mean different things. In traditional conceptualizations of human rights, compliance commonly refers to how states protect, respect, and fulfill human rights, as they are articulated in human right treaties.[4] As human rights obligations are expanded to apply also to corporations, it becomes less clear what it is these private entities should comply with due to the absence of legally binding human rights instruments within the realm of business and human rights. The Oil fund exists within a normative human rights universe characterized by self-regulation and non-binding guidelines, and with the aim of illustrating the resulting gap between *commitment* and *compliance*, following chapters will provide an overview of the normative framework concerning human rights and business, with special focus on corporations and investment funds. 'Relevant human rights standards', as referenced in the research questions, will therefore mean the Oil fund's own human rights framework, i.e., the *Ethical Guidelines*. Through their codification in Norwegian law, they represent the Fund's only legally binding human rights framework.

Although this assessment remains its primary objective, the thesis should also aim to offer context to its findings. As will be discussed in the next chapter, 'sovereign wealth funds (SWFs)' is somewhat of an arbitrary category. While they can be – and often are – compared in terms of size or transparency, comparative perspectives are of limited concern to this study, as sovereign wealth funds have varying institutional structures, objectives, and strategies, and are embedded in different political context. As the literature hold up the GPFG as a top performer in terms of transparency and socially responsible investing, neither is the aim to assess its SRI practice comparatively. Instead, the Fund is of interest specifically due to its reputation as a best-in-class responsible investor. Premised on previous comparative examinations of the Oil fund, the assessment of a 'gold standard' should hopefully offer valuable insights into the potential of socially responsible investment and the normative human rights framework concerning

[4] X. Dai, 'The 'Compliance Gap' and the Efficacy of International Human Rights Institutions,' in T. Risse, S. C. Ropp and K. Sikkink (eds.), *The Persistent Power of Human Rights: From Commitment to Compliance*, Cambridge, Cambridge University Press, 2013, pp. 86-87.

corporations. Based on an assumption that the GPFG is shaped by its specific political, cultural, and social context, this context should also be discussed. While generalizability is no main objective, explaining the contextual specificities that shape the Oil fund might allow us to draw lessons that are of interest also for other actors operating within the world of finance and human rights. As such, the thesis will attempt to explain its central findings in a broader context, aiming to shed light on underlying rationales and reasons for its institutional behavior.

2.2 Research design

Employing a mixed-method approach to the research question, this paper will carry out a three-level analysis of the Council on Ethics and its function within what we might call the GPFG socially responsible investing structure: (1) *institutional analysis*; (2) *quantitative analysis*; and (3*) case-study analysis*. In addition to academic literature, the source basis will include official government *documents* as well as four *interviews*.

As the first level of analysis, an *institutional analysis* of the Council on Ethics will be carried out to assess strengths and weaknesses in its institutional structure. To this endeavor, a framework for analysis has been articulated based upon Peters' observation that institutions are situated within specific political, economic, and cultural contexts.[5] As such, the framework leans on central premises of *critical institutionalism* in its aim to address challenges specific to the Council on Ethics and the GPFG – challenges resulting in part from the context in which the institution is embedded. Institutions, as they are understood herein, are established, and subsequently developed, on foundations laid by specific social and historical conditions. Thus, their inner dynamics and their relationship to adjacent institutions are shaped by contextually specific power relations and cultures. In addition, it is recognized that contestation of authority might occur between adjacent institutions with overlapping functions and objectives.[6] This leads to the suggestion that

[5] P. Peters, 'Embedded Systems and Rooted Models,' in B. J. McCay and J. Acheson (eds.), *The Question of the Commons: The Culture and Ecology of Communal Resources*, Arizona, University of Arizona Press, 1987, pp. 171-194.
[6] L. Whaley, 'The Critical Institutional Analysis and Development (CIAD) Framework', *International Journal of the Commons*, vol. 12, no. 2, 2018, p. 139-140.

there is considerable merit in a employing a framework articulated specifically around the GPFG and its SRI structure.

Secondly, the thesis will present a quantitative analysis of the main functions of the Council on Ethics, the Fund's main body concerned with human rights. Pertaining to Sahl's understanding, this level of analysis will aim primarily at measuring the *intra-institutional authority* of the Council on Ethics, i.e., the extent to which the Council on Ethics can exert authority over NBIM within the GPFG structure.[7] Contrasting the thesis' qualitative levels of analysis, this particular level should offer a higher degree of objectivity due to its quantitative nature – recognizing simultaneously the limits to objectivity in social research.[8] As this thesis aims to measure the concept of *compliance*, an important indicator of this would be the extent to which NBIM follows the recommendations of the Council. There should be definitive merits to approaching this concept quantitatively, and the chosen method should ensure the validity of the results.[9]

A qualitative case study analysis will be included as the last level of analysis, with the objective of exemplifying already discussed themes and shed light on new themes yet to be addressed. As such, the cases will be what Bryman calls exemplifying, or representative cases.[10] The five cases selected give the case study a *collective*, yet *instrumental* character. In the instrumental case study, as Stake delineates, the case sampling is led by ambitions to understand something "greater" than the specific cases, in this case the Government Pension Fund Global and its socially responsible investing practice. This contrasts the *intrinsic* case study, where interest lies in the specific case and its value as a case is not determined by its ability to generate broader understanding. At the same time, the added value of assessing a number of cases rather than a single case, and examining these in a coordinated and collective fashion, has informed the design of this case study.[11]

---

[7] T. Sahl, 'Institutional Power, Collective Acceptance, and Recognition', in H. Ikäheimo and A. Laitinen (eds.), *Recognition and Social Ontology*, Leiden, Brill, 2011, p. 352.
[8] A. Bryman, *Social Research Methods 4th Edition*, Oxford, Oxford University Press, 2012, p. 49.
[9] Ibid., pp. 169-171.
[10] Ibid., p. 70.
[11] R. E. Stake, *The Art of Case Study Research*, Thousand Oaks, CA, SAGE Publishing, 1995, pp. 3-4.

2.3 Institutional analysis

The institutional analysis will focus on four dimensions of particular importance to our understanding of the Council: *capacity*; *process*; *framework*; and *transparency*. In carrying out this analysis, a number of sources will be relied on, including secondary literature, official documents as they are published by NBIM, the Council on Ethics and the Ministry of Finance, and lastly, interviews conducted with former and current members of the Council on Ethics.

First, the paper will assess the capacity of the Council on Ethics by examining the size and competencies of its staff, its workload and lastly its resources, financial and otherwise. Conclusively, this will be assessed in conjunction with its quantitative output. This capacity assessment will aim to answer one central question: *to what extent is the Council on Ethics successful in monitoring the comparably large portfolio of the Government Pension Fund Global*? Next, focus will shift to the process through which the Council on Ethics monitors, investigates, and issues recommendations on the companies within the portfolio. The paper will examine the sources used by the Council to monitor the portfolio, and the process leading to recommendations of either exclusion or observation. Continuing, a deeper examination will be given to the contents of the normative framework on which the Council bases its work, i.e., the *Ethical Guidelines*, and how it is interpreted by the Council in its work. At the core of the framework assessment are questions relating to *flexibility* and *adaptability*. At last, the GPFG and its governing bodies will be assessed in terms of *transparency*. In addition to the implications the Fund's level of transparency has for its accountability, it should also highlight certain limitations shaping the form and scope of this paper.

2.4 Quantitative analysis

The paper will include a quantitative data analysis of recommendations published by the Council on Ethics between 1 January 2015 and 1 June 2021 in order to assess the *compliance* of NBIM with the recommendations of the Council. While recommendation published also prior to 2015 are available, the Council and its mandate went through a restructuring process in late 2014 that shifted authority to exclude or put companies on observation from the Ministry of Finance to Norges Bank, while practically (albeit not formally), members to the Council would now be appointed by Norges Bank.[12] With this authority, Norges Bank may exclude companies even without a recommendation from the Council, and has done so on a few occasions. Additionally, an all-new Council was appointed, among them the current Chair. The chosen timeframe is informed by these significant changes, coupled with the continuation of leadership since then. To ensure replicability, all recommendations are included as they are listed in the Council on Ethics' annual reports.

The study will have three main components. First, all 49 recommendations published by the Council within this time frame will be included to determine the *general* degree of compliance with recommendations. In a second component, the data set will exclude recommendations issued under *product*-based criteria, to determine any variation to the general data set. Lastly, only recommendations related to the *human rights*-criterion will be examined. While the human rights-criterion is of particular interest to this study, the data set of 19 recommendations is too small for independent analysis. Conclusively, statistical representations of all three levels will be assessed in conjunction to determine the extent to which NBIM comply with Council recommendations. By examining all three variations of the data set in relation to each other, the study should produce findings with a satisfactory level of reliability.

Due to limitations to the available data set, *longitudinal* perspectives will not be included in the quantitative analysis. Examining NBIM compliance with Council recommendations over time would certainly be of relevance to the study, as one former Council member observes an increase in the number of cases where Council recommendations were not followed by NBIM.[13] Due to the low number of total recommendations issued during the time frame, this would likely not return valid results. On the other hand, the Council has seen numerous changes since its establishment in

[12] G. L. Clark and A. Monk, 'The Norwegian Government Pension Fund: Ethics over Efficiency', *Rotman International Journal of Pension Management*, vol. 3, no. 1, 2010(a), p. 16.
[13] Interview with Guro Slettemark, Oslo, 17 June 2021.

2005, among them the introduction of the *observation* mechanism in 2010, new criteria for exclusion, and the above-mentioned reappointment of the Council in 2015. While expanding the timeframe would allow for a greater number of cases to be assessed, it would also introduce a new set of variables that a longitudinal research design would have to contend with in order to preserve the study's validity, consequently leaving such perspectives unfeasible within the current scope of the thesis.

2.5 Case study analysis

The analysis chapters of this paper will conclude with a qualitative case study analysis of five companies either currently or formerly present in the portfolio of the Government Pension Fund Global. Due to the relativist nature of qualitative case studies, neither *external validity* nor *generalizability* will be a central aim.[14] In the qualitative case study analysis, various categories of sources will be utilized, including secondary sources, interviews, and official documents published by NBIM, the Council on Ethics, the Ministry of Finance, or other government bodies. In addition, the findings of the institutional and quantitative analysis chapters will be drawn from.

Two criteria will be considered in the selection of company cases, the first of which is the potential of each case to effectively exemplify central themes and provide context to discussions of previous chapters. While common lessons might be drawn from all cases, they are primarily intended to exemplify the range of different debates the Council on Ethics might provoke. Secondly, the cases should highlight specific issues, challenges or characteristics that has so far avoided proper examination.

2.6 Document analysis

The present paper will include both quantitative and qualitative secondary analysis of official government documents. While official documents, containing statistics regarding

[14] Y. Rashid, A. Rashid, M. A. Warraich et al., 'Case Study Method: A Step-by-Step Guide for Business Researchers', *International Journal of Qualitative Methods*, vol. 18, 2019, p. 8.

recommendations published by the Council, will be used primarily in the quantitative analysis, official documents will be used qualitatively in both the institutional analysis as well as the case study analysis. Documents which will be included in the qualitative analyses include, inter alia: Council on Ethics recommendations; Council on Ethics annual reports; NBIM annual reports; official Norwegian reports (NOU); and legal documents. As Bryman notes, a few concerns are associated with government documents, specifically related to their credibility. After all, states are not neutral actors and should not be assumed to be without bias.[15] Inevitably, this is something this paper must contend with, and any reading of the results should be mindful of this.

2.7 Interviews

In addition to secondary literature and official documents, the paper will rely on information gathered through four *qualitative* interviews. All four interviews were conducted in a flexible, *semi-structured* manner, using an interview guide as a point of departure.[16] All four interviews were conducted in Norwegian. Where interviewees brought up important but unexpected points, this was further explored through follow-up questions. While some questions were present in the interview guide of all four interviews, each guide included specific questions related to the role of the interviewee. All four participants were selected due to their involvement in the Council on Ethics, and their specific role therein. As such, the participants were as follows:

Interviewees
(1) one *current* member of the Council on Ethics
(2) one *current* member of the Secretariat to the Council on Ethics
(3) one *former* member of the Council on Ethics
(4) one *former* member of the Secretariat to the Council on Ethics

Participants were selected from both components of the Council on Ethics – the secretariat and the five appointed member – in order to fully capture the working dynamics of the

[15] Bryman, p. 550.
[16] Ibid., pp. 470-471.

Council. Participants were approached based on their role within the Council, and as such, all had responsibilities related to human rights. A few limitations were expected in the selection process: first, due to the relatively small size of the Council, it could prove difficult to get participants spread across all four categories whose work included human rights. A second set of limitations were also expected in relation to the COVID-19 pandemic. However, as all four individuals contacted were willing to participate, these limitations did not affect the selection of participants. To the second limitation, all four interviews were conducted remotely, with the help of video teleconference software.

To the current members of the Council on Ethics, the interview guide was designed to reflect possible limitations related to their current employment, although few such limitations were encountered. The interview guide included questions related to, inter alia: capacity; process; sources; interpretation of mandate; and specific companies. The questions included in the interview guides prepared for the former members of the Council included similar themes, but made inquiries also into their own assessments and evaluations of the work of the Council. As such, these interviews partly resembled expert interviews, although elements of this is present throughout all four interviews.[17]

[17] M. Meuser and U. Nagel, 'The Expert Interview and Changes in Knowledge Production', in A. Bogner, B. Littig, and W. Menz (eds.), *Interviewing Experts*, London, Palgrave Macmillan, 2009, pp. 17-18.

3 LITERATURE REVIEW

The literature on 'sovereign wealth funds' constitutes a rather recent academic tradition, mainly due to their late conceptualization as such. The very phrase was first coined by Rozanov in 2005,[18] but it is perhaps Truman's 2008 contribution that is the most impactful of early inquiries into their exact substance.[19] Therein, he delineates their emergence as important actors within the finance world, while suggesting a set of best-practices for sovereign wealth funds. Based on these best-practices, the policy brief goes on to rank the most prominent SWFs on metrics such as *structure*, *governance*, and *transparency*.

Relating to the latter of these three dimensions, Gieve builds on Truman's contribution in his discussion of the oft-perceived lack of transparency into SWFs investment practices, providing insight into an early concerns regarding SWFs. As state-owned investment vehicles, commentators would point to their potential as foreign policy tools, allowing state intervention into global financial markets. Similar concerns were expressed by recipient states, wary of SWF investments into their domestic markets, explaining how growing attention to SWFs in the early 2000s were closely followed by initiatives to establish codes for transparency.[20] This has been explained in terms of a conflict between concepts of state capitalism and market capitalism, the latter advocating minimal state intervention in financial markets while the former involve significant government involvement in the economy.[21] Gelpern examines this fear further, arguing that discourse in OECD countries – and particularly in the US – on the proliferation of SWFs in the period between the September 11, 2001, terrorist attacks and the 2008 financial crisis, was framed inside of a broader fear of foreign interventionism by antagonistically viewed states.[22] By Lee, this increased investment in Western markets

---

[18] A. Rozanov, 'Who holds the wealth of nations?', *International Journal of Central Banking*, vol. 15, no. 4, 2005, pp. 52-57.

[19] E. M. Truman, 'A Blueprint for Sovereign Wealth Fund Best Practices', *Peterson Institute for International Economics Policy Brief PB08-3*, 2008.

[20] J. Gieve, 'Sovereign Wealth Funds and Global Imbalances', *Revue d'économie financière (English ed.)*, vol. 9, no. 1, 2009, pp. 170-172; A. Q. Curzio and V. Miceli, *Sovereign Wealth Funds: A complete guide to state-owned investment funds*, Petersfield, Harriman House, 2010.

[21] R. J. Gilson and C. J. Milhaupt, 'Sovereign Wealth Funds and Corporate Governance: A Minimalist Response to the New Mercantilism', *Stanford Law Review*, vol. 60, no. 5, 2008, pp. 1345-1369.

[22] A. Gelpern, 'Sovereignty, Accountability, and the Wealth Fund Governance Conundrum', *Asian Journal of International Law*, vol. 1, no. 2, 2011.

by emerging economies has been framed as a reversal of neo-colonialism. Through increased investments in OECD economies via their sovereign wealth funds, states such as China, Singapore and the Gulf monarchies have contributed to a reversal of capital flows, previously going unilaterally from 'developed' to 'developing' countries.[23] In fact, as Fernandes demonstrates, most investments from SWFs target the former.[24]

Concerns that sovereign wealth funds hold non-financial investment objectives find support in Sun et al.'s account of the Chinese Investment Corporation (CIC) and its practice of strategic investment in foreign energy sectors to secure its energy supply.[25] A different study shows the tendency of SWFs in non-democratic regimes to operate with limited transparency compared to SWFs in democratic states and are situated – in an institutional sense – closer to the regime.[26] However, in their assessment of investment strategies, Kotter and Lel found limited evidence for active political management among sovereign wealth fund, concluding instead that their behavior is comparable to other institutional investors, with similar long-term effects on the companies in which they are invested.[27] This corroborate previous findings by Butt et al., whose study further showed that as SWFs generally invest in a similar manner and in similar asset classes, and while variations exist between the most and least proactive funds, they tend to have a stabilizing effect on the companies and financial markets they are invested in.[28]

While sovereign wealth funds have received ample scholarly attentions since approximately 2007 and onwards, the literature concerning sovereign wealth funds and socially responsible investing is more modest. An important assessment of the emerging normative framework relating to socially responsible investing is carried out by Karametaxas. While recognizing the increased attention paid to SRI by institutional investors, she concludes that the lack of legally binding instruments and instruments

[23] Y. C. L. Lee, 'A Reversal of Neo-Colonialism: The Pitfalls and Prospects of Sovereign Wealth Funds', *Georgetown Journal of International Law*, vol. 40, no. 4, 2009.
[24] N. Fernandes, 'Sovereign wealth funds: Investment choices and implications around the world', 2009.
[25] X. Sun, J. Li, Y. Wang, & W. W. Clark, 'China's sovereign wealth fund investments in overseas energy: The energy security perspective', *Energy Policy*, 65, 2014, pp. 654-661.
[26] S. Behrendt, 'Sovereign Wealth Funds in Nondemocratic Countries: Financing Entrenchment or Change?', *Journal of International Affairs*, vol. 65, no. 1, 2011, pp. 74-75.
[27] J. Kotter and U. Lel, 'Friends or Foes? Target Selection Decisions of Sovereign Wealth Funds and Their Consequences', *Journal of Financial Economics*, vol 101, no. 2, 2011, pp. 360-381.
[28] S. Butt, A. Shivdasani, C. Stendevad et al., 'Sovereign Wealth Funds: A Growing Global Force in Corporate Finance', *Journal of Applied Corporate Finance*, vol. 19, no. 1, 2007, pp. 73-83.

pertaining specifically to sovereign wealth funds leave accountability gaps.[29] Van Der Zee demonstrates that sovereign wealth funds have considerable potential for socially responsible investing and might be expected to consider ESG criteria in their investments due to their human rights obligations as state actors. Furthermore, sustainability concerns come also from the responsibility of SWFs to future generation.[30] By Ochoa and Keenan, this potential is concretized through the conceptualization of a proposed Multilateral Sovereign Investment Agency, existing with the World Bank Groups, tasked with directing SWF investments into the private sector for development purposes. Their contribution thus emphasizes the social potential of SWF investments, a notable complement to the literature on disinvestment and ownership rights.[31] An additional account of sovereign wealth funds and their potential for socially responsible investing is provided by Richardson through his understanding of SWFs as trustees of public assets. Using as examples the Norwegian GPFG and the French Pension Reserve Fund, he suggests that funds assuming trustee-like roles tend to invest in line with perceived *public values*. As he further points out, however, their ambitions for socially responsible investing fall short of coherent investment strategies.[32] A recent study provides support for this observation, while further examining the factors that determine funds' transparency on SRI commitments. Interestingly, little evidence was found of a significant correlation between transparency and the socio-economic and democratic conditions of the host country.[33] On the positive financial effects of SRI practice, Yin argues that implementation of SRI strategies may lead to increased financial returns for funds as such practices are good for funds' reputations and might alleviate the concerns of recipient countries, as discussed above.[34]

---

[29] X. Karametaxas, 'Sovereign Wealth Funds as Socially Responsible Investors', in G. Adinolfi, F. Baetens, J. Caiado et al. (eds.), *International Economic Law: Contemporary Issues*, Cham, Springer, 2017, pp. 271-288.
[30] E. Van Der Zee, 'Sovereign Wealth Funds and Socially Responsible Investment: Dos and Don'ts', *European Company Law* vol. 9, no. 2, 2012, pp. 141–150.
[31] C. Ochoa and P. Keenan, "The Human Rights Potential of Sovereign Wealth Funds', *Articles by Maurer Faculty*, no. 9, 2009, pp. 1155-1179.
[32] B. J. Richardson, 'Sovereign Wealth Funds and Socially Responsible Investing: An Emerging Public Fiduciary', *Global Journal of Comparative Law*, vol. 1, no. 2, 2012, pp. 125-162.
[33] S. Wurster and S. J. Schlosser, 'Sovereign Wealth Funds as Sustainability Instruments? Disclosure of Sustainability Criteria in Worldwide Comparison', *Sustainability*, vol. 13, no. 10, 2021.
[34] W. Yin, 'Sovereign Wealth Fund Investments and the Need to Undertake Socially Responsible Investment', *International Review of Law*, vol. 2017, no. 1, 2017, pp. 1-30.

A substantial literature exists on the performance of socially responsible funds vis-à-vis funds without SRI commitments. An early study found no noticeable differences in performance between socially responsible investment funds and other investment funds.[35] Similarly, Kreander et al.'s analysis of 60 European funds found no discernible difference in performance between ethical and non-ethical funds.[36] Later studies have examined the impact of social *screening* on funds' performance, among them Schröder who concludes that screened assets perform as well as conventional assets. He further observes that these findings are consistent with the general *performance* literature.[37] Interestingly, Kempf and Osthoff find that investing in companies with high SRI rankings, through multiple SRI screens, may result in above-expected returns on investments.[38]

Providing useful context to the literature on the Government Pension Fund Global, a number of Norwegian historians has sought to examine Norway's emergence as an oil producing and exporting country, among them Ryggvik and Hanisch & Nerheim. As they narrate it, the first concessions for exploratory drilling on the Norwegian continental shelf were granted to major international petroleum companies in 1965. Drilling commenced in the North Sea the following year, establishing the presence of hydrocarbons, but it was not before the autumn of 1969 that American petroleum company Phillips found oil, in the Ekofisk field. Continued drilling in early 1970 revealed the Ekofisk field to contain major oil deposits, and a year later, production had started.[39] Furthermore, following the 1971 discovery of the Frigg gas field in the North Sea, Norway began its production of natural gas in 1977.[40] A critical account of the establishment of state-owned oil company

---

35 S. Hamilton, H. Jo and M. Statman, 'Doing Well While Doing Good? The Investment Performance of Socially Responsible Mutual Funds', *Financial Analysts Journal*, vol. 49, no. 6, 1993, pp. 62-65.

36 N. Kreander, R. H. Gray, D. M. Power et al., 'Evaluating the Performance of Ethical and Non-Ethical Funds: A Matched Pair Analysis', *Journal of Business Finance & Accounting*, vol. 32, no. 7, 2005, pp. 1465-1493.

37 M. Schröder, 'The Performance of Socially Responsible Investments: Investment Funds and Indices', *Financial Markets and Portfolio Management*, vol. 18, no. 2, 2004, pp. 122-142.

38 A. Kempf and P. Osthoff, 'The Effect of Socially Responsible Investing on Portfolio Performance', *European Financial Management*, vol. 13, no. 5, 2007, pp. 908-922.

39 H. Ryggvik, 'A Short History of the Norwegian Oil Industry: From Protected National Champions to Internationally Competitive Multinationals', *Business History Review*, vol. 89, no. 1, 2015, pp. 7-8.

40 T. J. Hanisch and G. Nerheim, *Norsk oljehistorie: fra vantro til overmot? Bind 1*, Oslo, Leseselskapet, 1992, pp. 209-211.

Statoil (now Equinor) in 1972 is given by Borchgrevink,[41] while Mork examines important macroeconomic developments of the 1980s. Initially, revenues from the petroleum industry were used to allow increased state expenditures as they were incorporated into yearly state budgets. Drastic falls in oil prices in 1985-86 demonstrated the need for a strategic reconfiguration, and calls to establish an oil fund increased.[42] In 1990, this oil fund was established through the passing of Government Petroleum Fund Act by the Norwegian Storting.

Along with the increased interest in sovereign wealth funds in the early 2000s, the Norwegian Government Pension Fund Global has been granted considerable scholarly attention as it rose to prominence during the same time period. Broadly speaking, the literature on the Norwegian GPFG might be separated into two categories: *laudatory* accounts of the Fund, as a 'golden standard' and example of SRI best-practice among sovereign wealth funds, and *critical* assessments of the Fund's development and SRI practice. To a significant extent, the former category quantitatively exceeds the latter. Although there are few historical assessments of the establishment of the Oil Fund, the existing literature seem to highlight its *timing* as a determining factor in its success. The institutional development of the GPFG, as a result of political restraint and foresight but also embedded in a specifically Norwegian politico-cultural context, is delineated by Øvald et al. A helpful point of departure, their contribution details how the Fund's formal structure and framework – for the most part – precedes its investment operations, highlighted as important to Norway's success in avoiding the so-called 'resource curse' (or 'Dutch disease).[43] Mehlum et al.'s empirical inquiry into 'resource curses' finds that the quality of institutions impacts the extent to which natural resource abundance affects GDP growth,[44] contrasting previous 'resource curse' studies.[45] Another historical account of the Oil fund's institutional development describes how the first initiatives to establish

---

[41] A. S. Borchgrevink, *Giganten: fra Statoil til Equinor*, Oslo, Kagge forlag, 2019.
[42] K. A. Mork, *Oljeeventyret som kom og gikk*, Oslo, Spartacus Forlag, 2020.
[43] C. Øvald, B. Tranøy and K. Raknes, 'The Norwegian Petroleum Fund as Institutionalized Self-Restraint', in M. Compton and P. 't Hart (eds.), *Great Policy Successes*, Oxford, Oxford University Press, 2019, pp. 244-263.
[44] H. Mehlum, K. Moene and R. Torvik, 'Institutions and the Resource Curse', *The Economic Journal*, vol. 116, 2006, pp. 1-20.
[45] J. D. Sachs and A. M. Warner, 'Natural Resource Abundance and Economic Growth – revised version', Working Paper, 1997.

a fund was met with both political and bureaucratic opposition, but eventually succeeded mainly owed to the efforts of central figures within the Ministry of Finance.[46] Moses gives a similar account of the GPFG's development, where the fund's creation succeeded more than a decade of oil spending on development projects within Norwegian society.[47] In sum, the above contributions portray the Norwegian GPFG as somewhat of a success story, mostly due to its growth in the decades after its establishment. Wariness concerning its potential as a blueprint for other SWFs is expressed by Øvald et al., Lie, and Moses, all emphasizing factors specific to its local context.

The transparency of the GPFG surrounding its investments has allowed researchers to empirically study the Fund's performance and investment strategies. Caner and Grennes analyze the performance of the Fund's equity portfolio, finding that during the examined timeframe, the GPFG portfolio saw higher returns on investment than the average returns for the global stock market. They further note that the GPFG is less risk-averse than the average market, and increasingly so throughout the examined period.[48]

Another segment of the GPFG literature concerns its practice of socially responsible investment. Jensen and Seele analyze the ethical guidelines of selected sovereign wealth funds in relation to the UN Global Compact, concerning enforcements mechanisms specifically, and concludes that the GPFG is one example of best-practice.[49] In an earlier assessment by Clark and Monk, the relationship between SRI practice and financial efficiency within the Fund's investment strategy is presented as a conflict, where optimal financial performance is sacrificed at the expense of socially responsible investing, and by extension, public and political legitimacy.[50] While their main interest lies not in the Fund's performance, but rather its institutional composition, their findings differ from those of the previously discussed literature on the performance of socially responsible investors.

---

[46] E. Lie, 'Learning by Failing', *Scandinavian Journal of History*, vol. 43, no. 2, 2018, pp. 284-299.
[47] J. W. Moses, 'Norway's Sovereign Wealth Fund', in E. G. Pereira, R. Spencer, and J. W. Moses (eds.) *Sovereign Wealth Funds, Local Content Policies and CSR*, Cham, Springer, 2021, pp. 249-261.
[48] Caner and Grennes.
[49] O. A. Jensen and P. Seele, 'An analysis of sovereign wealth and pension funds' ethical investment guidelines and their commitment thereto', *Journal of Sustainable Finance & Investment*, vol 3, no. 3, 2013, p. 264-282.
[50] Clark and Monk, 2010(a).

A critical assessment of the GPFG's SRI practice is offered by Richardson, who questions the efficacy of socially responsible investing, when conceptualized as an endeavor primarily to avoid *complicity*. Per his argument, such a conceptualization renders human rights and sustainability an afterthought of the investment strategy, with insufficient monitoring mechanisms and high disinvestment thresholds.[51] Relatedly, the GPFG has been the topic of several recent MA theses, applying a human rights perspective to the Fund. Sagdahl's inquiry into the Fund's investments in conventional arms manufacturers finds that such investments do not constitute a violation of relevant UN obligations, but highlights ambiguities present in the current formulation of the Council on Ethics' Ethical Guidelines.[52] A second thesis, employing a methodology similar to the one used in this thesis, finds that serious or systematic human rights violations only led to disinvestment in a few cases.[53]

[51] B. J. Richardson, 'Sovereign Wealth Funds and the Quest for Sustainability: Insights from Norway and New Zealand', *Nordic Journal of Commercial Law*, vol. 2, 2011, pp. 24-24.
[52] A. Sagdahl, *A Farewell to Conventional Weapons?*, MA thesis, University of Oslo, 2020, pp. 84-86.
[53] Flølo, S. H., *Divesting from 'Dirty Business': Investing in Human Rights?*, MA thesis, University of Oslo, 2017, pp. 52.

4 CONCEPTS

This part of the paper will discuss sovereign wealth funds and the human rights universe they inhabit, with the aim of establishing a thematic framework through which the subject of the paper – the Government Pension Fund Global – might be understood. To this endeavor, subsequent sections will discuss SWFs and their practice of active ownership, as well as the finance world from which they have emerged.

4.1 Business and ethics

When Aalbers notes that neoliberalism is dead as *ideology* but alive as *practice*, he does so not specifically in relation to corporate social responsibility, but nonetheless provides an interesting point of departure for understanding corporations in general, and sovereign wealth funds in particular, in the 21st century.[54] Following a neoliberal tradition of highly individualized ethics, Velasquez refutes notions of corporations as moral agents, labeling such a view as "erroneous."[55] His argument, made almost five decades ago, is representative of a wider school of thought that is fundamental to how corporate behavior is understood today. The idea that corporations must be freed from all other concerns than those of maximization of profits, and that this itself is a social goal, is still commonly accepted.[56] This is not to say that corporations only consider profit – both previous and subsequent sections of this paper aim to illustrate that corporations, and sovereign wealth funds in particular, increasingly take ethical considerations by adopting frameworks for corporate social responsibility. Instead, the argument is that the development of socially responsible corporations should be understood not as a departure from neoliberal conceptualizations of corporate behavior, but rather as additional features to predominantly neoliberal corporations.[57] After all, as Connell puts it, 'neoliberalism is

[54] M. B. Aalbers, 'Neoliberalism is Dead... Long Live Neoliberalism!', *International Journal of Urban and Regional Research*, vol. 37, no. 3, 2013, pp. 1083-1090.
[55] M. G. Velasquez, 'Why Corporations Are Not Morally Responsible For Anything They Do', *Business & Professional Ethics Journal*, vol. 2, no. 3, 1983, p. 15.
[56] C. Crouch, *The strange non-death of neoliberalism*, Cambridge, Polity, 2011, p. 167.
[57] H. Schwartz, 'Political Capitalism and the Rise of Sovereign Wealth Funds', Globalizations, vol. 9, no. 4, 2021, p. 517.

the common sense of our era.'[58] Surely, this extends also to the corporations of our time. The incorporation of the GPFG's SRI strategy, as an added feature to an already established investment vehicle, should illustrate this – at no point has the adoption of ethical guidelines involved a radical reinterpretation of the GPFG's foundational mission. This is important because to properly understand sovereign wealth funds and their moves toward socially responsible investing, we should aim to also understand the finance world from which both concepts have developed.

Furthermore, understanding this background gives needed context to the political discourse surrounding the GPFG, and any arguments either *in favor* or *against* strengthening its SRI framework at the expected expense of profits. Moving on, this thesis will discuss a few important debates surrounding the Fund. These discussions will invoke concepts of *legitimacy*, highlighting the importance of public perception to the Fund's practice of socially responsible investing. Thusly, the near hegemonic presence of neoliberal conceptualizations of business and ethics is offered in this thesis as one explanation for how the Norwegian public – a public that also includes the managers of the Fund – perceives the duties and responsibilities of its Oil fund.

4.2 Sovereign Wealth Funds

Sovereign wealth funds have received generous scholarly attention during the last few decades, but nonetheless escape easy categorization. Gelpern sees the 'SWF' investor classification as mostly 'artificial' due to the multitude of contradicting and overlapping features often ascribed to it,[59] while a separate definition analysis of 30 studies give support to the notion of 'SWFs' as a distinctly heterogenous category.[60] Per Truman's understanding, the 'sovereign wealth fund' term broadly refers to pools of state-owned assets that also include some international assets.[61] Other features are highlighted in the

---

[58] R. Connell, 'Understanding Neoliberalism', in S. Braedley and M. Luxton (eds.), *Neoliberalism and Everyday Life*, Montréal, McGill-Queen's University Press, 2010, p. 22.
[59] Gelpern, 2011, p. 289.
[60] J. Capapé and T. Guerrero, 'More Layers Than An Onion: Looking For A Definition Sovereign Wealth Funds', *ESADE Business School Research Paper No. 21*, 2013.
[61] E. M. Truman, *Sovereign Wealth Funds: Threat or Salvation?*, Washington D.C., Peterson Institute for International Economics, 2010, p. 10.

literature: they often manage state revenues from natural resources, and are aimed at stabilizing economies heavily reliant on such resources; they have diversified portfolios and hold small stakes in large number of companies, and as such might often act as *universal owners*; and they are often intended for intergenerational state savings.[62] Relatedly, the International Working Group of Sovereign Wealth Funds identify five main types of SWFs, based on their primary objectives: *stabilization funds*; *intergenerational savings funds*; *reserve investment corporations*; *development funds*; and *pension reserve funds*.[63] The above features are all central characteristics of the Norwegian GPFG, which also exemplifies how funds might have several overlapping objectives. Still, academic consensus is yet to be reached on a satisfactory definition of 'sovereign wealth funds.' The term was coined in 2005, during a period which saw the establishment of an increasing number of sovereign wealth funds, as compared to prior decades.[64] In fact, near twice as many SWFs has been established since 2005 than was established in the 20th century.[65] As Schwartz and others point out, sovereign wealth funds are not new – only their categorization as such is.[66] After all, the first sovereign wealth fund, the Kuwait Investment Corporation, was established as early as 1953.[67]

Another important feature of sovereign wealth funds should be addressed, relating to their *hybrid* character. Sovereign wealth funds as enterprises are both public and private. As public institutions, they are *sovereign* – an extension of their host state, with the authority that follows. At the same time, they are expected to act as private enterprises, or corporations.[68] As they are understood in part as private corporations, their responsibilities and duties are inevitably interpreted following neoliberal rationales of business and human rights. Thusly, they might avoid certain responsibilities commonly

---

[62] D. Cumming, I. Filatotchev, J. Reinecke et al., 'Introducing Sovereign Wealth Funds', in D. Cumming, I. Filatotchev, J. Reinecke et al (eds.), *The Oxford Handbook of Sovereign Wealth Funds*, Oxford, Oxford University Press, 2017, p. 4.
[63] International Working Group of Sovereign Wealth Funds, *"Santiago Principles"*, p. 3.
[64] Rozanov, pp. 52-57.
[65] J. Amar, C. Lecourt and V. Kinon, 'Is the emergence of new sovereign wealth funds a fashion phenomenon?' *Review of World Economics*, vol. 154, no. 4, 2018, p. 836.
[66] Schwartz, p. 517.
[67] Truman, 2010, p. 19.
[68] L. Backer, 'Sovereign Investing in Times of Crisis: Global Regulation of Sovereign Wealth Funds, State Owned Enterprises and the Chinese Experience', *Transnational Law & Contemporary Problems*, vol. 19, no. 1, 2009, p. 117.

expected of states. Debates and discourse surrounding the Norwegian GPFG seem to illustrate this, as does the apparent consensus around its mission to maximize profits.

Still, their hybrid character also entails – at least theoretically - a form of dual accountability, where they are directly accountable to both private shareholders and the public. The GPFG has duties and responsibilities to the public as it manages publicly owned assets and is accountable to a democratically elected Norwegian government. Simultaneously, the Fund has duties and responsibilities as a shareholder in all companies in which it is invested. As a public entity, the GPFG also assumes the treaty commitments of Norway, which is of significance when situating GPFG, and sovereign wealth funds in general, inside a human rights context.[69]

This should also shed some light onto why the 'SWF' category, despite the difficulties defining it, is worthy of consideration *as a category*. Initially an *externally imposed* category, as Gelpern puts it, the attention granted to sovereign wealth funds by both the public and academia has crystalized their conceptualization as a category within the finance universe, with a growing framework around it relating to human rights and socially responsible investing.[70]

4.3 Universal ownership

This paper has previously described the Norwegian GPFG as a *universal owner*, a description applicable also to other sovereign wealth funds with market-wide portfolios. This concept should be further discussed, as it offers necessary insights into the investment strategies and risk assessments of such funds. *Universal ownership* is exercised through broad, long-term investment strategies, where investment funds hold diversified portfolios representative of the global stock market as whole.[71] As a result, their considerations differ from those of traditional, more active investors. The approach can mitigate risk, as universal owners are less vulnerable to the fluctuating stock prices of specific companies or even industries, but requires concern for the general well-being

---

[69] Gelpern, p. 295.
[70] Ibid, p. 289.
[71] J. P. Hawley and A. T. Williams, *The Rise of Fiduciary Capitalism: How institutional investors can make corporate America more democratic*, Philadelphia, University of Pennsylvania Press, 2000, p. 3.

of the global capital market and the real economy. As the real economy is directly affected by externalities such as climate, conflict and governance, universal owners are to a certain extent forced to consider environmental, social and governance (ESG) issues in their investment strategy.[72] Due to their representative portfolios, funds exercising universal ownership will hardly be able to diversify away from such externalities, and must consider the non-negligible negative economic effects one or more companies might have on its portfolio – despite said companies potentially yielding short-term profits.[73] Per this understanding, a company might be profitable in isolation, and thus a good investment, but if said company has e.g., a carbon-footprint that exceeds certain thresholds, it will be seen to have a negative financial impact on other companies. Scholars observe a general shift in the finance world towards passive fund management and universal ownership, led by sovereign wealth fund as well as private equity funds.[74] As more funds are moving towards investment strategies based on the principles of universal ownership, there is little reason to suggest that focus on ESG commitments will decrease in the near future. On the contrary, the trend might well continue, as most of the instruments making up the normative human rights framework for business has been articulated after the turn of the century. As such, the evolution of the Government Pension Fund Global and its practice of socially responsible investing is situated contextually between three significant developments: a shift among investment funds towards universal ownership; a proliferation of sovereign wealth funds; and the establishment of numerous human rights instruments related to business. This is of importance because it shows the GPFG as one actor operating within a larger finance universe, following the general developments therein. Besides, while the GPFG remains the subject of the thesis, its ability to provide more general insights require an understanding also of the Fund's surrounding climate.

[72] Principles of Responsible Investment (PRI) and UNEP-FI, 'Universal Ownership: Why Externalities Matter to Institutional Investors', 2010, pp. 3-5.
[73] Richardson, 2011, p. 4.
[74] J. Fichter and E. M. Heemskerk, 'The New Permanent Universal Owners: Index funds, patient capital, and the distinction between feeble and forceful stewardship', *Economy and Society*, vol. 49, no. 4, 2020, pp. 510-511. 493-515

5 NORMATIVE FRAMEWORK

The present chapter will give a brief account of the many soft-law instruments that make up the normative human rights framework surrounding sovereign wealth funds. The normative human rights framework concerning business and human rights is characterized by self-regulatory instruments, non-binding guidelines and an absence of effective enforcement mechanisms. Studies have rightly shown that the adoption of non-binding instruments may positively affect companies' compliance with human rights norms, and this thesis does hardly oppose notions of a positive normative development over the past two decades or so.[75] It can also be assumed that the following instruments, in isolation or in sum, have had an impact on the Government Pension Fund Global and the development of its SRI framework. As discussed in the previous chapter, the development of this framework is to a certain extent intertwined with related international development. Instead, these sections aim to illustrate that despite positive trends, the human rights framework concerning business and SWFs remains rudimentary at best compared to other human rights frameworks. Furthermore, it should explain the choice to focus primarily on the GPFG's own ethical guidelines, as they represent the Fund's only legally binding human rights framework.

5.1 UN Instruments

The UN Principles for Responsible Investment (UN-PRI), published in 2006, aim to promote *socially responsible investing* (SRI) practice among institutional investors, i.e. the practice of investing in companies with acceptable environmental or human rights performance. Specifically, this concerning the incorporation of *environmental, social* and *governance* (ESG) issues into the investment strategies of private as well as state-owned investors. *ESG* commonly refers to how companies consider issues related to these three dimensions throughout their operations and is often used as assessment criteria by

[75] C. Soh, M, Kim, and Y. Yu, 'The Relationship between Corporate Human Rights Responsibility Disclosure and Performance', *Journal of International and Area Studies*, vol. 25, no. 2, 2018, pp. 53-54.

investors.[76] The six principles urge investors to, inter alia, incorporate ESG frameworks into their investment strategies, exercise active ownership based on ESG principles, and to require transparency on ESG issues from entities in which they are invested.[77] As of 2021, more than 600 institutional investors are signatories of the UN-PRI – among them the Norwegian GPFG, who has been a signatory since 2006. Signatories are required to publicly report on their investment activities, but no other mechanism exists to ensure investors' compliance with UN-PRI in general, or specifically the extent to which they exercise active ownership as prescribed by the principles.[78] As has been argued, the principles offer few alternatives should dialogue and active ownership fail to yield results, and they include little in terms of outcome expectations. Still, despite being voluntary guidelines more-so than a legally binding framework, UN-PRI have been successful as a driving force behind the increased relevancy of ESG in the finance world over the past decades.[79]

Published in 2011, The UN Guiding Principles on Business and Human Rights (Guiding Principles)[80] represent a significant step by the international community to tackle an increasingly apparent 'governance gap' in the realm of business and human rights (human rights are referred to by UN-PRI only implicitly, as part of the 'Social' component of ESG). The Guiding Principles aim to address the role of both States and corporation through a 'protect, respect, remedy'-framework:

(1) State obligations to *protect* its peoples against human rights violations by third parties within their territory or jurisdiction, i.e., corporations. This entails, inter alia, the formulation and enforcement of legal frameworks related to business and human rights.

[76] L. Starks, 'The Differences Between ESG/SRI/CSR, Impact Investing and Philanthropy', *Medium.com* [website], 18 January 2919, https://medium.com/@utmccombssii/differences-between-esg-sri-csr-impact-investing-and-philanthropy-4316033e7198 (accessed 9 July 2021).
[77] UN Principles for Responsible Investment [website], https://www.unpri.org/pri/what-are-the-principles-for-responsible-investment, (accessed 6 July 2021).
[78] Karametaxas, p. 280.
[79] B.J. Richardson, *Company Law and Sustainability*, Cambridge, Cambridge University Press, 2015, p. 268.
[80] United Nations, *Guiding Principles on Business and Human Rights*, New York and Geneva 2011, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf, (accessed 06 July 2021).

(2) Corporate responsibility to *respect* internationally recognized human rights norms, and to work to prevent human rights violations throughout their chain of operations.

(3) State responsibility to ensure effective remedy for those affected by human rights violations by corporations within their territory or jurisdiction.

The Guiding Principles establish that States are responsible for human rights violations committed abroad by corporations based within their territory – an issue on which there was little previous consensus.[81] Additionally, they advance the position of private corporations as entities with responsibilities related to human rights. As the name hints to, the Guiding Principles are not legally binding, yet carry significant normative authority due to their democratic legitimacy, being widely accepted by States and corporations alike.[82] Importantly, the Guiding Principles emphasize the active participation of corporations in mitigating and preventing human rights violations, through the inclusion of concrete operational principles related to company policies and human rights due diligence.[83] Moreover, the first component of the framework addresses the additional responsibilities of States in protecting against human rights violations by State-owned enterprises, of which sovereign wealth funds are an example.[84]

Despite its plaudits, the Guiding Principles have been criticized for a language seen as weak, focusing more on *responsibilities* than *duties* and *obligations*, and being too concerned with consensus at the expense of more authoritative provisions.[85] Studies on the practical application of the Guiding Principles in specific industries give empirical support to criticism concerning its generic and insufficiently prescriptive nature. In Joseph's contribution, this relates to businesses within the media industry, as the generic

[81] J. Ruggie,'Protect, Respect & Remedy: A Framework for Business and Human Rights', *Innovations: Technology, Governance, Globalization,* vol. 3, no. 2, 2008, p. 193.
[82] S. Bijlmakers, 'Business and human rights governance and democratic legitimacy: the UN "Protect, Respect and Remedy" Framework and the Guiding Principles', *Innovation: The European Journal of Social Science Research,* vol. 26, no. 3, 2013, pp. 293-295.
[83] UN Guiding Principles, pp. 16-26.
[84] Ibid, pp. 6-7.
[85] Deva, S., 'Treating human rights lightly: a critique of the consensus rhetoric and the language employed by the Guiding Principles', in S. Deva and D. Bilchitz (eds.), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, Cambridge, Cambridge University Press, 2013, pp. 78-104.

Guiding Principles prove unable to deal with direct and indirect harm to human rights by businesses within this industry.[86] A second paper examining the seafood industry questions whether the Guiding Principles offer sufficient protection against corporations who commit human rights violations within the territory of another State, within an import/export chain.[87] From an investor perspective, a compelling concern is that complicity in human rights violations from companies within certain industries might go systematically unaddressed, falling outside of criteria for socially responsible investing.

Another significant instrument in the normative universe relating to human rights and business is the *UN Global Compact*, established in 1999 by then-UN Secretary General Kofi Annan to promote corporate social responsibility. Despite highlighting the difficulties in arriving at a precise definition, Sheehy explains *corporate social responsibility (CSR)* as an international system concerned with regulating mainly the conduct of corporations.[88] By nature, this system is privately engineered, meaning that it is self-regulatory, contrasting typically superimposed human rights regimes. *CSR* is commonly understood to entail both social and environmental dimensions, although exact provisions vary.[89] Directed at business, the Global Compact puts forth ten principles across four dimensions: human rights, labor rights, environment, and corruption. The two principles related to the human rights establish that businesses should support and respect the protection of human rights and ensure non-complicity in human rights violations.[90] As with similar instruments, the UN Global Compact include little in terms of enforcement mechanisms but relies on the voluntary participation of companies in adhering to its principles and engaging actively in discussion forum and networks. Arguably, it has been highly successful in attracting this participation, at least on paper,

---

[86] S. Joseph, “Is Fox News a Breach of Human Rights?’: The News Media’s Immunity from the Guiding Principles on Business and Human Rights’, *Business and Human Rights Journal*, vol. 1, no. 2, 2016, p. 252.
[87] A. Bonfanti and M. Bordignon “Seafood from Slaves’: The Pulitzer Prize in the Light of the UN Guiding Principles on Business and Human Rights’, *Global Policy*, vol. 8, no. 4, 2017, p. 502.
[88] B. Sheehy, ‘Understanding CSR: An Empirical Study of Private Regulation’, *Monash University Law Review*, vol. 38, no. 2, 2012, pp. 103-105.
[89] B. Sheehy, ‘Defining CSR: Problems and Solutions’, *Journal of Business Ethics*, vol. 131, no. 3, 2015, p. 627.
[90] See *The Ten Principles of the UN Global Compact* [website], https://www.unglobalcompact.org/what-is-gc/mission/principles, (Accessed 8 July 2021).

as per 2021, more than 13,500 corporations have opted to become signatories to the UN Global Compact – among them the Norwegian GPFG.

Few other sovereign wealth funds have signed up to the UN Global Compact, and as an instrument directed towards business, it lacks an investor perspective.[91] Other criticisms align with those made against related soft-law instruments on business and human rights, and relates to vaguely defined principles, insufficient follow-up mechanisms and not tackling issues from a more structural perspective.[92]

The "Generally Accepted Principles and Practices (GAPP)" for SWFs, or the *Santiago Principles*, represent the first – and arguably the most important – initiative by the international community to establish investment principles for sovereign wealth funds. Presented in 2008 by the International Working Group on Sovereign Wealth Funds (IWG-SWF) and the IMF, the Santiago Principles include 24 principles related mainly to governance and accountability.[93] Norway is not a member of its governing organization, the International Forum of Sovereign Wealth Funds (IFSWF), despite the participation of the GPFG in the development of the Principles.[94]

While several principles concern transparency, the Santiago Principles make no reference to corporate social responsibility. In fact, Karametaxas questions whether CSR/SRI considerations are at all compatible with the guiding objective (iii) of the Santiago framework, establishing financial considerations as the basis for SWF investments.[95] Other scholars have illustrated how limiting the use of SWFs as a political instrument by governments has been an underlying objective of the Santiago Principles.[96] In his assessment of this endeavor, Bismuth concludes that the Santiago Principles are

[91] Karametaxas, p. 281-282.
[92] N. Bandi, 'United Nations Global Compact: Impact and its Critics', Covalence Analyst Papers, Geneva, 2007, p. 2-3.
[93] Santiago Principles, p. 7-9.
[94] Clark and Monk, 2010(a), p. 14.
[95] Karametaxas, p. 282.
[96] G. Nystuen, A. Follesdal and O. Mestad (eds.), *Human rights, corporate complicity and disinvestment*, Cambridge, Cambridge University Press, 2011, p. 5.

insufficient in regulating the conduct of sovereign wealth funds even when complying with its provisions, while simultaneously granting legitimacy to funds who do so.[97]

Part of the self-regulatory framework for the financial sector, the *Equator Principles* were launched in 2003 by the International Finance Corporation, of the World Bank Group. Its fourth iteration was published as recent as 2020. The framework aims to help financial institutions make risk assessments related to social and environmental issues, referencing the UN Sustainable Development Goals (SDGs) and the UN Global Compact. Specifically, the Equator Principles concern ‘project finance,’ i.e., loans to fund large, long-term investment projects such as infrastructure and development projects. Adopters commit to a minimum level of due diligence prior to financing, to ensure that such projects comply with relevant standards for human rights and environmental sustainability.[98] The Equator Principles have been adopted by 118 financial institutions at the time of writing. As Contreras et al. demonstrate, one of the merits of the Equator Principles is that its norms might be transposed also to non-adopters, as these interact and collaborate with adopters – an observation that might be generalizable also to other frameworks of self-regulation. However, the Equator Principles have proved ineffective in spreading beyond its initial adopters.[99]

5.2 Regional frameworks

A few regional instruments might be highlighted, the first two belonging to the OECD framework for corporate *conduct* and *governance*. The *G20/OECD Principles of Corporate Governance*[100] concerns the latter point, laying out a set of principles related to, inter alia: transparency; shareholder and stakeholder rights; management monitoring

[97] R. Bismuth, ‘The Santiago Principles for Sovereign Wealth Funds: The Shortcomings and the Futility of Self-Regulation’, *European Business Law Review*, vol. 28, no. 1, 2017, pp. 87-88
[98] The Equator Principles Association, *The Equator Principles EP4*, July 2020, https://equator-principles.com/wp-content/uploads/2020/05/The-Equator-Principles-July-2020-v2.pdf, (accessed 6 August 2021).
[99] G. Contreras, J. W. B. Bos, and S. Kleimeier, ‘Self-regulation in sustainable finance: The adoption of the Equator Principles’, *World Development*, vol. 122, 2019, pp. 321-322.
[100] OECD, *G20/OECD Principles of Corporate Governance*, Paris, OECD Publishing, 2015.

and board accountability; and company strategy. Meanwhile, the *OECD Guidelines for Multinational Enterprises*[101] concern corporate social responsibility, establishing guidelines in the areas of transparency, environment, corruption, labor and – per a 2011 update – human rights. Based on the UN Guiding Principles on Business and Human Rights, the human rights chapter establishes that enterprises should respect human rights and work to mitigate violations wherever they operate, put in place human rights policies, and carry out due diligence. Both instruments are referenced in the ethical framework of the GPFG.

Neither instrument is legally binding, and no sanctions regime exists to enforce company compliance their provisions, although the Guidelines compel adhering States to establish National Contact Points (NCPs) – nationally organized implementation mechanisms aimed at furthering the objectives of the Guidelines. These NCPs vary significantly in their effectiveness, however, as States are given much flexibility in determining their set-up. Resultingly, their effectiveness depends on the commitments of host governments.[102]

Significant developments are occurring also on the EU level, related specifically to the advent of the European Green Deal. Launched by the European Commission as a tool to reach set climate targets, the *EU Taxonomy for sustainable activities* came into force in July 2020. The *EU Taxonomy* (or *Green Taxonomy*) aims to promote sustainable economic activities among companies and investors and limit so-called "greenwashing."[103] In doing so, it provides a list of economic activities classified as 'sustainable' and establishes six environmental objectives.[104] While the *Green Taxonomy*, as one might expect, concerns environmental issues strictly, a European *Social Taxonomy* is currently being formulated, with a draft published as recently as July 2021. Related to

[101] OECD, *OECD Guidelines for Multinational Enterprises*, Paris, OECD Publishing, 2011.
[102] J. L. Cernic, 'Corporate responsibility for human rights: A critical analysis of the OECD guidelines for multinational enterprises', *Hanse Law Review*, vol. 4, no. 1, 2008, p. 94.
[103] E. Hawker, 'Charting the Course for a Social Taxonomy', ESG Investor, 28 July 2021, https://www.esginvestor.net/charting-the-course-for-a-social-taxonomy/, (accessed 4 August 2021).
[104] European Commission, *EU taxonomy for sustainable activities* [website], https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en#what, (accessed 4 August 2021).

the aims of its green counterpart, the Social Taxonomy draft seeks to establish the social responsibilities of investors. It includes explicit mention of *human rights*, and when published, the Social Taxonomy will be based on EU human rights frameworks such as the EU Charter on Fundamental Rights and the European Convention on Human Rights.[105]

In the United States, a framework for socially responsible investing was developed in 2009 by the American Investment Council (AIC). The Guidelines for Responsible Investing – as they are called – establish nine guidelines for institutional investors relating to their investment strategies and practicing of ownership rights. The guidelines cover areas such as climate, human rights and labor rights, corruption, and transparency.[106] As is the case with similar self-regulatory frameworks, the AIC Guidelines are general in their formulation, and lack an enforcement mechanism. The Guidelines apply to AIC members, a list which includes many of the largest investment firms globally but few sovereign wealth funds.[107]

[105] Platform for Sustainable Finance, *Draft Report by Subgroup 4: Social Taxonomy*, July 2021.
[106] American Investment Council, *Guidelines for Responsible Investing* [website], https://www.investmentcouncil.org/guidelines-for-responsible-investing/, (accessed 6 August 2021).
[107] American Investment Council, *About the AIC* [website], https://www.investmentcouncil.org/the-council/about-the-council/, (accessed 6 August 2021).

Since 1998 the Fund has been managed by Norges Bank Investment Management (NBIM) based on the formal framework established by the Storting and guidelines from the Ministry of Finance, which holds ultimate responsibility for the Fund.[108] Financial performance remains the core aim of the Fund, but concerns for responsible investment have increasingly been incorporated into the investment strategy, and as reflected in its published strategy, the Fund management sees itself as a responsible investor.[109] Socially responsible investment is practiced within the GPFG through the investment strategy of NBIM and through the independent advisory body that is the Council on Ethics. Two sets of regulations form the legal framework for SRI practice, of the NBIM and the Council on Ethics respectively:

GPFG Legal Framework

(1) *Management mandate for the Government Pension Fund Global*
(2) *Guidelines for observation and exclusion from the Government Pension Fund Global*

The *Management mandate* establishes that while the primary purpose of the Fund is the pursuit of highest possible net return, economic, environmental and social responsibility shall be practiced by the Fund's management.[110] To this endeavor, the NBIM exercises *active ownership* by voting in shareholder meetings and engaging in dialogue with companies in which it is investing. With ownership rights in more than 9,000 companies, NBIM voted in in 98.0 percent of all shareholder meetings held by companies in the Fund's portfolio during 2020.[111] As recently as May 28th, 2021, NBIM voted against the reelection of *Total* director Patrick Pouyanne, as it generally opposes the dual role of chairperson and CEO held by Pouyanne at the time.[112] Primarily, 'responsibility' concerns under this voting mechanism relate to corporate governance, and economic

[108] M. Caner and T. Grennes, 'Sovereign Wealth Funds: The Norwegian Experience', *The World Economy*, vol. 33, no. 4, 2010, pp. 601-602.
[109] Norges Bank Investment Management, *Strategy 2021-2022*.
[110] *Management mandate for the Government Pension Fund Global*, 2019.
[111] Norges Bank Investment Management, *Responsible investment 2020*, p. 32.
[112] Norges Bank Investment Management, *Total SE*, https://www.nbim.no/en/the-fund/responsible-investment/our-voting-records/meeting/?m=1502790, (accessed 2 July 2021).

long-term performance and risk reduction. However, the published voting guidelines reference both the *UN Global Compact* and the *UN Guiding Principles on Business and Human Rights* as well as the *G20/OECD Principles of Corporate Governance* and the *OECD Guidelines for Multinational Enterprises*, and they make explicit the general intention of the NBIM to support diversity of gender across company boards.[113] In a May 2021 shareholder meeting at *Amazon.com, Inc.*, NBIM voted in favor of one shareholder proposal to report on products promoting hate speech and sales of offensive products, and another shareholder proposal to report on the potential human rights impact of Amazon's *Rekognition* identification software. In both cases, NBIM voted contrary to the recommendation of the company's management.[114] Additionally, NBIM publishes *expectation documents* laying down its expectations of companies in the Fund's portfolio in the areas of human rights and child rights, climate change, water management, ocean sustainability, anti-corruption and tax transparency. In the realms of human rights and child rights, these expectations relate, to inter alia, how company boards integrate rights into their policies and risk management, reporting on human rights and child rights, and transparency throughout supply chains.[115] Overall, NBIM expects that companies in their portfolio take active roles in ensuring that their conduct is not in violation of human rights. Based on its SRI framework (i.e., its legal framework, the expectation documents, position papers and voting guidelines), NBIM may – and often does – initiate dialogue with companies in its portfolio in an attempt to redress company conduct should it be deemed not in line with NBIM's expectations. As a more informal measure, NBIM also tends to avoid certain areas or countries where ensuring compliance with its ethics standards is particularly challenging.[116]

The second measure to ensure responsible investment of GPFG assets, and the main focus of this paper, is the Council on Ethics, the independent ethics body within the Ministry of

---

[113] Norges Bank Investment Management, *Global voting guidelines*, 2021, p. 11.
[114] Norges Bank Investment Management, *Amazon.com, Inc.*, https://www.nbim.no/en/the-fund/responsible-investment/our-voting-records/meeting/?m=1421672, (accessed 2 July 2021).
[115] Norges Bank Investment Management, *Human Rights: Expectations of companies*, https://www.nbim.no/contentassets/0ff34e35ba1a44c3b6c2039466ccbec7/humanrights_2021_web.pdf (accessed 2 July 2021).
[116] Interview with Pia Rudolfsson Goyer, Oslo, 9 June 2021.

Finance. As provided for in its mandate – the *Guidelines for observation and exclusion from the GPFG* – the Council on Ethics monitors the Fund's portfolio and issues recommendations of *exclusion* or *observation* on companies whose product or conduct are deemed to be in violation with the ethical guidelines. The recommendation mechanism has remained the Council's main tool to ensure the Fund's compliance with the ethical guidelines, although the Council, like the Fund, has remained a dynamic body since inception. A few changes in particular might be highlighted: firstly, the *observation* mechanism was only introduced in 2010, through the adoption of revised guidelines.[117] Secondly, the Council and its mandate went through a restructuring process in 2015 that shifted authority to exclude or put companies on observation from the Ministry of Finance to Norges Bank, while practically (albeit not formally), members to the Council would now be appointed by Norges Bank.[118] It should be noted that with this authority, Norges Bank may exclude or put companies on observation even without a recommendation from the Council, and has done so on a few occasions. As per its guidelines, the Council regularly carries out assessments relating to its performance and ability to cooperate efficiently with the other bodies making up the governing structure of the Fund.[119] Similarly, the guidelines of the Council are assessed and updated regularly, at the latest in 2020 when a government-appointed committee submitted their review of the current guidelines, proposing amendments related to the production and sale of arms, the rights of indigenous peoples and the use of surveillance technology, among other subjects.[120] With updates to the ethical framework, the Ministry of Finance has aimed to keep its framework up-to-date with evolving ethical norms as well as emerging real-life challenges to ethical corporate conduct.

To determine any strengths and weaknesses impacting the ability of the Council on Ethics to exercise its mandate, the institutional analysis will aim to assess the Council along four central dimensions: *capacity*, *process*, *framework*, and *transparency*. The assessment will

[117] *Management mandate for the Government Pension Fund Global*, 2019.
[118] G. L. Clark and A. Monk, 'The Norwegian Government Pension Fund: Ethics over Efficiency', *Rotman International Journal of Pension Management*, vol. 3, no. 1, 2010(a), p. 16.
[119] *Retningslinjer for observasjon og utelukkelse fra Statens pensjonsfond utland* §4(8).
[120] NOU 2020:7, *Verdier og ansvar – det etiske rammeverket for Statens pensjonsfond utland*, 2020.

be carried out on the basis of secondary literature, official documents and four interviews with former and current Council members. The analysis will first focus on the capacity of the Council by examining size, workload, and resources, as well as the Council's quantitative output as it is presented in annual reports. Specifically, this part will aim to assess the extent to which the Council is successful in monitoring the GPFG portfolio. Continuing, the thesis will examine the process through which the Council on Ethics monitors, investigates, and issues recommendations on the companies within the portfolio, before inspecting the Ethical Guidelines and their interpretation by the Council. Herein, the thesis will seek to answer questions related to its flexibility and adaptability. Conclusively, the *transparency* of the Council on Ethics and NBIM will be discussed.

6.1 Capacity

While formally a unitary body, a division might be struck, for the sake of analysis, between the Secretariat of the Council on Ethics and the Council's five appointed members (referred to in this section as 'the Secretariat' and 'the Council', respectively). The five permanent members of the Council are formally appointed by the Ministry of Finance, pending nominations by Norges Bank, for fixed periods.[121] Since the 2015 restructuring, which entailed the appointment of five new members, two still hold positions in the Council, including the Council chair. All past and previous members of the Council have been nominated on the back of illustrious careers in fields such as law or finance and hold full-time positions outside of their Council commitments.[122] As such, Council members are not full-time employees. Council members are renumerated in accordance with public pay grades, amounting in one case to a yearly compensation of USD 11,500, or NOK 100,000, before taxes.[123] While not quite symbolic, this financial compensation is unlikely to be regarded a main draw to the position, considering the professional backgrounds of those individuals nominated. The position does allow for some flexibility in accommodating the personal capacities of the Council members, but

[121] Clark and Monk, 2010(a), p. 16.
[122] Council on Ethics, *Members* [website], https://etikkradet.no/members/, (accessed 10 July 2021).
[123] Interview with Cecilie Hellestveit, Oslo, 8 July 2021.

generally, the members meet formally one or two times each month, maintaining lines of informal communication throughout the period. In addition, considerable time is spent reading preparatory material prior to Council meetings and seminars.[124]

Of equal importance to the work of the Council on Ethics is its eight-person Secretariat. In contrast to the five appointed members, Secretariat staff is employed mainly in a full-time capacity. They hold expertise in the areas covered by the Ethical Guidelines – human rights, environment, corruption, etc. – and fill essential functions in the assessment of companies in the GPFG portfolio. Such functions include, inter alia: researching and collecting information on companies in the portfolio; commission studies from external consultancy firms; communication with companies; and preparing case material for the five appointed members of the Council.[125] Formal Council meetings, where both parts of the Council are present, take place once a month, although informal communication between the two occur more regularly.[126]

The annual budget of the Council on Ethics is set by the Ministry of Finance. The following table shows all Council on Ethics budgets from 2015-2020, based on numbers included in annual reports published by the Council within this time frame:

Budget	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
NOK million	14.8	15.9	18.1	18.5	18.7	18.7
USD million[127]	1.8	1.9	2.2	2.3	2.1	2.0

As noted by Clark and Urwin, effective operations are contingent on an adequate budget, while exactly what constitutes *adequate* is influenced by factors such as mission clarity and effective resource distribution.[128] While earlier assessments of the Council on Ethics

124 Interview with Ingrid Thorsnes, Oslo, 23 June 2021; Hellestveit.
125 Thorsnes.
126 Hellestveit; Thorsnes.
127 Annual reports disclose budget figures in NOK exclusively. All USD figures are calculated by the author, based on the yearly average exchange rates of each year, provided by DNB Markets. Available at https://www.dnb.no/en/business/markets/foreign-exchange/New/Historical/2020.html, (accessed 11 July 2020).
128 G. L. Clark and R. Urwin, 'Best-practice pension fund governance', *Journal of Asset Management*, vol. 9, no. 1, 2008, p. 15.

have highlighted a perceived resource scarcity, this does not appear to be in relation to financial resources.[129] Interviewees expressed that financial restraints rarely, if ever, prevented them from carrying out investigative missions or commission necessary studies from consultancy firms.[130] In fact, the significant resources available were described by one of the five appointed members of the Council as one of the allures of the position.[131] Consequently, without a more in-depth study of the Council budget vis-à-vis the tasks it aims to carry out, it appears that the Council on Ethics has sufficient budgetary resources at hand to conduct its operations in a satisfactory manner.

Council on Ethics annual reports details also the activities undertaken by the Council each year, with respect to assessments, communications and meetings held with companies in the GPFG portfolio. The below table includes a few key figures, as found in Annual Reports 2017 and 2020:

	2015	2016	2017	2018	2019	2020
All companies in portfolio (approx.)	9050	9000	9100	9150	9200	9150
No. of companies contacted	42	86	62	34	50	77
No. of companies met with	11	22	12	22	14	16
No. of companies assessed	184	162	149	189	180	206

While longitudinal perspectives are beyond the scope of this part of the study, it should be noted that the figures have remained stable throughout the relevant time frame. In addition, year-to-year assessments might not be particularly conducive due to a variety of reasons. The Council's prioritizations and focus areas (both thematic and geographical) are not constant, and fluctuating figures might be due to specific demands presented by different areas of focus rather than efficiency indicators. Without in-depth knowledge of how the Council has been working on each area of focus, such an assessment is hardly possible. Besides, some companies will take longer to assess and will thusly be included in the data for more than just one year. Rather, attention should be diverted towards the

[129] Clark and Monk, 2010(a), p. 17.
[130] Thorsnes.
[131] Hellestveit.

low number of companies contacted, met with, and assessed by the Council on Ethics relative to the exceedingly high number of total companies within the GPFG portfolio. In conclusion, the above figures, seen in conjunction with the previously discussed institutional set-up of the Council and its Secretariat, could suggest that the Council on Ethics faces capacity-related constraints in its monitoring and assessment of the GPFG portfolio.

6.2 Process

In its monitoring of the GPFG portfolio, the Council on Ethics relies on four main sources of information to discover breaches of the Ethical Guidelines. The first, and arguably the source of greatest importance to its operations, is *news monitoring*, conducted by data science company *RepRisk*. Specializing in ESG-related qualitative risk research, the company monitors reporting from across the world and provides the Council with data based on thematic and geographical criteria specified by the Council.[132] A second source is *sector studies*, where the Council identifies certain industries with an increased risk of occurring norm violations, and subsequently conducts a systematic analysis of this industry. By identifying industry standards in mitigating such risks, the Council is able to identify companies whose conduct fall short of such standards. Sector studies might initially include as many as 200-300 companies, with a more in-depth look at 100 of these. The Council might then enter into dialogue with certain companies, eventually leading to a recommendation if company conduct has not improved. Previous sector studies have focused on, e.g., the textile industry in Southeast Asia, and migrant workers in Gulf states.[133] As individuals with extensive networks and knowledge of their areas of expertise, the members of the Council on Ethics might also receive information through *individual channels* that inform the work of the Council. While this information is conveyed to the Council and the Secretariat staff for further inquiry, it is rarely sufficient on its own, and needs corroboration from other sources.[134] Lastly, *civil society actors*,

[132] Goyer, 2021; Hellestveit; Slettemark; Thorsnes.
[133] Hellestveit
[134] Ibid.

such as INGO/NGOs and news media, might provide the Council with information on certain companies or industries, either through publication or by approaching the Council directly. In addition, individuals may contact the Council directly with information.[135]

Returning to the Council's primary source of information, *news monitoring*, three challenges might be highlighted. As *RepRisk* relies on civil society and local news media to provide a steady stream of information and report freely on norm violations in their countries, the quality of the data provided is subject to states' adherence to certain democratic principles, i.e., free speech and press freedom. This leads to a qualitative and quantitative lopsidedness in the information the Council receives from democratic states vis-à-vis the information it receives from authoritarian states with restrictions on media freedoms.[136] This challenge should be understood against the backdrop of a press freedom generally perceived to on a decline, both globally and in European states.[137]

Relatedly, the media crisis that has followed the 2008 financial crisis has impacted the ability of news media to provide this stream of information also in OECD countries. Exacerbated by rapid digitalization, news media and press organization are under great financial strain, impeding the quality of investigative journalism.[138] With such processes perhaps increasingly ingrained in OECD countries, the Council on Ethics faces a challenge related to obtaining necessary information also in states with strong democratic traditions.[139]

A final challenge relates to how news monitoring is covered across regions and languages. *RepRisk* employs translation software to translate local news media in different languages, but there is a risk that certain information might be lost in translation. While the Secretariat of the Council on Ethics includes personnel with proficiency in

---

[135] Ibid.
[136] Ibid.
[137] Freedom House, *Freedom and the Media 2019: A Downward Spiral*, 2019, https://freedomhouse.org/sites/default/files/2020-02/FINAL07162019_Freedom_And_The_Media_2019_Report.pdf, (accessed 12 July 2021), pp. 1-4.
[138] R. de Mateo and L. Bergés, 'Media and journalism inside the systemic crisis', in V. Marinescu and S. Branea (eds.), *Media Discourses About Crisis*, Bucharest, University of Bucharest, 2013, p 15.
[139] Hellestveit.

other languages, it lacks the capacity to qualitatively and systematically follow up on the provided data – although efforts towards this might be made.[140]

While the challenges related to news monitoring are notable, they should not be understood to discredit or disqualify the system as such. After all, it seems unfair to hold the Council on Ethics responsible for the actions of authoritarian regimes and the repercussions of a great recession. Nonetheless, these are factors the Council must contend with in its work to monitor the GPFG portfolio – which it seemingly does, as both interviewees currently part of the Council expressed awareness of the challenges inherent to the news monitoring process and discussed ways through which the Council works to counteract or mitigate the implications of these challenges.

Following the initial steps of collecting and assessing the information provided to it, the Council and its Secretariat decide on which companies, industries, or regions to assess more substantially. While the Secretariat and the five appointed Council members are in regular dialogue throughout the process, the main responsibility of documenting companies' norm violations primarily falls to the Secretariat. The exact method will necessarily be determined on a case-by-case basis, but commonly include consulting, i.a., research papers, NGO reports, court rulings, news media, and government documents. Additionally, the Council has resources available to engage local consultancy firms.[141] The documentation process also involves engaging the companies in question directly, at an early stage.[142] On a number of occasions, entering into dialogue with companies has positively impacted company conduct, sometimes to the point where a recommendation is no longer needed.[143] After the documentation process is completed, and dialogue with companies have resulted in no demonstrable changes in company conduct, the Council may issue a recommendation to NBIM regarding the company or companies in question. Final decision on whether to issue a recommendation – as well as the nature of the

[140] Ibid.
[141] Council on Ethics, *Principles for the selection of companies subject to further assessment* [website], https://etikkradet.no/principles-for-the-selection-of-companies-subject-to-further-assessment/, (accessed 12 July 2021).
[142] Thorsnes.
[143] Hellestveit.

recommendation, i.e., observation or exclusion – lies with the five appointed members of the Council on Ethics.

As reported by interviewees, and corroborated by existing literature, the process of documenting norm violations by companies within the GPFG portfolio is thorough and therefore time-consuming.[144] In fact, the process through which the Council on Ethics determine non-compliance has been described as quasi-judicial due to similarities of the documentation process to actual legal proceedings.[145] It should also be noted that in the current composition of the Council, three out of five appointed members have legal backgrounds. Consequently, the Council on Ethics is able to issue authoritative assessments that hold weight not only within the GPFG, as the next analysis chapter should illustrate, but also within the wider finance world. Due to the previously discussed limitations to the Council's capacity, however, this is time-consuming and necessarily at the expense of its qualitative output.

6.3 Framework

In 2004, ethical investment guidelines were adopted by the Ministry of Finance following recommendations by the Graver Committee the previous year.[146] The *Guidelines for observation and exclusion from the Government Pension Fund Global* (hereby referred to either as "the Ethical Guidelines" or "the Guidelines") establish the institutional framework and mandate of the Council on Ethics and its secretariat. The current set of guidelines were adopted by the Ministry of Finance in 2014, with four amendments passed between 2015 and 2019. The criteria on which the Council issues recommendations are set down in section 2 and 3 of the Guidelines. As noted, companies

[144] Goyer, 2021; Hellestveit; Slettemark; Thorsnes.
[145] L. Backer, 'Sovereign Investing and Markets-Based Transnational Rule of Law Building: The Norwegian Sovereign Wealth Fund in Global Markets', *American University International Law Review*, vol. 29, no. 1, 2013, p. 28.
[146] NOU 2003:22, *Forvaltning for fremtiden: forslag til etiske retningslinjer for Statens petroleumsfond*, 2003.

may be put on observation or excluded from the GPFG portfolio for reasons related to either *product* or *conduct.* [147]

The criteria for *product*-based observation and exclusion, as specified in Section 2, stipulates that GPFG assets are not to be invested in companies that produce weapons that, through regular usage, violate fundamental humanitarian principles. Examples of such weapons include landmines and cluster munitions, and a proposal has been made to include also lethal autonomous weapons.[148] Note that the Guidelines do not prohibit arms sale as such. Additionally, NBIM is restricted from investing the Fund's assets into tobacco companies as well as mining companies and power producers whose use of thermal coal exceed those limits provided for in the Guidelines. Note that decisions related to the coal-criterion are, unlike the other criteria, based on NBIM's own asessments and not recommendations made by the Council on Ethics. Out of the 171 companies currently excluded or under observation from the GPFG, 123 are excluded or under observation based on their *product*. Examples of such companies include *Lockheed Martin Corp*. and *Boeing Co*, excluded for their involvement in the production of nuclear weapons, and *British American Tobacco Plc*., excluded on the basis of its tobacco production. [149]

The criteria for *conduct*-based observation or exclusion are listed in Section 3 of the Ethical guidelines. The conduct-based criteria establish that companies may be put on observation or excluded from the GPFG portfolio for reasons related to environmental damage, corruption, and violation of human rights and fundamental humanitarian principles, to be discussed in later sections of the paper. 49 companies are currently excluded or under observation based on their *conduct*.[150]

---

[147] Retningslinjer for observasjon og utelukkelse fra Statens pensjonsfond utland, 2014, https://lovdata.no/dokument/INS/forskrift/2014-12-18-1793?q=etikkr%C3%A5det.
Unofficial English version available at https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2019/12/guidelines-for-observation-and-exclusion-from-the-gpfg-01.09.2019.pdf.
[148] Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2020*, p. 28.
[149] Norges Bank Investment Management, *Observation and exclusion of companies* [website]
[150] Norges Bank Investment Management, *Observation and exclusion of companies* [website]

The *human rights*-criterion, as it is classified by the Council on Ethics,[151] is covered in Section 3(a-b) of the *Guidelines for observation and exclusion from the Government Pension Fund Global*:

Human rights-criterion

Companies may be put under observation or be excluded if there is an unacceptable risk that the company contributes to or is responsible for:

a) serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour and the worst forms of child labour

b) serious violations of the rights of individuals in situations of war or conflict

While the human rights criterion offers examples of violations that could warrant exclusion, the list is not seen as exhaustive, meaning that the criterion potentially could encompass a range of violations and thus be appropriately flexible to include also new human rights norms as they appear. Yet, a former Council member notes that the Ethical Guidelines are interpreted *horizontally* in a strict and rather conservative manner, contradicting the previous observation. Continuing, *vertical* interpretations of the Guidelines is similarly strict, with a high threshold for what is considered *serious* or *systematic*.[152] A related concern, as expressed by former secretariat member Goyer, in an input note prepared at the behest of Amnesty International, is that the current formulation could lead to a neglect of *systematic* violations that fall short of the listed examples, if said examples are understood as a threshold for the *seriousness* qualification criteria.[153] Seemingly, these concerns are addressed in the recently proposed amendments to the Ethical Guidelines, where the Council supports a proposal to remove the examples listed under the criterion. Further amendments were proposed, inter alia, the inclusion of *lethal autonomous weapons* in the product-criteria, expanding the definition of gross corruption, and the inclusion of a conduct-based criterion related to arms sale to states involved in

[151] Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2020,* p. 16.
[152] Slettemark.
[153] P. R. Goyer, 'Statens pensjonsfond utland – nye løsninger i en ny virkelighet', Amnesty International Norway, 2019, p. 28.

armed conflict, when there is an unacceptable risk of violations of humanitarian law.[154] While the review and subsequent amendments to the Ethical Guidelines must be seen as positive as they illustrate the adapting nature of the Council's Guidelines, it should be noted that the frequency of such reviews is not established by the framework.

An arguably greater concern is present in the non-prescriptive nature of the conduct-based criteria, made increasingly apparent through comparison with their product-based counterparts. Generally, the latter establish that the Fund *shall not be invested in* companies whose product is listed in the same section. The formulation is categorical and explicitly posits an *objective*. Towards this objective, it is easy to assess whether the Fund complies with the Ethical Guidelines – if companies producing or selling products deemed "unethical" are present within the portfolio, the Fund must necessarily be seen as non-compliant with the Guidelines. In comparison, the conduct-based criteria are significantly less clear in their mission, as they establish the mechanisms of the Council but fails to explicitly state the general aim of these mechanisms. At no point do the Ethical Guidelines state that the Fund *shall not be invested in* companies contributing to serious or systematic human rights violations. Instead, they are formulated in a vague and non-prescriptive manner, and effectively deflects criticism of the Fund's efforts towards its SRI commitments. The implications of this are two-fold. Firstly, it complicates any assessment of the Fund's compliance with the Ethical Guidelines – i.e., the objective of this thesis – as it is difficult to judge whether the Fund is successful if it never states what it is aiming to do. Secondly, and more importantly, it might render the *conduct*-based criteria weaker than the criteria relating to *product*.

6.4 Transparency

Pursuant to section 8 of the Ethical Guidelines, all recommendations issued by the Council on Ethics are published once a decision is made by NBIM, who also maintains a public list of companies currently excluded or under observation.[155] Similar yet more

[154] NOU 2020:7, pp. 14-15.
[155] Guidelines for observation and exclusion from the Government Pension Fund Global.

comprehensive provisions for transparency are included also in the *management mandate for the GPFG*. As chapter 6 stipulates, NBIM is required to report on its management activities, relating to performance, investment strategies and SRI commitments, and carry out regular self-assessments.[156] Efforts to ensure transparent management of the GPFG have been recognized internationally, as the Fund has received scholarly plaudits for its transparency,[157] and currently enjoys a full score of 10 on the Linaburg-Maduell Transparency Index.[158] As one author notes, transparent fund management can positively influence popular support for policies restricting government spending from the fund.[159]

It seems fair to recognize that much of the analysis done in the present paper, with its current scope and methodology, would be difficult – if at all possible – to carry out on other, less transparent SWFs. In fact, the broad literature existing on the GPFG might be seen as testament to its transparency. Nonetheless, a few apparent issues should be addressed. Firstly, while the Council on Ethics publish their recommendations after a NBIM decision has been made, no information is made publicly available regarding the Council's dialogue with companies, or the investigation process as such. Neither does NBIM publicly disclose substantial information regarding its practicing of active ownership with specific companies, in the event Council recommendations are not followed. While NBIM is transparent about voting intentions and company expectations, its efforts to change company conduct through dialogue and active ownership are more unclear. Inevitably, this information void on cases that has left the hands of the Council on Ethics has implications related to Fund's accountability.

[156] Management mandate for the Government Pension Fund Global.
[157] Truman, 2008, p. 7.
[158] Sovereign Wealth Fund Institute, *Linaburg-Maduell Transparency Index (LMTI)* [website], https://www.swfinstitute.org/research/linaburg-maduell-transparency-index (accessed 13 July 2021)
[159] M. Luecke, 'Stabilization and Savings Funds to Manage Natural Resource Revenues: Kazakhstan and Azerbaijan versus Norway', *Comparative Economic Studies* 53, 2011, p. 55.

7 QUANTITATIVE ANALYSIS

2015 remains a pivotal point in the development of the Fund's SRI practice, for two reasons: the authority to exclude or put companies under observation was moved from the Ministry of Finance to NBIM, and all members of the current Council on Ethics was replaced with a new five-member Council. With more than six years of data published by the new Council under the restructured framework, 2015 provides a sensible starting point for assessing its work. Specifically, this section will aim at analyzing the extent to which NBIM follows the recommendations issued by the Council on Ethics regarding the exclusion or observation of companies in the Fund's portfolio. The analysis will include both a general and a criterion-specific component: first, all relevant Council recommendations issued within the relevant timeframe will be analyzed to give a general assessment of how closely the recommendations are followed by NBIM. The second part will analyze the recommendations issued under the human rights criterion in isolation, to assess how closely NBIM follow Council recommendations under this criterion specifically. A comparison will be made between all sets of results to determine whether or not recommendations issued under the human rights-criterion are followed to the same extent as the Council's recommendations in general.

7.1 Data selection

The data included in the study include all relevant recommendations published by the Council on Ethics since its new iteration began its work on January 1, 2015. To ensure that the findings are externally verifiable, data has been included as it is presented in Annual Reports 2015-20,[160] published by the Council on Ethics. As such, company names, publication dates and their categorization are all included *per verbum* as they appear in the reports. To ensure a satisfactory data size, five recommendations have been included in the data set that were published after the most recently published Annual Report 2020 and will be included in the forthcoming Annual Report 2021. These five

[160] All Annual Reports may be found at https://etikkradet.no/annual-reports/.

companies are as follows: *Honeys Holding Co*;[161] *Shapir Engineering and Industry Ltd*;[162] *Mivne Real Estate KD Ltd*;[163] *Kirin Holdings Co Ltd*;[164] and *ThyssenKrupp AG*.[165] No recommendation published after June 1, 2021, has been included in the study.

Five recommendations included in the study have been given dual categorization by the Council on Ethics, falling under the criteria for both *severe environmental damage* and *human rights violations*. These five recommendations, published in early 2018, concerns the practice of *beaching*, i.e., the intentional grounding and subsequent dismantling of old ships – an apparent area of focus for the Council that year. The Council does not discuss how the two different concerns have been weighted in its recommendation, but due to the severe and well-documented risk to human life the practice poses, these recommendations has been included in the *human rights*-specific component of the study.

Certain relevancy criteria have been applied to the data selection process to ensure that the data included is relevant to what the quantitative study seeks to answer: *to what extent are CE recommendations followed by NBIM?* To that end, certain recommendations have been filtered out from the data set:

(1) Recommendations to *revoke*: as the Council monitors the GPFG portfolio, it also issues recommendations to revoke previous exclusions if the grounds for exclusion are no longer considered to be present. The recently published recommendation to revoke the exclusion of Atal SA provides insight here: in 2017, the Council recommended to exclude the Polish property development company Atal SA from the Fund's portfolio under the human rights criterion, due to their use of North Korean laborers under conditions

---

[161] Council on Ethics, *Honeys Holding Co.* [website], https://etikkradet.no/honeys-holding-co/, (accessed 20 June 2021).
[162] Council on Ethics, *Shapir Engineering and Industry Ltd* [website], https://etikkradet.no/shapir-engineering-and-industry-ltd-2/, (accessed 20 June 2021).
[163] Council on Ethics, *Mivne Real Estate KD Ltd* [website], https://etikkradet.no/mivne-real-estate-kd-ltd-2/, (accessed 20 June 2021).
[164] Council on Ethics, *Kirin Holdings Co Ltd* [website], https://etikkradet.no/kirin-holdings-co-ltd-2/, (accessed 20 June 2021).
[165] Council on Ethics, *ThyssenKrupp AG* [website], https://etikkradet.no/thyssenkrupp-ag-2/, (accessed 20 June 2021).

amounting to forced labor. Following a 2018 EU Law demanding repatriation for all North Korean workers, Poland reported an end to North Korean labor in the country, and as such, the Council recommended to revoke the company's exclusion.

This part of the study presupposes a conflict between the Council on Ethic and NBIM, between ethical considerations and the pursuit of the highest possible profits. The argument not to include recommendations to *revoke* exclusions or observation in the study is as follows: if we understand NBIM's role primarily as that of an investor seeking the highest possible net profits, recommendation to revoke exclusion should necessarily be seen as being in NBIM's interest, as such recommendations essentially increase its investment options. This contrasts recommendations on *exclusion* or *observation* which at least in principle complicate this main NBIM function. Therefore, when examining this presupposed conflict between the Council and NBIM, *revocations* tell us little about the Council's ability to influence NBIM in this sense. As evident from previous sections on the Fund's SRI practice, this presupposed conflict is certainly based on a rather simplified understanding of the two bodies, as NBIM itself operates with explicit aims and strategies related to socially responsible investing. In fact, the two bodies have a shared mission, in carrying out the GPFG's commitment to socially responsible investing. Yet, as critical institutionalism suggests, institutions are complex and often *indeterminate*, and might fill conflicting functions within the same institutional mission.[166] So while the two Oil fund bodies are not in conflict *as such*, there is an apparent conflict between NBIM's pursuit of profit maximalization and the Council's efforts to prevent the Fund from being invested in companies that fail to comply with ethical standards. The argument thus remains that there is an inherent conflict between their main objectives, and assessing this potential conflict is at the core of this part of the study.

(2) *Withdrawn* recommendations: on several occasions, the Council on Ethics has issued a recommendation that it has later withdrawn. In 2018, the Council issued a recommendation to exclude German energy company *RWE AG* under the criterion concerning unacceptable climate gas emissions. At the time, no action was taken by

[166] Whaley, pp. 139-140.

NBIM due to uncertainties related to the interpretation of this criterion. The following year the company was excluded from the portfolio by NBIM independently under the *coal criterion*, and the initial recommendation was subsequently withdrawn by the Council.[167] Another company, *Hangzhou Hikvision Digital Technology Co Ltd*, was recommended excluded from the portfolio in January 2020 under the human rights criterion, as the company was providing surveillance technology to authorities in the Chinese Xinjiang region and thus facilitating human rights abuses against the Uyghur Muslim population. In September 2020, NBIM notified the Council that it had sold its shares in *Hikvision* independently of the recommendation, and with the Chinese company no longer present in the portfolio, the Council withdrew its recommendation.[168] As such cases can hardly be considered cases of either compliance or non-compliance with CE recommendations, they are not included in the data set.

(3) Exclusions under the *coal criterion*: the product-based coal criterion was introduced in 2016, and as of June 1, 2021, 90 companies are either excluded or under observation under this criterion.[169] As recommendations to exclude companies based on this criterion are issued internally by NBIM, and not the Council on Ethics, they are not included in the data set.

7.2 Limitations

A few limitations relating to the data set have a non-negligible impact on the study's findings and should therefore be discussed before moving onto the next sections. While it is true that pertaining to the legally binding Ethical Guidelines, all decisions of Norges Bank – and the recommendations on which they are based – shall be published,[170] this comes with one important caveat: information is only published once cases are concluded,

[167] Council on Ethics, *RWE AG* [website], https://etikkradet.no/rwe-ag-eng/, (accessed 20 June 2021).
[168] Council on Ethics, *Hangzhou Hikvision Digital Technology Co Ltd* [website], https://etikkradet.no/hangzhou-hikvision-digital-technology-co-ltd-2/, (accessed 20 June 2021).
[169] Norges Bank Investment Management, *Observation and exclusion of companies* [website], https://www.nbim.no/en/the-fund/responsible-investment/exclusion-of-companies/, (accessed 20 June 2021).
[170] *Retningslinjer for observasjon og utelukkelse fra Statens pensjonsfond utland* §8.

i.e., when a decision has been made by NBIM. As a result, there is no publicly accessible information on companies currently under investigation or on recommendation issued by the Council with a NBIM decision still pending. Many investment funds across the world follow the Norwegian oil fund's investment strategy closely, and its decisions have a measurable impact on the finance world as a whole. It appears sensible then, that no information is published before a final decision to disinvest is made by NBIM, but it does create difficulties tracking a potential back log of unprocessed CE recommendations. As such, the study's data set does not include all recommendations issued by the Council on Ethics, but more accurately all recommendations on which NBIM has made a decision. Reportedly, the extent to which this is an issue is limited as NBIM usually succeeds in processing all CE recommendations within a predicted timeframe of approximately twelve months, preventing the creation of such a back log.[171] Still, the issue does remain in principle.

A second limitation concerns the somewhat limited scope of the data set. While the 49 recommendations included in the general part of the study is sufficient to make general assessment of the extent to which recommendations are followed, the uneven distribution of these recommendations – both in terms of publication year and criteria – complicates the identification of any specific trends, shifts or developments. The same applies to an even greater extent to the data included in the *human rights*-specific component of the study. Thus, the 19 recommendations included under this criterion will be used primarily to determine any deviance from the general trend.

7.3 Findings

(1) All recommendations published by the Council on Ethics

This general component of the quantitative study includes 49 recommendations, published by the Council on Ethics between 1 January 2015 and 1 June 2021. With the intention of examining to what extent NBIM follow the recommendations of the Council

[171] Interview with Ingrid Thorsnes, Oslo, 23 June 2021.

in general, all recommendation – with the exceptions and selection criteria discussed above – are included.

CE recommendations	**49**	**%**
NBIM followed recommendation	**41**	**83,7 %**
NBIM did **not** follow recommendation	**8**	**16,3 %**
Diverging opinion on mechanism	3	6,1 %
Active ownership	5	10,2 %

Out of the recommendations included in the general part of the study, NBIM decided to follow the Council's recommendations of *exclusion* or *observation* in 83,7 percent of the cases, leaving a total of 8 out of 49 cases where NBIM took a different position. In three cases, NBIM opted for a different mechanism than the one recommended by the Council: *PetroChina Co. Ltd.*;[172] *Leonardo SpA*;[173] and *Hansae Yes24 Co. Ltd*.[174] The former two related to gross corruption, the latter under the human rights criterion. While the Council recommended *exclusion* for all three companies, NBIM opted instead to place the companies under *observation*.

In five cases, NBIM decided to use its *active ownership* mechanism to influence company behavior: *Eni SpA*;[175] *Saipem SpA*;[176] *ThyssenKrupp AG*;[177] *PetroChina Co. Ltd*;[178] and *UPL Ltd*.[179] Under the corruption criterion, the former three companies were recommended to be placed under *observation*, while *PetroChina Co. Ltd.* was recommended *excluded* from the portfolio after failing to share information while already

[172] Council on Ethics, *PetroChina Co. Ltd.* [website], https://etikkradet.no/petrochina-co-ltd-4/, (accessed 21 June 2021).
[173] Council on Ethics, *Leonardo SpA* [website], https://etikkradet.no/leonardo-spa-2/, (accessed 21 June 2021).
[174] Council on Ethics, *Hansae Yes24 Co. Ltd.* [website], https://etikkradet.no/hansae-yes24-holdings-co-ltd-2/, (accessed 21 June 2021).
[175] Council on Ethics, *Eni SpA* [website], https://etikkradet.no/eni-spa-2/, (accessed 21 June 2021).
[176] Council on Ethics, *Saipem SpA* [website], https://etikkradet.no/saipem-spa-2/, (accessed 21 June 2021).
[177] Council on Ethics, *ThyssenKrupp AG* [website], https://etikkradet.no/thyssenkrupp-ag-2/, (accessed 21 June 2021).
[178] Council on Ethics, *PetroChina Co. Ltd* [website], https://etikkradet.no/pc2020-2/, (accessed 21 June 2021).
[179] Council on Ethics, *UPL Ltd.* [website], https://etikkradet.no/upl-ltd-2/, (accessed 21 June 2021).

under *observation*. Exclusion was also recommended for seed company *UPL Ltd*. under the *human rights*-criterion (section 3(a)), relating specifically to the use of child labor.

(2) Recommendations published under conduct-based criteria

Included in the general data set are recommendations issued under both the *conduct*-based and the *product*-based criteria, although a significant majority of all recommendations have been issued under the former. The complete data suggest a slight variation when isolating the conduct-based recommendation, under which the human rights-criterion ultimately fall. In the below representation, all five product-based recommendations are excluded from the data set, in order to assess the extent to which NBIM follow recommendations issued under *conduct*-based criteria. The argument to do so is based on the assumption that the thresholds and conditions considered in product-based recommendations vary significantly from those considered in conduct-based ones, an observation which finds support in the literature.[180] Essentially, *product*-based recommendations appear to follow a straighter path towards exclusion. If a company produces or sells products listed in the Ethical Guidelines, the company is to be excluded from the GPFG portfolio. Consider the *conduct*-based qualification criteria: to justify exclusion or observation, a company's conduct should amount to a *serious* or *systematic* violation, leaving much space for discretionary assessments. Before a company is investigated by the Council under the product-based criteria, however, this assessment is already made. If the product is listed in the Ethical Guidelines, it is already considered *serious;* if it is produced or sold, it is necessarily *systematic*. Furthermore, it seems reasonable to assume that NBIM's *active ownership* mechanism has greater potential for altering company *conduct* than to change its *product*. After all, a tobacco company is unlikely to end its production and sale of tobacco on the insistence of NBIM. For these reasons, the following representation shows only recommendations under *conduct*-based criteria.

[180] H. R. Nilsen, B. Sjåfjell and B. J. Richardson, 'The Norwegian Government Pension Fund Global. Risk Based Versus Ethical Investments,' *Vierteljahrshefte zur Wirtschaftsforschung*, vol. 88, no. 1, 2019, pp. 72-73.

CE recommendations	44	%
NBIM followed recommendation	**36**	**81,8 %**
NBIM did **not** follow recommendation	**8**	**18,2 %**
Diverging opinion on mechanism	3	6,8 %
Active ownership	5	11,4 %

The five product-based recommendations not included in the data set all concern the companies involved in the production of key components used to manufacture nuclear weapons: *AECOM*;[181] *BAE Systems Inc.*;[182] and *Fluor Corp.*, *Honeywell International Inc*. and *Huntington Ingalls Industries Inc.*[183] Per section 2(1) of the Ethical Guidelines, all five companies were excluded from the GPFG portfolio. While the percentages derived from including only the *conduct*-based criteria differ but slightly from the those in the general data set, the difference in how these are assessed are, as discussed, significant. Five companies are admittedly far too few to draw any definite conclusions as to whether such recommendations are followed at a different rate by NBIM, but the fact that all five recommendations were followed might give some support to the assumption that *product*-based recommendations are less contentious. As NBIM followed the Council's recommendations in all five cases, the eight cases where recommendations were not followed concern the same companies discussed in the previous section.

(3) Recommendations published under the human rights-criterion

Within the relevant time period, the Council published 19 recommendations under the conduct-based *human rights*-criterion. Out of these recommendations, 16 concerned section 3(a) covering serious or systematic human rights violations, although 5 companies are covered also by the subsection (c) on severe environmental damage, as previously discussed. Subsection (b) on serious violations of the rights of individuals in situations of war or conflict cover the remaining three companies: *Shapir Engineering and Industry*

[181] Council on Ethics, *AECOM* [website], https://etikkradet.no/aecom-2/, (accessed 21 June 2021).
[182] Council on Ethics, *BAE Systems Inc.* [website], https://etikkradet.no/bae-systems-plc-2/, (accessed 21 June 2021).
[183] Council on Ethics, *Fluor Corp*, *Huntington Ingalls Industries Inc.*, *Honeywell International Inc.* [website], https://etikkradet.no/fluor-corp-huntington-ingalls-industries-inc-honeywell-international-inc-2/ (accessed 21 June 2021).

Ltd; *Mivne Real Estate KD Ltd*; and *Kirin Holdings Co Ltd*. The latter related to the company's business partnership with the military of Myanmar, while the former two companies were recommended excluded from the GPFG portfolio on the basis of their contribution to the building of Israeli settlements on the West Bank, broadly considered a violation of international law.

Company	Recommendation	Published	NBIM decision
Hansae Yes24 Holdings Co. Ltd.	Exclusion	29.06.2017	Observation
Atal SA	Exclusion	16.01.2018	Exclusion
Evergreen Marine Corp. (Taiwan) Ltd.	Exclusion	16.01.2018	Exclusion
Korea Line Corp.	Exclusion	16.01.2018	Exclusion
Pan Ocean Co. Ltd.	Observation	16.01.2018	Observation
Precious Shipping PCL	Exclusion	16.01.2018	Exclusion
Thoresen Thai Agencies PCL	Exclusion	16.01.2018	Exclusion
UPL Ltd	Observation	10.07.2018	Active ownership
Luthai Textile Co Ltd	Exclusion	10.07.2018	Exclusion
Nien Hsing Textile Co Ltd	Observation	10.07.2018	Observation
Texwinca Holdings Ltd	Exclusion	17.01.2019	Exclusion
G4S Plc	Exclusion	13.11.2019	Exclusion
Centrais Electricas Brasileiras SA	Exclusion	13.05.2020	Exclusion
Formosa Chemicals & Fibre Corp	Exclusion	31.08.2020	Exclusion
Page Industries Ltd	Exclusion	31.08.2020	Exclusion
Honeys Holding Co	Exclusion	25.11.2020	Exclusion
Shapir Engineering and Industry Ltd	Exclusion	02.11.2020	Exclusion
Mivne Real Estate KD Ltd	Exclusion	17.12.2020	Exclusion
Kirin Holdings Co Ltd	Observation	23.06.2020	Observation

As the above table reveal, there is little to indicate that recommendations made the Council on Ethics under the *human rights*-criterion are followed to a significantly different extent than recommendations issued under other criteria. Of the 19 companies included in the study, only two cases saw a different NBIM decision than what was recommended by the Council: *Hansae Yes24 Holdings Co. Ltd*. was placed under *observation* by NBIM and not excluded from the portfolio as the Council recommended, and in the case of *UPL Ltd*, NBIM opted to use active ownership when the Council recommended *observation*. In terms of percentages, this amounts to a higher rate of compliance with recommendations than observed in both the general and the conduct-based data set:

CE recommendations	**19**	**%**
NBIM followed recommendation	**17**	**89,5 %**
NBIM did **not** follow recommendation	**2**	**10,5 %**

As previously discussed, this statistical analysis of 19 recommendations – a rather limited data size – is intended primarily to determine any significant deviance from the general trend. Surely then, the findings presented in this part of the study lets us arrive at the conclusion that recommendations issued under the *human rights*-criterion are not any less followed by NBIM than Council recommendations in general. In fact, the opposite might be true, as indicated by the higher percentage, although the limited size of the data set prevents us from confidently concluding that this is the case.

All parts of the study seen in conjunction while keeping in mind the previously discussed lack of transparency on not-yet processed recommendations; it appears that the Council on Ethics is *reasonably* successful in influencing NBIM when it does issue a recommendation, as NBIM aligned its decision with the issued Council recommendation in more than 4 out of 5 cases. This trend is observable in all variations of the data set examined in this quantitative part of the study, and the conclusion finds support in the literature by Clark and Monk[184] who describes the Council as "having considerable influence over the Minister and NBIM." It is worth noting also that nearly two fifths of all recommendations included in the general data set were issued under the *human rights*-criterion. No other single criterion constitutes a similarly large share of the data. Seen in conjunction with the high rate by which NBIM followed Council recommendations under this criterion, it could be suggestive of the relative resources put towards keeping GPFG assets out of companies contributing to, or complicit in, serious human rights violations.

[184] Clark and Monk, 2010(a), p. 16.

8 CASE STUDY ANALYSIS

The final chapter of analysis will present five cases, with two main aims: firstly, the cases should provide concrete examples of central themes discussed in previous chapters. Secondly, they should bring to light other important elements for continued discussion. To this end, the cases will include five companies either currently or previously present in the Government Pension Fund Global portfolio: *Evergreen Marine*; *Raytheon*; *UPL*; *Nestlé;* and *Saudi Telecom Co*.

8.1 Evergreen Marine Corp (Taiwan) Ltd

In June 2017, a recommendation was issued by the Council on Ethics relating to the exclusion of Taiwan-based shipping company *Evergreen Marine* from the GPFG portfolio. The recommendation came on the back of an intensive study into the practice of *beaching*, and was accompanied by recommendations on four other companies: *Precious Shipping PCL*; *Korea Line Corporation*; *Thoresen Thai Agencies PCL*; and *Pan Ocean Co. Ltd*. In January 2018, NBIM published their decision to follow the Council recommendations in all five cases, thus excluding *Evergreen Marine* from the GPFG portfolio. As per December 2016, the GPFG owned a 0.42% share of *Evergreen Marine*, valued at 43.5 million NOK.[185]

Beaching, or ship breaking, refers to the practice of intentionally grounding ships at the end of their life cycle, in order for the ships to be dismantled and recycled. The practice is common within the shipping industry, with most ships being grounded on beaches in Bangladesh, India, or Pakistan.[186] This is consistent with the practice of the companies in question, as stated in the recommendations of the Council. Beaching is commonly associated with poor working conditions, considerable health risks, child

[185] Council on Ethics, *Recommendation to exclude Evergreen Marine Corp (Taiwan) Ltd from the Government Pension Fund Global (GPFG)*, 2017, https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2018/01/Tilr%C3%A5dning-Evergreen-Marine-Corp-Ltd.-ENG-20458.pdf, (accessed 15 July 2021).

[186] I. Ahmed, 'Towards a Safe and Sustainable Industry of Ship Breaking: International Initiatives and South Asian Response', *Journal of Maritime Law & Commerce*, vol. 51, no. 3, 2020, pp. 187-189.

labor, and high levels of pollution. As such, the companies were recommended excluded under a dual environmental damage/human rights criterion.[187]

As disclosed in the recommendations, the Council on Ethics did not investigate the working conditions or the environmental damage related to the relevant *beaching* facilities, relying instead on other sources describing the conditions present. Additionally, NGO reports were relied on to establish that *Evergreen Marine* had sold a number of ships off for scrapping in *beaching* facilities in Bangladesh. The information obtained through secondary sources was then substantiated through dialogue with the company. When *Evergreen Marine* failed to convince the Council of effective measures implemented to prevent continued practicing of *beaching*, the company was recommended excluded.

The process that led to the exclusion of *Evergreen Marine* is noteworthy primarily because it sheds light on how the Council on Ethics conducts its sector studies, where geographically restricted industries – i.e., *beaching* in the shipping industry – are examined followed by closer investigation of selected companies. Other examples exist, as discussed in the process-focused part of this paper's institutional analysis. Sector studies have certain merits, in that it allows the Council to assess a number of companies inside the same context. Given the limited capacity of the Council, and the high number of recommendations issued on the back of such studies, sector studies appear to be a resource efficient approach to monitoring the GPFG portfolio. Yet, certain concerns should be addressed. As recommendations based on sector studies appear to make up most of the Council's recommendations from the year of their issuance, it might be inquired whether sector studies could lead to a neglect of other industries and limit the geographical or thematic reach of the Council. Furthermore, the limited geographic spread of the sector studies already carried out prompts the question of whether resource-intensive sector studies could draw resources away from equally serious or systematic violations of companies operating in less exposed regions or industries.

[187] Council on Ethics, *Recommendation to exclude Evergreen Marine Corp (Taiwan) Ltd from the Government Pension Fund Global (GPFG).*

8.2 Raytheon Technologies Corporations

In 2005, US arms manufacturer *Raytheon* (Raytheon Co. up until a 2020 merger) was excluded from the GPFG portfolio under the *product*-criteria due to its production of cluster munitions. In August 2016, the Council on Ethics recommended the exclusion revoked on the basis of information from the company that it had ceased production of cluster munitions, and shortly thereafter, the NBIM reinvested in the company.[188] As per December 31, 2020, the GPFG owns a 0.98% share of *Raytheon Technologies Corporation*, valued north of one billion USD, or 9 billion NOK.

In December 2016, Human Rights Watch (HRW) reported on the use of Raytheon-produced bombs in airstrikes carried out by the Saudi-led coalition in Yemen – reports that would spark controversy around the GPFG. As HRW could document, *Raytheon*-produced bombs were employed in coalition airstrikes targeting civilian cites, claiming numerous civilian casualties, likely amounting to violations of humanitarian law.[189] Corroborating reports have been published by Amnesty International, documenting remnants of Raytheon-bombs on the site of coalition airstrikes in the Tai'zz governorate of Yemen.[190] Subsequently, a range of Norwegian NGOs and political parties put forth demands that the GPFG disinvest from the arms company.[191]

The *Raytheon*-case exemplifies how the GPFG, owed in part to a high level of transparency, is held accountable by civil society. Furthermore, the case provides valuable insight into key discussions surrounding the Council on Ethics and its work. As briefly mentioned, the Ethical Guidelines do not prohibit the GPFG from investing in arms manufacturers on the basis of their product, with exceptions applying to producers of cluster munitions and nuclear weapons. A second exception applies also to companies

---

[188] Council on Ethics, *Recommendation to revoke the exclusion of Raytheon Co. from the Government Pension Fund Global*, 2016, https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2017/02/Raytheon-rec-ENG-2016.pdf (accessed 14 July 2021).

[189] Human Rights Watch, 'Yemen: US-Made Bombs Used in Unlawful Airstrikes', 8 December 2016, https://www.hrw.org/news/2016/12/08/yemen-us-made-bombs-used-unlawful-airstrikes, (accessed 14 July 2021).

[190] Amnesty International, 'Yemen: US-made bomb used in deadly air strike on civilians', 26 September 2019, https://www.amnesty.org/en/latest/news/2019/09/yemen-us-made-bomb-used-in-deadly-air-strike-on-civilians/, (accessed 14 July 2021).

[191] NRK, 'Hjelpeorganisasjoner krever stans i våpeneksporten til Saudi-Arabia', 25 October 2018, https://www.nrk.no/urix/hjelpeorganisasjoner-krever-stans-i-vapeneksporten-til-saudi-arabia-1.14264788, (accessed 14 July 2021).

supplying arms to states subject to heavy UN embargo, but currently this only applies to Syria and North Korea. As such, Raytheon could not be excluded under *product*-based criteria. Neither could the company be excluded, per the judgement of the Council, under the *conduct*-based criterion 3(b), concerning violations of humanitarian law. As arms trade is conducted based on trade agreements between governments, the Council found that excluding *Raytheon* and similar arms manufacturers under this criterion would constitute a significant intervention in the domestic politics of third countries, thus requiring either (a) broad interpretation of its current Guidelines, or through parliamentary vote, (b) the inclusion of explicit provisions for such interventions in its Guidelines.[192]

In the aforementioned 2020 review of the Ethical Guidelines, the reviewing committee recommended the inclusion of a *conduct*-based criterion relating to the sale of arms to states involved in armed conflict, when there is an unacceptable risk of serious and systematic violations of humanitarian law.[193] As it appears likely that the proposed changes will be implemented in the Ethical Guidelines, the Council could in the future have explicit mandate to exclude arms manufactures such as *Raytheon*, where weapons demonstrably have been used in operations violating humanitarian law.

The *Raytheon*-case is of interest to this study particularly because of what it tells us about the nature of the Ethical Guidelines. As discussed in the institutional analysis, the Guidelines are not a particularly flexible instrument due to how they are interpreted, something the non-decision of the Council in the *Raytheon*-case could be seen to illustrate. However, the ethical framework of the Council is shown as somewhat dynamic through efforts to respond to new challenges, prompted in this particular case by the war in Yemen.[194] Note that the recommended update is not necessarily a response to *Raytheon* specifically, but rather to the general trend the case exemplifies. Of course, there are limitations to the way the Ethical Guidelines are kept up to speed with emerging threats, as the process is time-consuming, irregular, and reactive rather than proactive, but it is indicative of an approach that sees Council recommendations solidly grounded in already

[192] Hellestveit.
[193] NOU 2020:7, p. 15.
[194] Ibid., p. 13.

accepted interpretations of its mandate. As a political institution, the Council on Ethics – and in a broader sense the Fund's socially responsible investment practice – relies on public legitimacy, and the *Raytheon*-case reveals how the Council relates to, and aims to preserve, its legitimacy. A broader discussion on the *legitimacy* and potential *politicization* of the fund will be explored in the next chapter of this paper.

8.3 UPL Ltd.

In March 2018, the Council on Ethics issued a recommendation to place Indian agrochemical company *UPL* under observation under the conduct-based human rights criterion, specifically relating to the use of child labour.[195] Following investigations carried out over the past few years, the Council was able to establish that a significant share of the company's workforce was made up of children under the age of 15, the minimum age of employment as set by the International Labour Organization (ILO).[196] The findings of the Council echo those of others, with one NGO reporting numbers almost twice as high, establishing that child labour is commonplace in the Indian seed industry.[197] While a first draft of the Council recommendation involved exclusion of the company, this was changed after entering into communication with the company. In its dialogue with the Council, *UPL* provided documentation of measures and initiatives it was implementing to fulfill its obligations and responsibilities with respect to child labor. Consequently, the Council reassessed its initial recommendation, recommending instead *observation*.[198] In July 2018, NBIM announced its decision not to follow the recommendation of the Council, opting instead to use its *active ownership* mechanism to influence company conduct. Thus, *UPL* remains in the GPFG portfolio, and per

[195] Council on Ethics, *Recommendation to place UPL Ltd. under observation*, 2018, https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2018/07/ENG-Rec-observation-UPL-2018.pdf, (accessed 14 July 2021).
[196] ILO C138 Minimum Age Convention (adopted 26 June 1973, entered into force 19 June 1976), Article 2(3).
[197] India Committee of the Netherlands and Stop Child Labour, 'Remedies For Indian Seed Workers in Sight?', Utrecht, 2018, p. 12.
[198] Council on Ethics, *Recommendation to place UPL Ltd. under observation*, p. 5.

December 31, 2020, the Fund has a 3.74% ownership stake in *UPL Ltd.*, valued at more than 180 million USD, or 1.5 billion NOK.

As discussed, details surrounding NBIM's practice of *active ownership* with specific companies is not subject to the same level of transparency as the activities of the Council on Ethics. Since its decision to pursue active ownership in relation to *UPL* and child labour, NBIM has referenced this work in all its annual reports on responsible investment. As is disclosed in the reports, NBIM has held a number of meetings with *UPL* management and maintained regular dialogue regarding its measures to prevent the use of child labor in its supply chain. These include the implementation of new policies, monitoring mechanisms, awareness campaigns, as well as commissioning studies on the root causes of child labor.[199]

Since 2015, *UPL* remains the only recommendation under the human rights criterion that was not followed by NBIM. Besides this, the case is noteworthy for a few reasons. Firstly, because it gives a detailed account of how the Council on Ethics engages with companies under investigation and aims to influence company behavior through dialogue. While this primarily – and most explicitly – is the responsibility of NBIM through its *active ownership* mechanism, it is apparent that the Council has similar ambitions related in altering company conduct through dialogue, prior to the involvement of NBIM in the case.

Secondly, and perhaps most importantly, the *UPL*-case provides some insight into how NBIM practices *active ownership* after opting to not follow the recommendations of the Council, allowing a cursory comparison between how the two bodies assess companies, as well as how this assessment is reported on. Note that while the Council investigated the company over a two-year period and conducted a field study, NBIM's active ownership practice is limited to dialogue, and as such, is entirely reliant upon accurate reporting from *UPL*. This is not to say the *active ownership* mechanism is inherently flawed, as it plays a central role the SRI practice of the Fund, but it does seemingly create an accountability gap in cases where it is favored over the more comprehensive assessments of the Council.

---

[199] Norges Bank Investment Management, *Responsible investment*, 2018-2020.

8.4 Nestlé SA

Swiss consumer goods company *Nestlé* has been part of the GPFG portfolio since 1998, its first year of investing in equities, and per December 31, 2020, the Fund has a 2.65% ownership stake in *Nestlé SA*, valued at close to 9 billion USD, or 77 billion NOK. As such, the company is the fifth largest equity holding in the GPFG portfolio, and the single largest outside of US companies.

Over the past few decades, *Nestlé* has been involved in a number of widely publicized controversies, including allegations of human rights violations. In 2018, an audit report ordered by the Supreme Court of Pakistan found that *Nestlé* had extracted 4.43 billion liters of water – 43 percent of which had been wasted – with no cost to local or national authorities, thus exacerbating the already existing water crisis experienced by the country.[200] Since the early 2000s, the company has received criticism for the use of slavery and child labor in its supply chain, related specifically to its operations in the Ivorian cocoa industry. While certain initiatives have been taken by leading cocoa producers, the occurrence of serious and systematic human rights violations within the industry is still widely reported on.[201] In 2020, a lawsuit was filed against *Nestlé* on the behalf of six Malian nationals, for aiding and abetting child slavery. The US Supreme Court sided with *Nestlé* in June 2021.[202]

At no point has the Council on Ethics published a recommendation concerning *Nestlé*, and mention of the cocoa industry as such is absent from all annual reports published by the Council since its establishment. This does not necessarily mean that neither company nor industry has been investigated by the Council on Ethics, as the Council only publishes recommendations on companies on which NBIM has made a decision. On the contrary, it is likely that the Council has looked into both, in some capacity. In addition, the recent evaluation of the Ethical Guidelines does reference the

---

[200] 'Audit report finds profit margins in bottled water sale unjustified', DAWN, 31 October 2018, https://www.dawn.com/news/1442464, (accessed 15 July 2021).

[201] P. Whoriskey and R. Siegel, 'Cocoa's child laborers', The Washington Post, 5 June 2019, https://www.washingtonpost.com/graphics/2019/business/hershey-nestle-mars-chocolate-child-labor-west-africa/, (accessed 15 July 2021).

[202] *Nestle USA v. John Doe, et al.*, 593 U.S. 19-416 (2021).

cocoa industry but suggests that *active ownership* might be better suited to combat human rights violations within the industry.[203]

Nestlé is interesting mainly because of two characteristics already highlighted, the first of which is related to *size*. Nestlé is a large multinational corporation (MNC), and the largest food company in the world. It is also among the largest equity investments within the GPFG portfolio. Secondly, reliable reports exist of human rights violations either directly or indirectly attributed to the company. Based on these characteristics, it might be grouped together with similar companies within the portfolio, such as *Shell*[204] and *Amazon*.[205] The presence of such companies in the portfolio prompts a discussion on *transparency* and how the Council on Ethics deals with some of the greatest assets within the GPFG portfolio. Larger investments logically involve a greater compromise between ethics and profits should their conduct meet the threshold for exclusion, and it is not immediately obvious that the Fund is willing to make such compromises. Admittedly, without an in-depth study of e.g., the average value of disinvestments compared to the average value of investments, there is little basis to suggest that the most valuable investments within the portfolio get a free pass. But it is certainly one area where lack of transparency has caused questions to be asked about the legitimacy of the Fund's SRI practice, evident as these exact questions have been asked by media and NGOs. As information is first disclosed once a decision is made by NBIM, it remains unbeknownst to the public whether an assessment has been carried out of the conduct of these companies vis-à-vis the criteria set by the Ethical Guidelines. The cases concerning the largest companies might not reach the high thresholds necessary for exclusion, of course, and the significant attention given to such companies by civil society and (Anglocentric) news media – be it *Nestlé*, *Shell* or *Amazon* – does not necessarily correlate to the harm they cause. Yet as one former Council member notes, the presence of such companies – large OECD-based MNCs with questionable reputations – does beg a certain set of

[203] NOU 2020:7, p. 159.

[204] Amnesty International, *The True 'Tragedy': Delays and Failures in Tackling Oil Spills in the Niger Delta*, United Kingdom, 2011, https://www.amnestyusa.org/wp-content/uploads/2017/04/afr440182011en.pdf, (accessed 19 July 2021).

[205] Amnesty International, 'Public Statement: It Is Time For Amazon To Respect Workers' Right to Unionize', 13 October 2020, https://www.amnesty.org/en/latest/research/2020/10/time-for-amazon-to-respect-workers-right-to-unionize/ (accessed 15 July 2021).

questions. A relevant 2005 case involving Wal-Mart should be mentioned. The company was excluded from the GPFG portfolio by the Council on Ethics on grounds related to human rights, a decision that garnered considerable attention in US press at the time. It also led to the US ambassador accused Norway of 'singling out American companies.'[206] While it is difficult to the determine any influence of the case on the Fund's current SRI practice, the case does illustrate how there are non-financial reasons for the Fund not to enforce its guidelines too strictly.[207]

8.5 Saudi Telecom Co.

The Government Pension Fund Global was invested in *Saudi Telecom Co.* from 2015, when it first entered Saudi markets, until 2017. The company is the largest telecommunications company in Saudi Arabia, and among the largest in the region. Notably, the Saudi sovereign wealth fund – the Public Investment Fund (PIF) – owns a 70 percent stake in the company, and as Saudi Crown Prince Mohammed bin Salman acts as chairman of PIF, the company is in practice state-owned. Per December 31, 206, the GPFG owned a 0.04% stake in *Saudi Telecom Co.*, worth north of 14 million USD, or 120 million NOK.[208]

In November 2017, Amnesty International delivered a letter to NBIM implicating *Saudi Telecom Co.* in serious and systematic human right violations, relating specifically to the issue of mass surveillance. As the letter discloses, Saudi Telecom Co. is subject to laws which require it to partake in the Saudi state's mass surveillance of its population. Cellphone and internet surveillance has, as Amnesty inform, led to the arrest a number of journalists and human rights defenders in the country.[209] The letter received substantial

---

[206] M, Landler, 'Norway Keeps Nest Egg From Some U.S. Companies' The New York Times, 4 May 2007, https://www.nytimes.com/2007/05/04/business/worldbusiness/04norway.html?pagewanted=all, (accessed 8 August 2021).
[207] Jensen and Seele, p. 272.
[208] Norges Bank Investment Management, *Saudi Telecom Co.* [website], https://www.nbim.no/en/the-fund/investments/#/2016/investments/equities/4850/Saudi%20Telecom%20Co (accessed 15 July 2021).
[209] Amnesty International Norge, *Faktanotat: Ang investeringen til Statens pensjonsfond Utland i Saudi Telecom Company*, 27 November 2021, https://amnesty.no/sites/default/files/318/Faktanotat_%20NBIM%20-%2027.11.17_1.pdf, (accessed 16 July 2021).

coverage in Norwegian newspapers, and shortly after its publication, NBIM had sold its share in the company.[210]

A few things are noteworthy in relation to the *Saudi Telecom Co.* case. As with the *Raytheon*-case, it exemplifies how the GPFG is held accountable by civil society, and the considerable attention investments made by the Fund often receives from NGOs and news media. This leads to an important discussion on *social accountability* and a publicly perceived responsibility for the Fund and its investments. This discussion will be further explored in the next chapter of this paper.

Secondly, and also related to accountability, the case provides insight into NBIM's own SRI practice. In the case of Saudi Telecom Co., NBIM disinvested not after a recommendation from the Council, but rather at its own behest. As such, it assumed a function normally filled by the Council, but without an equally comprehensive investigation. While process was significantly quicker, the lack of public information on NBIM's internal processes does raise some important concerns related to accountability and transparency.

The letter delivered to NBIM points towards a challenge inherent in the monitoring work of the Council on Ethics, relating specifically to the access to information. As Amnesty International notes, establishing the exact extent to which *Saudi Telecom Co.* is complicit in human rights violations is complicated due to the authoritarian nature of the state in which it operates. Saudi Arabia consistently ranks among the least transparent states in the world on a general basis,[211] and the role of *Saudi Telecom Co*. as a state-controlled company involved in mass surveillance schemes is unlikely to improve matters in this sense. The challenges related to investigating Saudi companies is addressed by the Council on Ethics in a 2018 letter to the Ministry of Finance. Therein, the Council discloses that no Saudi companies have – through domestic news sources – been registered in relation to human rights violations by its news monitoring process.[212] In part, this is addressed in the 2020 review of the Guidelines,

[210] K. Aaser and A. B. Foss, 'Amnesty: Slik investerte Oljefondet i Saudi-Arabias overvåkingsregime', VG, 19 February 2018, https://www.vg.no/nyheter/utenriks/i/zL0wrK/amnesty-slik-investerte-oljefondet-i-saudi-arabias-overvaakingsregime, (accessed 16 July 2021).
[211] NOU 2020:7, p. 136.
[212] Council on Ethics, *Brev til Finansdepartementet: Oppfølging av meldingen Statens pensjonsfond 2018*, 13 November 2018,

where the committee recommends that a lack of information caused by the non-compliance of companies under investigation may contribute towards the *unacceptable risk* threshold.[213] The apparent dearth of information on Saudi companies must necessarily be seen in conjunction with previous discussions on news monitoring, as included in the institutional analysis chapter.

https://www.regjeringen.no/contentassets/7fb88d969ba34ea6a0cd9225b28711a9/oppfolging_meldingen_spu2018.pdf, (accessed 16 July 2021), p. 4.
[213] NOU 2020:7, p. 17.

9 CHALLENGES

This thesis has up until this point made a few key observations regarding the Council on Ethics and its efforts to monitor and investigate companies within the GPFG portfolio. *First*, due to its modest size in relation to the gargantuan fund it monitors, the Council on Ethics lacks complete oversight of the portfolio. For its size, however, it does have considerable resources at hand. *Second*, the Council must contend with certain inherent shortcomings in the tools it employs to monitor the portfolio. However, these shortcomings are to a certain extent mitigated by its diverse sources, and by the Council's own adaptability. *Third*, and importantly, the Council holds considerable sway over NBIM, as recommendations were followed in more than 80 percent of the cases included in the quantitative analysis. *Furthermore*, in order to issue authoritative recommendations, the Council uses a quasi-judicial assessment process that is both time-consuming and resource intensive. While this allows the Council to issue authoritative recommendations that carry normative weight within the investment world and are followed also by other investors, it does limit the Council's quantitative output. *Continuing*, the Council interprets the Ethical Guidelines in a somewhat conservative and predictable matter, to preserve the legitimacy provided to it through parliamentary procedure. Consequently, the Council can be slow to react to new human rights challenges presented by the companies in the portfolio. The threshold for exclusion must also be seen as *high*. *Lastly*, the Council is highly transparent in its assessments of companies within the portfolio, although certain non-negligible holes exist in the junction of Council and NBIM responsibilities. Overall, the GPFG holds an industry-high transparency standard.

All the concerns highlighted here have a profound impact on the overall performance of the Council on Ethics, and thus, the extent to which the Government Pension Fund Global is managed in compliance with the provisions of the Ethical Guidelines. Still, a discussion seems especially pertinent on the relationship between the first observation, relating to *capacity*, and other limitations of the Council.

The discussed limitations to its main source of information impact the Council's ambitions to cover the portfolio in an indiscriminatory and consistent manner and must surely be addressed by the Council. As the institutional analysis should illustrate, however, the Council is aware of these limitations and does take certain mitigating measures, such as employing a range of other sources. In addition, secretariat members will make attempts at following up certain leads more comprehensively by consulting local-language news sources. These measures are not inherently ineffective but is rendered so by the limited capacity of the Council to do this systematically. As such, limitations to the capacity of the Council leaves it increasingly dependent on news monitoring, despite inherent shortcomings.

Similarly, this paper has highlighted certain limitations related to the *process* of the Council, described in the institutional analysis as time-consuming but thorough. Resultingly, recommendations of the Council are followed by NBIM to a relatively high degree. In turn, as the manager of the world's largest sovereign wealth fund, NBIM's disinvestments have potential to influence the investment strategies of other investment funds as well as the broader finance world.[214] This has been framed as somewhat of a conflict, between *meticulous asessment and authoritative recommendations* on one side, and *broad monitoring of the portfolio* on the other. It is faulty, however, to understand this as an inherent conflict rather than a compromise necessitated by not having the capacity to do both.

Instead, this thesis will suggest that a Council on Ethics with increased capacity would be able to maintain the authoritative character of its recommendations while also monitoring the companies within the portfolio in a more comprehensive manner. In this sense, *capacity* should relate specifically to the number of employees within the secretariat – the Council's full-time arm with considerable responsibilities related to investigating and monitoring companies – as well as their professional competencies.

A few concerns related to *transparency* should also be discussed further, although an overall assessment of the level of transparency within the GPFG SRI structure entails certain complications. As mentioned, and relevant for context, the GPFG is consistently ranked among the most transparent SWFs in the world. The Council on Ethics only publishes information on investigations and subsequent recommendations once a decision

---

[214] H. W. Nagell, 'Investor responsibility and Norway's Government Pension Fund – Global', Nordic Journal of Applied Ethics, vol. 5, no. 1, 2011, p. 90.

has been made by NBIM, and the underlying rationale appears fair: GPFG bodies should be in unison when publishing information that will have a measurable impact on companies and financial markets. As such, the most glaring concern related to transparency remains the lack of insight into NBIM decision-making, although increased transparency on Council operations should also be seen as desirable due to how it might positively impact *legitimacy* and *social accountability*.

Returning to the research question, a few important obstacles obstruct our arrival at a satisfying yet concise conclusion. This thesis has sought to assess the human rights compliance of the Norwegian oil fund, and has hopefully succeeded in highlighting a few strengths and weaknesses in its SRI structure, but determining the exact extent of compliance is difficult for a few reasons. As mentioned, the basis for comparison is scant, in part due to the heterogenous nature of the 'sovereign wealth fund' category. Entities herein represent different ambitions, investment strategies, and institutional structures, and are embedded in markedly different historical and political contexts. A comparative study of the Norwegian GPFG and e.g., the Saudi PIC, might in some respects prove insightful, but comparisons with funds owned and managed by authoritarian regimes runs the risk of portraying the GPFG as undeservedly responsible. Comparisons with its peers – the literature often suggest the New Zealand Superannuation Fund as a similarly high SRI performer – could certainly have value, but this particular group of sovereign wealth funds has a limited membership. In addition, the previous chapter on the human rights framework concerning sovereign wealth funds and institutional investors should hopefully have highlighted its inherent weaknesses. As primarily private-sector initiatives based on self-regulation, their usefulness as a yardstick for measuring the SWFs level of social responsibility has limitations. Based on these few observations, the focus of this chapter will remain on the specificities of the GPFG and its Council on Ethics, as it seeks to discuss a few central challenges to its operations – challenges that have been highlighted in the literature, in previous parts of the study and in the interviews with former and current Council members. By examining these central challenges, this chapter will offer some underlying explanations of the GPFG's socially responsible investment practice, as laid out in chapter 2.1.

9.1 Legitimacy

As highlighted in the institutional analysis, and exemplified by the *Raytheon*-case, the Council on Ethics adheres to a conservative interpretation of the Ethical Guidelines, meaning that the Guidelines are not a particularly flexible instrument. Instead, the Government Pension Fund Global seeks to address gaps in its framework through parliamentary procedure, making it at times slow to react to emerging challenges. This ties into a broader discussion on the *legitimacy*, relating specifically to how the Fund's SRI practice is perceived by the general public and how such considerations impact the work of the Council. As sovereign wealth funds exist as hybrid public-private institutions, the GPFG is in certain ways perceived as a public institution by civil society, and as such, its existence is justified by public legitimacy. As scholars have noted, the Fund does seemingly enjoy a great deal of legitimacy in Norwegian society, and this is linked to how the Fund appears to represent, and transpose, what is seen as public values.[215]

Yet the legitimacy currently enjoyed by the Fund and its practice of socially responsible investing is far from unconditional. Instead, there is great contention surrounding the extent to which SRI should be practiced. A conversation between current and former finance ministers on the 25th anniversary of the Fund illustrates this. During the brief discussion, current minister Siv Jensen (from right-wing "Progress Party") express concerns about politicization of the Fund through far-reaching SRI provisions, while former minister Kristin Halvorson ("the Socialist Party") emphasized the importance of excluding the "worst" companies within the portfolio.[216] What is interesting about this exchange is that, while exposing the diverging positions on SRI practice across the Norwegian political party system, it also reveals a common starting point that is very much in line with previous discussions on neoliberal understandings of corporate behavior. The concern – which is validated by various calls for the Fund to reel in its responsible investment practice – is that a too radical approach could impact its broad popular legitimacy. To this point, the importance of having political support behind its interpretation of the Guidelines was emphasized also by one member of the Council.[217]

[215] G. L. Clark and A. Monk, 'The legitimacy and governance of Norway's sovereign wealth fund: the ethics of global investment', Environment and Planning A, vol. 42, no. 7, 2010(b), pp. 1735-1736.
[216] 'Oljefondet 25 år' [online video]
[217] Hellestveit.

Returning to the previous statement, *representation and transposition of public values* does not exponentially relate to legitimacy, but should rather be understood as a minimum threshold that, when reached, grants the institution moral legitimacy. Against this contextual backdrop, the Council on Ethics exercises its mandate in a manner that preserves the public legitimacy on which it rests. As such, the present discussion aims to contextualize the observation that the Council relies on a conservative interpretation of the Ethical Guidelines as well as its hesitancy to expand its scope without parliamentary consensus.

One dimension of the public discourse surrounding the GPFG and commitments to SRI is commonly framed in terms of *politicization*, negatively understood as the pursuit of foreign policy objectives through an increased ESG focus within the Fund's investments strategy. Through this framing, endeavors to strengthen the Ethical Guidelines is often opposed, either completely or partly. We find an example of this in the discussion between Kristin Halvorsen and Siv Jensen, where the latter warns against this development.[218] A quick web search should reveal that the examples are many, and that they are not exclusively linked to any side of the political party spectrum. Admittedly, there appears to be an increase in calls *for* some form of politicization of the GPFG,[219] but reactions indicate that consensus for an *apolitical* fund remains. Under its current representation, however, this notion should be rejected. *Politicization* implies that the GPFG exists outside of the domain of politics, but as Sheehy demonstrates, the Fund has never been *apolitical*. Rather, the understanding of the Fund as *apolitical* is the product of a distinctly right-wing economic philosophy. In a Friedmanian sense, corporations should concern themselves only with maximization of profits, as this has inherent moral value, and as such, demands for corporate social responsibility might be rejected.[220]

218 'Oljefondet 25 år'
219 A. Hermstad, 'Oljefondet er politisk', Aftenposten, 5 May 2015, https://www.aftenposten.no/meninger/debatt/i/WakG/oljefondet-er-politisk, (accessed 18 July 2021); N. Rydne, 'Støre på klimakonferanse: – Vi må venne oss til å si at vårt pensjonsfond er et politisk redskap', Dagens Næringsliv, 6 November 2019, https://www.dn.no/olje/olje/oljefondet/politikk/store-pa-klimakonferanse-vi-ma-venne-oss-til-a-si-at-vart-pensjonsfond-er-et-politisk-redskap/2-1-701996, (accessed 18 July 2021).
220 Sheehy, 2015, p. 627.

Keeping in mind previous discussions on the neoliberal corporation, and in particular Connell's observation that 'neoliberalism is the common sense of our era,' the idea of *politicization* itself appear political.[221] But while the premise is faulty, there is of course validity to concerns that the Fund could be used to pursue specific aims of the party politics of the day, compromising its operational independence and long-term strategy. And while these discussions are necessary due to the legitimacy public participation and *social accountability* gives to the Fund, it is important do understand the premise on which they are based. Furthermore, in relation to the observations about how the Council interprets and adapts its mandate, it provides important context.

Legitimacy has further relevance when returning to the case of *Nestlé*, a large MNC of particular financial importance to the Fund, on which reliable reports of human rights violations have been produced. Keeping in mind the previous discussion, corporations such as *Nestlé* represent somewhat of tightrope. Due to their size, these corporation attract massive attention for their conduct, attention that extends to the GPFG through its significant investments. On one side, the Fund must contend with how the presence of such companies within the portfolio might negatively impact *legitimacy*, as their presence might be publicly perceived as a failure to monitor the portfolio in a consistent and indiscriminate manner. On the other hand, the exclusion of high-profile companies might draw considerable attention to the GPFG and its SRI practice, as illustrated by its 2005 disinvestment from *Wal-Mart*. With the potential of inciting debates of 'politicization', such disinvestments may represent a *political risk* to the institution.[222]

Tying into the broader discussion on legitimacy, this thesis has so far suggested *social accountability* as an informal but important component to the Fund's SRI infrastructure. As per Fox' understanding, *social accountability* relates to the direct political processes through which civil society engages with and holds accountable its public institutions.[223]

---

[221] Connell, p. 22.
[222] S. Grünenfelder, 'Understanding and Managing Political Risks of Sovereign Wealth Funds' Doctoral dissertation, University of St. Gallen, 2013, pp. 96-97.
[223] J. A. Fox, 'Social Accountability: What Does the Evidence Really Say?', *World Development*, vol. 72, 2015, p. 346.

The process involves civil society actors, such as media and civil society organizations (CSOs) but also individuals, and to work effectively depends on institutional transparency and constructive engagement between civil society and the state.[224] The process is exemplified by the cases of *Raytheon* and *Saudi Telecom Co.*, as perceived accountability gaps were addressed by media and civil society organizations, eventually leading to institutional change. News media and civil society reports are important sources of information for the Council on Ethics, and organizations and individuals are free to approach the Council directly with allegations towards companies within the portfolio. As such, civic actors are included even in the initial stages of the work of the Council. In the case of the GPFG, *social accountability* is facilitated by the high degree of transparency within the institution, as the public has readily available information on all companies in which the Fund is invested. As Ackerman demonstrates, active participation of civil society has the potential of positively impacting how effectively the institution carries out its responsibilities, and the GPFG appear to illustrate this.[225] Through the framing of social accountability, we thus see that transparency allows the public to fill gaps left by the Council's limited capacity, contributing to the overall effectiveness of the institution in monitoring the portfolio and enforcing its Ethical Guidelines.

9.2 Institutional overlap

The GPFG aims to practice corporate social responsibility through the functions of its two main bodies, NBIM and the Council on Ethics, and for the most part, the two bodies fill different but complementary functions. NBIM, through its exercise of active ownership, aims to influence the conduct of companies within the portfolio, relating the ESG criteria established in its expectation documents. Meanwhile, the Council monitors the portfolio in order to exclude (or put on observation) any companies whose product or conduct meet the criteria set in the Ethical Guidelines. As demonstrated, however, there

---

[224] C. Malena, R. Forster, and J. Singh, 'Social Accountability: An Introduction to the Concept and Emerging Practice', *Social Development Papers*, No. 76, Washington, D.C., World Bank, 2004, pp. 13-14.
[225] J. M. Ackerman, 'Social Accountability in the Public Sector: A Conceptual Discussion', *Social Development Papers*, No. 82, Washington, D.C., World Bank, 2005, pp. 22-23.

is a considerable overlap between the functions of the two bodies. Using Hofmann's model for institutional overlap, this relates specifically to the provisions and interpretations of their respective *mandates*.[226] The cases of *UPL* and *Evergreen Marine* in particular demonstrate this overlap, as they highlight how the Council, during its assessments, seeks to influence company conduct through dialogue, bearing resemblance to certain aspects of NBIM's active ownership mechanism. Similarly, NBIM might exercise certain functions normally reserved to the Council on Ethics by independently assessing companies for exclusion, as seen in the case of *Saudi Telecom Co*.

While overlapping mandates can have its merits and potentially fill accountability gaps within the SRI structure, it is interesting when seen in conjunction with a few recent developments. In 2013, a committee appointed by the Ministry of Finance delivered its recommendation that CE functions should be taken over by Norges Bank, thus ending the three-party division between Norges Bank, the Ministry of Finance, and the Council on Ethics.[227] The recommendation was endorsed by the government and Finance Minister Siv Jensen,[228] but was met with a general skepticism from civil society as well as from then-Council on Ethics chair Ola Mestad and former chair Gro Nystuen.[229] Importantly, the proposal met opposition among most parties in the Storting, and the Council remained independent, but a compromise is seen in the 2015 restructuring, where final decision on exclusions were shifted from the Ministry of Finance to NBIM.

This is significant for a few reasons. First, it ties into previous discussion on legitimacy, and provides context for understanding the somewhat careful nature of the Council, as previously discussed. Essentially, the debate surrounding the Council in 2014 illustrates that support for the Council is not unconditional. Secondly, it is noteworthy

[226] S. C. Hofmann, 'Overlapping Institutions in the Realm of International Security: The Case of NATO and ESDP', *Perspectives on Politics*, vol. 7, no. 1, 2009, p. 46.
[227] Ministry of Finance, 'Forvaltningen av Statens pensjonsfond i 2013, Meld. St. 19 (2013-2014)', https://www.regjeringen.no/contentassets/5434cb3d2ff04441a21a2c9b1d55ea06/no/pdfs/stm201320140019000dddpdfs.pdf, (accessed 18 July 2021).
[228] S. Jensen, 'Ansvarlig forvaltning', Dagens Næringsliv, 3 April 2014, https://www.dn.no/kronikk/debatt/norges-bank/oljefondet/ansvarlig-forvaltning/1-1-5080290, (accessed 18 July 2021).
[229] Å. Langved, 'Advarer mot mindre innsyn', Dagens Næringsliv, 14 March 2014, https://www.dn.no/advarer-mot-mindre-innsyn/1-1-5062268, (accessed 18 July 2021); T. Tollersrud, 'Tidligere etikksjef skeptisk til nedleggelse', NRK, 5 April 2014, https://www.nrk.no/norge/etikksjef-skeptisk-til-nedleggelse-1.11651991, (accessed 18 July 2021).

when seen in context of an NBIM that appears to broaden the scope of its responsibilities. In addition to independent assessments, the NBIM increasingly take independent considerations in the realm of corporate social responsibility, among them assessments of areas and industries where investment risks are considerable.[230] Keeping in mind the lack of insight into NBIM operations, it does appear to increase its commitment to SRI in line with broader developments within the world of finance. While this in itself must be seen as positive, it leads us to a question regarding the future of the Council on Ethics, when seen in relation to the previous call for NBIM to take on all Council responsibilities. Considering also the vast contrast in capacities between the two bodies, a challenge could potentially emerge in what might be described as an *institutional encroachment* by NBIM. While procedural subsumption of the Council failed to pass the Storting, a scenario could potentially unfold in the future where NBIM takes on increased SRI responsibilities, which would diminish the perceived role of the Council. Coming from the position that the independence of the Council is paramount to the GPFG SRI practice, such an *encroachment* must necessarily be understood as considerable challenge.

9.3 Normative impact

A less explicit but nonetheless important function of the GPFG and its socially responsible investment practice is its normative impact on the world of finance. As the largest sovereign wealth fund in the world, GPFG investments are followed closely by other investment funds, and resultingly have a significant *signaling effect*.[231] Most clearly, this signaling effect is observable in the direct conduct of other funds and their investment choices, but by extension, it has an impact on the broader development of international norms relating to SRI and CSR. In this sense, the Ethical Guidelines are conditions not only for inclusion into the GPFG, but also contribute to establishing ethical norms regarding what should be considered a responsible investment. As such, the ethics framework of the GPFG sees itself as lending its normative authority to financial markets

[230] Goyer, 2021.
[231] Nagell, p. 92.

abroad, thusly described as 'internationalized national law.'[232] Its actual influence is of course contestable as it is hard to assess its exact extent, but it is of significance that the Fund itself sees this as part of its mission, as reflected in all four interviews and explicitly stated in section 4-3(1) of the *management mandate of the GPFG*.

This extraterritorial transposition of norms is facilitated in part by the quasi-judicial processes of the Council on Ethics, as discussed in previous sections. By issuing authoritative recommendations based on thorough investigations, norm transposition becomes a central feature of Council operations, if only implicitly. The Council is clearly aware of this responsibility, as this specific function was highlighted by all interviewees.[233] We might then seek to understand the Council on Ethics (and by extension, the GPFG) not only in relation to its explicit responsibilities as they are prescribed by its mandate, but also through its role as an active contributor to a global normative framework. In doing so, a few observations might be made, the first being that *transparency* has merit also in how it grants legitimacy to the Fund's SRI practice in the eyes of external actors. Secondly, its underlying objective of contributing to the normative framework may help us better understand the Council's apparent preference for sector-wide assessments at the expense of *reach*, as thorough assessments of specific sectors and their industry standards will likely be of greater value from a normative perspective than isolated, single-company assessments.

Briefly examining the findings of this paper against the objective of transposing ethical norms highlights a dual nature of CE accountability. As has been a primary focus of this paper, the Council must act as an institution within the Norwegian state, accountable to civil society and domestic politics. What this section has aimed to demonstrate, is that it simultaneously assumes responsibilities related to its position in the finance world, to the investors and corporate institutions on which its normative authority is transposed. The GPFG's extraterritorial responsibilities are further explained by returning to previous sections on *universal ownership*. As a universal owner, the GPFG is invested broadly in the equity market, and consequently has a vested economic interest

[232] Backer, 2013, p. 49.
[233] Goyer, 2021; Hellestveit; Slettemark; Thornes.

in preserving the health of the global economy.[234] As such, the ambition to contribute towards the establishment of normative frameworks appears a logical continuation of responsibilities already assumed through its role as a universal owner.

[234] Hawley and Williams, p. 3.

10 CONCLUSIONS

So, does the Norwegian oil fund succeed in doing *good* while doing *well*? The present paper has strived to answer the following research question: ‘to what extent does the Government Pension Fund Global comply with relevant human rights standards?’ This has been operationalized through a three-level analysis focused mainly on the Council on Ethics. Examining the findings of all levels of analysis – institutional, quantitative, and case study – reveals that, while the Council holds considerable authority within the GPFG, it is likely too small to comprehensively carry out its duties vis-à-vis its mandate. Other challenges have rightly been highlighted, and while non-negligible, this paper maintains that the primary challenge of the Council relates to its *capacity*. Primarily, its limited capacity denies the Council sufficient oversight of the – admittedly large – GPFG portfolio. Consequently, an unknown but likely large number of companies remain in the portfolio despite their contribution to or complicity in serious or systematic human rights violations. Even as the portfolio size in the future is limited to around 6,000 companies, without evidence to the contrary it seems reasonable to assume that these issues will persist.[235] In some cases, other challenges are exacerbated or at least not sufficiently mitigated as a result of the Council’s limited capacity. Similarly, its thorough assessment of companies should not be understood as a weakness in itself, but due to capacity constraints, this is allowed by compromising its qualitative output.

Despite the above observations, the Norwegian oil fund and its practice of socially responsible investing escapes easy assessment – and likely does so by design. As the *Ethical Guidelines* establish the criteria for exclusion and observation, they fail to posit an explicit *objective*. The absence of such an objective has important implications for how we might assess the work of the Council. The Fund commits to ‘responsible investment’, but its own guidelines are vague on what it is ‘responsible’ means within the context of the Fund. Without knowing what this commitment entails, it is difficult to assess the Fund’s efforts towards this commitment.

[235] K. M. Hovland, ‘Vil at Oljefondet skal eie færre selskaper’, E24, 9 April 2021, https://e24.no/boers-og-finans/i/6zQLnO/vil-at-oljefondet-skal-eie-faerre-selskaper, (accessed 19 July 2021).

If we characterize the Oil fund's framework for socially responsible investing as *vague* and *non-prescriptive*, these characteristics should surely be seen in light of a similarly non-prescriptive global SRI framework. John Ruggie noted in 2008 that monumental challenges exist in the realm of business and human rights, and despite the proliferation of human rights and SRI instruments in the field, his observation does not appear any less true today.[236] The most powerful actors of our time are not states, but rather transnational corporations, a power rearrangement facilitated by governance gaps left by rapid globalization. As such, human rights and climate is rendered collateral damage in an ideologically encouraged pursuit of profit maximalization. Violations are reported at all levels of the supply chain and relate to a broad set of rights – labor rights, children's rights, rights of indigenous peoples, to name a few. While recognizing the considerable progress made in recent years in the realm of business and human rights, most approaches appear insufficient towards this background. Hopefully, this has been sufficiently illustrated in Chapter 5. As Nilsen contends, through self-regulating instruments, the corporate world has adopted an approach to human rights and climate based on 'overlapping consensus' between stakeholders – an 'overlapping consensus' that blocks the road for a value-based approach to human rights in the sphere of business.[237]

At the same time, the Government Pension Fund Global is faced with certain challenges as a political institution embedded in Norwegian society. Pertaining to sociological conceptualizations of *legitimac*y, the GPFG and its practice of socially responsible investing is legitimate as long as the public gives implicit support to its functions.[238] This seems to be reflected in the work of the Council, specifically in its conservative interpretation of the Ethical Guidelines, as the Council aims to *play it safe*. Concern for public perception was expressed also by interviewees, giving support to the observation that the Council are attentive to how its work is perceived by civil society. This is not

[236] Ruggie, pp. 3-6.
[237] H. R. Nilsen, 'Overlapping consensus versus discourse in climate change policy: The case of Norway's Sovereign Wealth Fund', *Environmental Science & Policy*, vol. 13, no. 2, 2010, p. 128.
[238] A. Levitov, 'Normative Legitimacy and the State', Oxford Handbooks Online, 2016, https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199935307.001.0001/oxfordhb-9780199935307-e-131?print=pdf, (accessed 9 August 2021).

inherently an issue, of course, as all state institutions to a varying degree rely on public legitimacy. However, as previous chapters have sought to demonstrate, public legitimacy in the context of the GPFG and SRI is linked to neoliberal conceptualizations of corporate behavior – it is the lens through which the public sees the Fund. As such, a rather fundamental obstacle to human rights compliance is represented by the widespread belief in *amoral* corporations. If we accept that public perception of socially responsible investing is based on ideological foundations that inherently oppose such notions, and that legitimacy is important to the Fund's SRI practice, it logically leads us to the observation that *too much ethics* could undermine the operations of the Council.

While this study has aimed to approach the research question both generally and comprehensively, dimensions of the Fund's SRI practice remain that deserve further examination. A few of the sort should be mentioned. First, a comprehensive analysis of NBIM's active ownership mechanism and its effectiveness in changing company conduct would be highly beneficial to the overall SRI assessment of the Fund. Relatedly, quantitative assessments of the normative impact of disinvestments would be equally welcome, both in general and in the context of the Council on Ethics.

We should also consider a thought experiment by influential philosopher Kwame Anthony Appiah.[239] Relating specifically to disinvestment debates on South Africa, Appiah suggests that mere association with the Apartheid regime through investments may *taint* our morality, regardless of whether disinvestments are likely to have economic or political implications. In more practical terms, such association could give moral legitimacy to the system. Exported to the context of the GPFG, one particular concern becomes apparent: by remaining invested in companies contributing to or complicit in human rights violations, the GPFG could give moral legitimacy to said companies. But more importantly, an approach that more or less allows continued investment in such companies could give moral legitimacy to a human rights framework that fails to put

[239] K. A. Appiah, 'Racism and Moral Pollution', *The Philosophical Forum*, vol. 18, no. 2-3, 1986, pp. 185-202.

rights first, as its only mechanisms are dialogue and disinvestment from only the very worst companies.

Based on these discussions, the thesis will propose the following conclusions, with the aim of answering its research question: Based on the assessments of scholarly literature as well as recognized rankings, the Norwegian oil fund comply with human rights to a great extent, *relative to other sovereign wealth funds and the relevant normative human rights framework*. However, this framework has significant weaknesses compared to the human rights frameworks which exist in other fields, and while effective in encouraging *commitment* to human rights, it is considerably less effective in following up on such commitments. The *Ethical Guidelines* of the GPFG represent no departure from this approach, signaling a commitment to human rights but not too much more due to their non-prescriptive nature. The Council on Ethics – a small body tasked with monitoring the much larger portfolio – seems to illustrate this, as its limited capacity prevents comprehensive monitoring.

A few recommendations will be proposed and discussed. In the context of SWF best-practice, the Fund has a number of strengths. As such, any recommendations should take aim at maintaining, and even empower, these strengths while simultaneously mitigating any weaknesses. On this basis, the most imperative recommendation relates to the Council's *capacity*. This paper maintains that a Council with increased capacities would succeed in more comprehensively monitoring the GPFG portfolio and excluding companies whose conduct does not comply with the *Ethical Guidelines*. In addition, it is likely that a larger secretariat, with competencies and networks related to different fields, regions, and issues, could more effectively mitigate the challenges associated with its news monitoring. It would also allow the Council to issue authoritative recommendations without compromising its *reach*. As the quantitative analysis has aimed to demonstrate, the Council has a demonstrable influence over the Fund's management, as recommendations are followed in most cases. If an expanded Council is able to maintain the same level of influence at a larger scope, it could have a significant impact on the

Fund's SRI practice. In the event of continued encroachment by NBIM, a larger Council could also prove less likely to be subsumed by NBIM.

Over the past few years, Amnesty International has consistently urged the Storing to implement a *pre-screening* process into the Government Pension Fund Global's investment practice.[240] The proposal has been endorsed by civil society actors and left-wing politicians.[241] Although different models of norm-based pre-screening exist, this would likely entail a database where companies are ranked based on their commitments to ESG criteria. The review committee did not assess pre-screening in its 2020 review of the Ethical Guidelines, but the various indexes used for this has been cited as unreliable.[242] The merits of pre-screening seem apparent, and if implemented efficiently, it should have the potential to assist the Council on Ethics in its work relating to the Fund's SRI commitments. However, a concern related to this is that suboptimal ESG indexes could put additional strains on the operations of the Council. Maintaining that capacity constraints constitute the Council's greatest challenge, if this is process is not fully automated, but must be complemented by human labor, this could affect NBIM's investment strategies and as such, would require an assessment of the potential financial costs. Due to the nature of this paper, such assessments are outside of its scope.

On a more fundamental level, however, the GPFG should adopt a human rights-based approach to investing where SRI strategies are incorporated into all levels of its investment operations – in essence, making human rights and socially responsible investing more than an afterthought. As of now, it seems like the Oil fund has assessed its surroundings and settled on doing *good enough*.

---

[240] Amnesty International Norge, *Argumentsamling oljefondet 2021*, 16 March 2021, https://amnesty.no/sites/default/files/vedlegg/amnestys_argumentsamling_oljefond_2021.pdf, (accessed 19 July 2021).
[241] T. Spence, 'SV ønsker regler som luker ut «verstingene» før Oljefondet investerer', Aftenposten, 21 September 2020, https://www.aftenposten.no/norge/politikk/i/0KEge0/sv-oensker-regler-som-luker-ut-verstingene-foer-oljefondet-investerer, (accessed 19 July 2021).
[242] Hovland.

BIBLIOGRAPHY

Interviews

Goyer, P. R., Interview, Oslo, 9 June 2021.

Hellestveit, C., Interview, Oslo, 08 July 2021.

Slettemark, G., Interview, Oslo 17 June 2021.

Thorsnes, I., Interview, Oslo, 23 June 2021.

Legislation

ILO C138 Minimum Age Convention (adopted 26 June 1973, entered into force 19 June 1976).

Retningslinjer for observasjon og utelukkelse fra Statens pensjonsfond utland, 2014, https://lovdata.no/dokument/INS/forskrift/2014-12-18-1793?q=etikkr%C3%A5det.

> Guidelines for observation and exclusion from the Government Pension Fund Global [unofficial English version], https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2019/12/guidelines-for-observation-and-exclusion-from-the-gpfg-01.09.2019.pdf,(accessed 31 July 2021.)

Mandat for forvaltningen av Statens pensjonsfond utland, 2010, https://lovdata.no/dokument/INS/forskrift/2010-11-08-1414.

> *Management mandate for the Government Pension Fund Global* [unofficial English version], https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/gpfg-management-mandate-30.11.2019.pdf, (accessed 5 August 2021).

Bibliography

Aalbers, M. B, ‘Neoliberalism is Dead... Long Live Neoliberalism!’, *International Journal of Urban and Regional Research*, vol. 37, no. 3, 2013, pp. 1083-1090.

Aaser, K. and A. B. Foss, ‘Amnesty: Slik investerte Oljefondet i Saudi-Arabias overvåkingsregime’, VG, 19 February 2018, https://www.vg.no/nyheter/utenriks/i/zL0wrK/amnesty-slik-investerte-oljefondet-i-saudi-arabias-overvaakingsregime, (accessed 16 July 2021).

Ackerman, J. M., ‘Social Accountability in the Public Sector: A Conceptual Discussion’, *Social Development Papers*, No. 82, Washington, D.C., World Bank, 2005.

Ahmed, I., ‘Towards a Safe and Sustainable Industry of Ship Breaking: International Initiatives and South Asian Response’, *Journal of Maritime Law & Commerce*, vol. 51, no. 3, 2020, pp. 187-234.

Amar, J., C. Lecourt and V. Kinon, ‘Is the emergence of new sovereign wealth funds a fashion phenomenon?’ *Review of World Economics*, vol. 154, no. 4, 2018, pp. 835-873.

American Investment Council [website]

Guidelines for Responsible Investing, https://www.investmentcouncil.org/guidelines-for-responsible-investing/, (accessed 6 August 2021).

About the AIC, https://www.investmentcouncil.org/the-council/about-the-council/, (accessed 6 August 2021).

Amnesty International, *The True ‘Tragedy’: Delays and Failures in Tackling Oil Spills in the Niger Delta*, United Kingdom, 2011, https://www.amnestyusa.org/wp-content/uploads/2017/04/afr440182011en.pdf, (accessed 19 July 2021).

Amnesty International Norge, *Argumentsamling oljefondet 2021*, 16 March 2021, https://amnesty.no/sites/default/files/vedlegg/amnestys_argumentsamling_oljefond_2021.pdf, (accessed 19 July 2021).

Amnesty International Norge, *Faktanotat: Ang investeringen til Statens pensjonsfond Utland i Saudi Telecom Company*, 27 November 2021, https://amnesty.no/sites/default/files/318/Faktanotat_%20NBIM%20-%2027.11.17_1.pdf, (accessed 16 July 2021).

Amnesty International, 'Public Statement: It Is Time For Amazon To Respect Workers' Right to Unionize', 13 October 2020, https://www.amnesty.org/en/latest/research/2020/10/time-for-amazon-to-respect-workers-right-to-unionize/ (accessed 15 July 2021).

Appiah, K. A., 'Racism and Moral Pollution', *The Philosophical Forum*, vol. 18, no. 2-3, 1986, pp. 185-202.

'Audit report finds profit margins in bottled water sale unjustified', DAWN, 31 October 2018, https://www.dawn.com/news/1442464, (accessed 15 July 2021).

Backer, L., 'Sovereign Investing in Times of Crisis: Global Regulation of Sovereign Wealth Funds, State Owned Enterprises and the Chinese Experience', *Transnational Law & Contemporary Problems*, vol. 19, no. 1, 2009, pp. 101-294.

Backer, L., 'Sovereign Investing and Markets-Based Transnational Rule of Law Building: The Norwegian Sovereign Wealth Fund in Global Markets', *American University International Law Review*, vol. 29, no. 1, 2013, pp. 1-122.

Bandi, N., 'United Nations Global Compact: Impact and its Critics', *Covalence Analyst Papers*, Geneva, 2007, pp. 2-3.

Behrendt, S., 'Sovereign Wealth Funds in Nondemocratic Countries: Financing Entrenchment or Change?', *Journal of International Affairs*, vol. 65, no. 1, 2011, pp. 65-78.

Bijlmakers, S., 'Business and human rights governance and democratic legitimacy: the UN "Protect, Respect and Remedy" Framework and the Guiding Principles', *Innovation: The European Journal of Social Science Research*, vol. 26, no. 3, 2013, pp. 288-301.

Bismuth, R., 'The Santiago Principles for Sovereign Wealth Funds: The Shortcomings and the Futility of Self-Regulation', *European Business Law Review*, vol. 28, no. 1, 2017, pp. 69-88.

Bonfanti, A. and M. Bordignon “Seafood from Slaves’: The Pulitzer Prize in the Light of the UN Guiding Principles on Business and Human Rights’, *Global Policy,* vol. 8, no. 4, 2017, pp. 498–504.

Borchgrevink, A. S., *Giganten: fra Statoil til Equinor*, Oslo, Kagge forlag, 2019.
Bryman, A., *Social Research Methods 4th Edition,* Oxford, Oxford University Press, 2012.

Butt, S., A. Shivdasani, C. Stendevad et al., ‘Sovereign Wealth Funds: A Growing Global Force in Corporate Finance’, *Journal of Applied Corporate Finance,* vol. 19, no. 1, 2007, pp. 73-83.

Caner M. and T. Grennes, ‘Sovereign Wealth Funds: The Norwegian Experience’, *The World Economy,* vol. 33, no. 4, 2010, pp. 597-614.

Capapé, J. and T. Guerrero, ‘More Layers Than An Onion: Looking For A Definition Sovereign Wealth Funds’, *ESADE Business School Research Paper No. 21,* 2013.

Cernic, J. L., ‘Corporate responsibility for human rights: A critical analysis of the OECD guidelines for multinational enterprises’, *Hanse Law Review*, vol. 4, no. 1, 2008, pp. 71–100.

Clark G. L. and R. Urwin, ‘Best-practice pension fund governance’, *Journal of Asset Management,* vol. 9, no. 1, 2008, pp. 2-21.

Clark, G. L. and A. Monk, ‘The Norwegian Government Pension Fund: Ethics over Efficiency’, *Rotman International Journal of Pension Management*, vol. 3, no. 1, 2010(a), pp. 14-19.

Clark, G. L. and A. Monk, ‘The legitimacy and governance of Norway's sovereign wealth fund: the ethics of global investment’, Environment and Planning A, vol. 42, no. 7, 2010(b), pp. 1723-1738.

Connell, R., ‘Understanding Neoliberalism’, in S. Braedley and M. Luxton (eds.), *Neoliberalism and Everyday Life,* Montréal, McGill-Queen’s University Press, 2010, pp. 22-36.
Contreras, G., J. W. B. Bos, and S. Kleimeier, ‘Self-regulation in sustainable finance: The adoption of the Equator Principles’, *World Development*, vol. 122, 2019, pp. 306-324.

Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2015,https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2017/02/Etikkraadet_AR_2015_web-1.pdf, (accessed 31 July 2021).*

Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2016,https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2017/03/Etikkraadet_annual_report_2016_web.pdf, (accessed 31 July 2021).*

Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2017,https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2018/03/Etikkradet_arsmelding_2017_eng_UU.pdf, (accessed 31 July 2021).*

Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2018,https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2021/04/Etikkradet_Annual-report_2018_UU_V2.pdf, (accessed 31 July 2021).*

Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2019,https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2021/04/Etikkradet_arsmelding_2019_engelsk_UU_V2.pdf, (accessed 31 July 2021).*

Council on Ethics for the Norwegian Government Pension Fund Global, *Annual report 2020*,https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2021/04/Etikkradet_arsmelding_2020_engelsk_UU_V2-%E2%80%93-Kopi.pdf, (accessed 31 July 2021).

Council on Ethics for the Norwegian Government Pension Fund Global, *Brev til Finansdepartementet: Oppfølging av meldingen Statens pensjonsfond 2018*, 13 November 2018, https://www.regjeringen.no/contentassets/7fb88d969ba34ea6a0cd9225b28711a9/oppfolging_meldingen_spu2018.pdf, (accessed 16 July 2021).

Crouch, C., *The strange non-death of neoliberalism*, Cambridge, Polity, 2011.

Cumming, D., I. Filatotchev, J. Reinecke et al., 'Introducing Sovereign Wealth Funds', in D. Cumming, I. Filatotchev, J. Reinecke et al. (eds.), *The Oxford Handbook of Sovereign Wealth Funds*, Oxford, Oxford University Press, 2017, pp. 3-15.

Curzio, A. Q, and V. Miceli, *Sovereign Wealth Funds: A complete guide to state-owned investment funds*, Petersfield, Harriman House, 2010.

Dai, X., ‘The ‘Compliance Gap’ and the Efficacy of International Human Rights Institutions’, in T. Risse, S. C. Ropp and K. Sikkink (eds.), *The Persistent Power of Human Rights: From Commitment to Compliance,* Cambridge, Cambridge University Press, 2013, pp. 85-102.

De Mateo, R. and L. Bergés, ‘Media and journalism inside the systemic crisis’, in V. Marinescu and S. Branea (eds.), *Media Discourses About Crisis,* Bucharest, University of Bucharest, 2013, pp. 14-34.

Deva, S., ‘Treating human rights lightly: a critique of the consensus rhetoric and the language employed by the Guiding Principles’, in S. Deva and D. Bilchitz (eds.), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, Cambridge, Cambridge University Press, 2013, pp. 78-104.

Doyle, A., ‘Norway urges Exxon, not Statoil Hydro, to cut CO2’, Reuters, 23 April 2008, https://www.reuters.com/article/us-climate-norway-exxon-idUKL2162720320080423, (accessed 2 August 2021).

The Equator Principles Association, *The Equator Principles EP4*, July 2020, https://equator-principles.com/wp-content/uploads/2020/05/The-Equator-Principles-July-2020-v2.pdf, (accessed 6 August 2021).

European Commission, *EU taxonomy for sustainable activities* [website], https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en#what, (accessed 4 August 2021).

Fichter, J. and E. M. Heemskerk, ‘The New Permanent Universal Owners: Index funds, patient capital, and the distinction between feeble and forceful stewardship’, *Economy and Society*, vol. 49, no. 4, 2020, pp. 493-515.

Fox, J. A., ‘Social Accountability: What Does the Evidence Really Say?’, *World Development*, vol. 72, 2015, pp. 346-361.

Flølo, S. H., *Divesting from ‘Dirty Business’: Investing in Human Rights?*, MA thesis, University of Oslo, 2017.

Freedom House, *Freedom and the Media 2019: A Downward Spiral*, 2019, https://freedomhouse.org/sites/default/files/2020-02/FINAL07162019_Freedom_And_The_Media_2019_Report.pdf, (accessed 12 July 2021).

Gelpern, A., Sovereignty, ‘Accountability, and the Wealth Fund Governance Conundrum’, *Asian Journal of International Law,* vol. 1, no. 2, 2011, pp. 289-320.

Gieve, J., ‘Sovereign Wealth Funds and Global Imbalances’, *Revue d’économie financière (English ed.)*, vol. 9, no. 1, 2009, pp. 163-177.

Gilson, R. J. and C. J. Milhaupt, ‘Sovereign Wealth Funds and Corporate Governance: A Minimalist Response to the New Mercantilism’, *Stanford Law Review,* vol. 60, no. 5, 2008, pp. 1345-1369.

Goyer, P. R., ‘Statens pensjonsfond utland – nye løsninger i en ny virkelighet’, Amnesty International Norway, 2019.

Grünenfelder, S., ‘Understanding and Managing Political Risks of Sovereign Wealth Funds’, Doctoral dissertation, University of St. Gallen, 2013.

Hamilton, S., H. Jo and M. Statman, ‘Doing Well While Doing Good? The Investment Performance of Socially Responsible Mutual Funds’, *Financial Analysts Journal,* vol. 49, no. 6, 1993, pp. 62-65.

Hanisch, T. J. and G. Nerheim, *Norsk oljehistorie: fra vantro til overmot? Bind 1,* Oslo, Leseselskapet, 1992.

Hawker, E., ‘Charting the Course for a Social Taxonomy’, ESG Investor, 28 July 2021, https://www.esginvestor.net/charting-the-course-for-a-social-taxonomy/, (accessed 4 August 2021).

Hawley, J.P and A. T. Williams, *The rise of fiduciary capitalism: How institutional investors can make corporate America more democratic,* Philadelphia, University of Pennsylvania Press, 2000.

Hermstad, A., ‘Oljefondet er politisk’, Aftenposten, 5 May 2015, https://www.aftenposten.no/meninger/debatt/i/WakG/oljefondet-er-politisk, (accessed 18 July 2021).

Hofmann, S. C., ‘Overlapping Institutions in the Realm of International Security: The Case of NATO and ESDP’, *Perspectives on Politics*, vol. 7, no. 1, 2009, pp. 45-46.

India Committee of the Netherlands and Stop Child Labour, ‘Remedies For Indian Seed Workers in Sight?’, Utrecht, 2018

International Working Group of Sovereign Wealth Funds, *Sovereign Wealth Funds Generally Accepted Principles and Practices–"Santiago Principles"*, 2008, https://www.ifswf.org/sites/default/files/santiagoprinciples_0_0.pdf

Jensen O. A. and P. Seele, 'An analysis of sovereign wealth and pension funds' ethical investment guidelines and their commitment thereto', *Journal of Sustainable Finance & Investment*, vol 3, no. 3, 2013, pp. 264-282.

Jensen, S., 'Ansvarlig forvaltning', Dagens Næringsliv, 3 April 2014, https://www.dn.no/kronikk/debatt/norges-bank/oljefondet/ansvarlig-forvaltning/1-1-5080290, (accessed 18 July 2021).

Joseph, S., "Is Fox News a Breach of Human Rights?': The News Media's Immunity from the Guiding Principles on Business and Human Rights', *Business and Human Rights Journal*, vol. 1, no. 2, 2016, pp. 229–253.

Karametaxas, X., 'Sovereign Wealth Funds as Socially Responsible Investors', in G. Adinolfi, F. Baetens, J. Caiado et al. (eds.), *International Economic Law: Contemporary Issues*, Cham, Springer, 2017, pp. 271-288.

Kempf A. and P. Osthoff, 'The Effect of Socially Responsible Investing on Portfolio Performance', *European Financial Management*, vol. 13, no. 5, 2007, pp. 908-922.

Knutsen, S., 'Hvorfor ble Norge rikt?', Aftenposten, 28 June 2004, https://www.aftenposten.no/meninger/kronikk/i/LM1L1/hvorfor-ble-norge-rikt, (accessed 22 May 2021).

Kotter, J. and U. Lel, 'Friends or Foes? Target Selection Decisions of Sovereign Wealth Funds and Their Consequences', *Journal of Financial Economics*, vol 101, no. 2, 2011, pp. 360-381.

Kreander, N., R. H. Gray, D. M. Power et al., 'Evaluating the Performance of Ethical and Non-Ethical Funds: A Matched Pair Analysis', *Journal of Business Finance & Accounting*, vol. 32, no. 7, 2005, pp. 1465-1493.

Landler, M. 'Norway Keeps Nest Egg From Some U.S. Companies', The New York Times, 4 May 2007, https://www.nytimes.com/2007/05/04/business/worldbusiness/04norway.html?pagewanted=all, (accessed 8 August 2021).

Langved, Å., 'Advarer mot mindre innsyn', Dagens Næringsliv, 14 March 2014, https://www.dn.no/advarer-mot-mindre-innsyn/1-1-5062268, (accessed 18 July 2021);

Lee, Y. C. L., 'A Reversal of Neo-Colonialism: The Pitfalls and Prospects of Sovereign Wealth Funds', *Georgetown Journal of International Law*, vol. 40, no. 4, 2009.

Levitov, A., 'Normative Legitimacy and the State', Oxford Handbooks Online, 2016, https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199935307.001.0001/oxfordhb-9780199935307-e-131?print=pdf, (accessed 9 August 2021).

Lie, E., 'Learning by Failing', *Scandinavian Journal of History*, vol. 43, no. 2, 2018, pp. 284-299.

Luecke, M., 'Stabilization and Savings Funds to Manage Natural Resource Revenues: Kazakhstan and Azerbaijan versus Norway', *Comparative Economic Studies* 53, 2011, pp. 35-56.

Malena, C., R. Forster and J. Singh, 'Social Accountability: An Introduction to the Concept and Emerging Practice', *Social Development Paper*, No. 76, Washington, D.C., World Bank, 2004, pp. 13-14.

Mehlum, H., K. Moene and R. Torvik, 'Institutions and the Resource Curse', *The Economic Journal*, vol. 116, 2006, pp. 1-20.

Meuser M. and U. Nagel, 'The Expert Interview and Changes in Knowledge Production', in A. Bogner, B. Littig, and W. Menz (eds.), *Interviewing Experts*, London, Palgrave Macmillan, 2009, p. 17-42.

Mork, K. A., *Oljeeventyret som kom og gikk*, Oslo, Spartacus Forlag, 2020.
Moses, J. W., 'Norway's Sovereign Wealth Fund', in E. G. Pereira, R. Spencer, and J. W. Moses (eds.) *Sovereign Wealth Funds, Local Content Policies and CSR*, Cham, Springer, 2021, pp. 249-261.

Nagell, H. W., 'Investor responsibility and Norway's Government Pension Fund – Global', *Nordic Journal of Applied Ethics*, vol. 5, no. 1, 2011, pp. 79-96.

Nilsen, H. R., 'Overlapping consensus versus discourse in climate changepolicy: The case of Norway's Sovereign Wealth Fund', *Environmental Science & Policy*, vol. 13, no. 2, 2010, pp. 123-130.

Nilsen, H. R., B. Sjåfjell and B. J. Richardson, 'The Norwegian Government Pension Fund Global. Risk Based Versus Ethical Investments,' *Vierteljahrshefte zur Wirtschaftsforschung*, vol. 88, no. 1, 2019, pp. 65-78.

Norges Bank Investment Management [website]

Amazon.com, Inc., https://www.nbim.no/en/the-fund/responsible-investment/our-voting-records/meeting/?m=1421672, (accessed 2 July 2021).

Observation and exclusion of companies, https://www.nbim.no/en/the-fund/responsible-investment/exclusion-of-companies/ (accessed on 8 June 2021).

Total SE, https://www.nbim.no/en/the-fund/responsible-investment/our-voting-records/meeting/?m=1502790, (accessed 2 July 2021).

Norges Bank Investment Management, *Strategy 2021-2022*, 7 April 2021, https://www.nbim.no/contentassets/579978c29fba46839d505be5c5f19950/nbim-strategy-2021_2022_eng_web.pdf, (accessed 2 July 2021).

Norges Bank Investment Management, Annual report 2020, 25 February 2021, https://www.nbim.no/contentassets/fd871d2a4e2d4c1ab9d3d66c98fa6ba1/annual-report-2020_government-pension-fund-global_web.pdf, (accessed 31 July 2021).

Norges Bank Investment Management, *Responsible investment report 2020*, 25 February 2021, https://www.nbim.no/contentassets/fef0e2802b3f423ba2e514cfde1277d7/government-pension-fund-global_2020_responsible-investment_web.pdf, (accessed 31 July 2021).

Norwegian Petroleum [website]

Fields, https://www.norskpetroleum.no/en/facts/field/ (accessed 18 May 2021).

Exports of oil and gas, https://www.norskpetroleum.no/en/production-and-exports/exports-of-oil-and-gas/ (accessed 19 May 2021).

Recent Activity, https://www.norskpetroleum.no/en/developments-and-operations/recent-activity/ (accessed 19 May 2021).

NOU 2003:22, *Forvaltning for fremtiden: forslag til etiske retningslinjer for Statens petroleumsfond*, 2003.

NOU 2020:7, *Verdier og ansvar – det etiske rammeverket for Statens pensjonsfond utland*, 2020.

Nystuen,G., A. Follesdal and O. Mestad (eds.), *Human rights, corporate complicity and disinvestment*, Cambridge, Cambridge University Press, 2011.

Ochoa C. and P. Keenan, "The Human Rights Potential of Sovereign Wealth Funds', *Articles by Maurer Faculty*, no. 9, 2009, pp. 1155-1179.

OECD, *G20/OECD Principles of Corporate Governance*, Paris, OECD Publishing, 2015.

OECD, *OECD Guidelines for Multinational Enterprises*, Paris, OECD Publishing, 2011.

'Oljefondet 25 år' [online video], Regjeringen.no, 2021, https://www.regjeringen.no/no/aktuelt/statens-pensjonsfond-utland-25-ar/id2850882/, (accessed 17 July 2021).

Peters, P., 'Embedded Systems and Rooted Models,' in B. J. McCay and J. Acheson (eds.), *The Question of the Commons: The Culture and Ecology of Communal Resources*, Arizona, University of Arizona Press, 1987, pp. 171-194.

Platform for Sustainable Finance, *Draft Report by Subgroup 4: Social Taxonomy*, July 2021.

Principles of Responsible Investment (PRI) and UNEP-FI, 'Universal Ownership: Why Externalities Matter to Institutional Investors', 2010.

Quigley, E., 'Universal ownership in practice: a practical investment framework for asset owners', 2020.

Rashid, Y., Rashid A., Warraich M.A. et al., 'Case Study Method: A Step-by-Step Guide for Business Researchers', *International Journal of Qualitative Methods*, vol. 18, 2019, pp. 1-13.

Richardson, B. J., ‘Sovereign Wealth Funds and the Quest for Sustainability: Insights from Norway and New Zealand’, *Nordic Journal of Commercial Law,* vol. 2, 2011, pp. 1-27.

Richardson, B. J., ‘Sovereign Wealth Funds and Socially Responsible Investing: An Emerging Public Fiduciary’, *Global Journal of Comparative Law,* vol. 1, no. 2, 2012, pp. 125-162.
Richardson, B. J., *Company Law and Sustainability,* Cambridge, Cambridge University Press, 2015.

Rozanov, A., ‘Who holds the wealth of nations?’, *International Journal of Central Banking*, vol. 15, no. 4, 2005, pp. 52-57.

Ruggie, J., ’Protect, Respect & Remedy: A Framework for Business and Human Rights’, *Innovations: Technology, Governance, Globalization,* vol. 3, no. 2, 2008, pp. 189-212.

Rydne, N., ‘Støre på klimakonferanse: – Vi må venne oss til å si at vårt pensjonsfond er et politisk redskap’, Dagens Næringsliv, 6 November 2019, https://www.dn.no/olje/olje/oljefondet/politikk/store-pa-klimakonferanse-vi-ma-venne-oss-til-a-si-at-vart-pensjonsfond-er-et-politisk-redskap/2-1-701996, (accessed 18 July 2021).

Ryggvik, H., ‘A Short History of the Norwegian Oil Industry: From Protected National Champions to Internationally Competitive Multinationals’, *Business History Review,* vol. 89, no. 1, 2015, pp. 3-41.

Sagdahl, A., *A Farewell to Conventional Weapons?,* MA thesis, University of Oslo, 2020.

Sahl, T., ‘Institutional Power, Collective Acceptance, and Recognition’, in H. Ikäheimo and A. Laitinen (eds.), *Recognition and Social Ontology,* Leiden, Brill, 2011, pp. 351-372.

Schröder, M., ‘The Performance of Socially Responsible Investments: Investment Funds and Indices’, *Financial Markets and Portfolio Management*, vol. 18, no. 2, 2004, pp. 122-142.

Schwartz, H., ‘Political Capitalism and the Rise of Sovereign Wealth Funds’, *Globalizations,* vol. 9, no. 4, 2021, pp. 517-530.

Sheehy, B., ‘Understanding CSR: An Empirical Study of Private Regulation’, *Monash University Law Review*, vol. 38, no. 2, 2012, pp. 103-127.

Sheehy, B., ‘Defining CSR: Problems and Solutions’, *Journal of Business Ethics*, vol. 131, no. 3, 2015, pp. 625-648.
Soh, C., M, Kim, and Y. Yu, ‘The Relationship between Corporate Human Rights Responsibility Disclosure and Performance’, *Journal of International and Area Studies,* vol. 25, no. 2, 2018, pp. 37-60.

Sovereign Wealth Fund Institute, *Top 100 Largest Sovereign Wealth Fund Rankings by Total Assets,* https://www.swfinstitute.org/fund-rankings/sovereign-wealth-fund (accessed 10 June 2021).

Spence, T., ‘SV ønsker regler som luker ut «verstingene» før Oljefondet investerer’, Aftenposten, 21 September 2020, https://www.aftenposten.no/norge/politikk/i/0KEge0/sv-oensker-regler-som-luker-ut-verstingene-foer-oljefondet-investerer, (accessed 19 July 2021).

Stake, R. E., *The Art of Case Study Research*, Thousand Oaks, CA, SAGE Publishing, 1995.

Starks, L., ‘The Differences Between ESG/SRI/CSR, Impact Investing and Philanthropy’, *Medium.com* [website], 18 January 2919, https://medium.com/@utmccombssii/differences-between-esg-sri-csr-impact-investing-and-philanthropy-4316033e7198 (accessed 9 July 2021).

Sun, X., J. Li, Y. Wang, & W. W. Clark, ‘China’s sovereign wealth fund investments in overseas energy: The energy security perspective’, *Energy Policy*, 65, 2014, pp. 654-661.

Tollersrud, T., ‘Tidligere etikksjef skeptisk til nedleggelse’, NRK, 5 April 2014, https://www.nrk.no/norge/etikksjef-skeptisk-til-nedleggelse-1.11651991, (accessed 18 July 2021).

Truman, E. M., ‘A Blueprint for Sovereign Wealth Fund Best Practices’, *Peterson Institute for International Economics Policy Brief PB08-3*, 2008.

Truman, E. M., *Sovereign Wealth Funds: Threat or Salvation?,* Washington D.C., Peterson Institute for International Economics, 2010.

U.S. Energy Administration Information [website], https://www.eia.gov/international/rankings/world?pa=295&u=0&f=A&v=none&y=01%2F01%2F2016&ev=false, (accessed 1 July 2021).

Crude oil including lease condensate exports 2001.

Crude oil, NGPL, and other liquids production 2001.

Van Der Zee, E., 'Sovereign Wealth Funds and Socially Responsible Investment: Dos and Don'ts', *European Company Law,* vol. 9, no. 2, 2012, pp. 141–150.

Velasquez, M. G., 'Why Corporations Are Not Morally Responsible For Anything They Do', *Business & Professional Ethics Journal,* vol. 2, no. 3, 1983, pp. 1-18.

Whaley, L., 'The Critical Institutional Analysis and Development (CIAD) Framework', *International Journal of the Commons,* vol. 12, no. 2, 2018, pp. 137-161.

Whoriskey, P. and R. Siegel, 'Cocoa's child laborers', The Washington Post, 5 June 2019, https://www.washingtonpost.com/graphics/2019/business/hershey-nestle-mars-chocolate-child-labor-west-africa/, (accessed 15 July 2021).

Wurster, S. and S. J. Schlosser, 'Sovereign Wealth Funds as Sustainability Instruments? Disclosure of Sustainability Criteria in Worldwide Comparison', *Sustainability,* vol. 13, no. 10, 2021.

Yin, W., 'Sovereign Wealth Fund Investments and the Need to Undertake Socially Responsible Investment', *International Review of Law,* vol. 2017, no. 1, 2017, pp. 1-30.

Øvald, C., B. Tranøy and K. Raknes, 'The Norwegian Petroleum Fund as Institutionalized Self-Restraint', in M. Compton and P. 't Hart (eds.), *Great Policy Successes*, Oxford, Oxford University Press, 2019, pp. 244-263.