Regulating Modern Slavery in Global Supply Chains:
Exploring the Design and Effectiveness of National Legislation

Willem Jacobus Fourie

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Thesis Title
Regulating Modern Slavery in Global Supply Chains: Exploring the Design and Effectiveness of National Legislation

Thesis Abstract
The widespread fragmentation of global supply chains (GSCs) poses considerable challenges for regulating severe forms of labour exploitation, collectively referred to as modern slavery. Recent responses to these challenges include the promulgation of modern slavery reporting (MSR) laws in the UK, California and Australia. In theory, these laws are a promising development geared towards leveraging corporate influence over GSCs to minimise, or where possible, eliminate modern slavery. However, commentators have criticised their design for lack of sanctions and inadequate reporting requirements. Despite this, MSR laws continue to proliferate internationally, underscoring a need for critical inquiry into the antecedents of their design and their practical effectiveness. To that end, this thesis posits the following overarching research question: How do policy-making process dynamics shape the design of modern slavery reporting laws, and how do external stakeholder pressure and actors internal to firms influence their effectiveness?

To answer this question the thesis is organised into six chapters. Two introductory chapters define modern slavery and explore the literature on regulatory design. Following this, three empirical studies are presented, each occupying a single chapter. These studies apply policy change theory to explain MSR law design outcomes, stakeholder influence over reporting outcomes, and the how actors internal to the firm shape changes in policy and practice, respectively. The final chapter summarises the central conceptual and practice-related insights of the thesis. Regarding design, MSR law design is shown to be shaped primarily by coalitions of actors through deliberative, associative and ideological strategies throughout the policy change process. Regarding effectiveness, reporting quality is found to depend on the influence of various stakeholder groups, which varies significantly across institutional settings. In addition, policy and practice changes prompted by MSR laws are shown to be contingent on the extent to which organisations empower internal compliance professionals to promote and enact change and how third-party advisers define best practice. Overall, the findings of this study indicate that fulfillment of the aims of MSR laws is far from guaranteed. This will require changes to their regulatory design and more regulator commitment to steering corporate behaviour in the desired direction.

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Abstract

The widespread fragmentation of global supply chains (GSCs) poses considerable challenges for regulating severe forms of labour exploitation, collectively referred to as modern slavery. Recent responses to these challenges include the promulgation of modern slavery reporting (MSR) laws in the UK, California and Australia. In theory, these laws are a promising development geared towards leveraging corporate influence over GSCs to minimise, or where possible, eliminate modern slavery. However, commentators have criticised their design for lack of sanctions and inadequate reporting requirements. Despite this, MSR laws continue to proliferate internationally, underscoring a need for critical inquiry into the antecedents of their design and their practical effectiveness. To that end, this thesis poses the following overarching research question: How do policy-making process dynamics shape the design of modern slavery reporting laws, and how do external stakeholder pressure and actors internal to firms influence their effectiveness?

To answer this question the thesis is organised into six chapters. Two introductory chapters define modern slavery and explore the literature on regulatory design. Following this, three empirical studies are presented, each occupying a single chapter. These studies apply policy change theory to explain MSR law design outcomes, stakeholder influence over reporting outcomes, and the how actors internal to the firm shape changes in policy and practice, respectively. The final chapter summarises the central conceptual and practice-related insights of the thesis. Regarding design, MSR law design is shown to be shaped primarily by coalitions of actors through deliberative, associational and ideological strategies throughout the policy change process. Regarding effectiveness, reporting quality is found to depend on the influence of various stakeholder groups, which varies significantly across institutional settings. In addition, policy and practice changes prompted by MSR laws are shown to be contingent on the extent to which organisations empower internal compliance professionals to promote and enact change and how third-party advisers define best practice. Overall, the findings of this study indicate that fulfilment of the aims of MSR laws is far from guaranteed. This will require changes to their regulatory design and more regulator commitment to steering corporate behaviour in the desired direction.
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<thead>
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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACF</td>
<td>Actor coalition framework</td>
</tr>
<tr>
<td>AMSA</td>
<td>Australian <em>Modern Slavery Act 2018</em></td>
</tr>
<tr>
<td>BHR</td>
<td>Business and human rights</td>
</tr>
<tr>
<td>BHRRC</td>
<td>Business and Human Rights Resource Centre</td>
</tr>
<tr>
<td>CCO</td>
<td>Chief commercial officer</td>
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<tr>
<td>CDT</td>
<td>Constructive discourse theory</td>
</tr>
<tr>
<td>CFO</td>
<td>Chief financial officer</td>
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<tr>
<td>CSR</td>
<td>Corporate social responsibility</td>
</tr>
<tr>
<td>CTSCA</td>
<td><em>California Supply Chain Transparency Act 2012</em></td>
</tr>
<tr>
<td>FLA</td>
<td>Fair Labor Association</td>
</tr>
<tr>
<td>FWO</td>
<td>Fair Work Ombudsman</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>GSI</td>
<td>Global Slavery Index</td>
</tr>
<tr>
<td>HRDD</td>
<td>Human rights due diligence</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>IT</td>
<td>Information technologies</td>
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<tr>
<td>MP</td>
<td>Member of Parliament</td>
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<tr>
<td>MSF</td>
<td>Multiple streams framework</td>
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<tr>
<td>MSR</td>
<td>Modern slavery reporting</td>
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<tr>
<td>NGO</td>
<td>Non-government organisation</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the United High Commissioner for Human Rights</td>
</tr>
<tr>
<td>OLS</td>
<td>Ordinary least squares</td>
</tr>
<tr>
<td>PSF</td>
<td>Professional service firm</td>
</tr>
<tr>
<td>RIT</td>
<td>Regulatory intermediary theory</td>
</tr>
<tr>
<td>SEC</td>
<td>Securities and Exchange Commission</td>
</tr>
<tr>
<td>SEDEX</td>
<td>Supplier Ethical Data Exchange</td>
</tr>
<tr>
<td>TNC</td>
<td>Transnational corporation</td>
</tr>
<tr>
<td>UK</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>UKMSA</td>
<td>United Kingdom <em>Modern Slavery Act 2015</em></td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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</table>
UNGPS  United Nations Guiding Principles on Business and Human Rights
US    United States
VIF   Variance inflation factor
WFF   Walk Free Foundation
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Chapter 1: Introduction

1.1 Modern Slavery as a Prominent Human Rights and Business Challenge

The international diffusion of neo-liberal economic policy since the late 1980s has resulted in profound shifts in global economic organisation. Among these has been a significant broadening of the ambit of transnational corporations (TNCs) (Santoro, 2015; Wettstein, 2015). Some scholars contend that the resultant size and global influence of these TNCs continues to erode the ability of States as market regulators (Büthe & Mattli 2011; Scherer & Palazzo, 2011). This has prompted questions about how governments can adapt their approaches to regulating transnational corporate activities, and the role companies should play in the economy, and more widely in addressing global challenges. A significant debate focuses on the human rights consequences of transnational corporate operations and addressing those impacts (Arnold, 2010; McCorquoale, 2014; Nolan, 2016; Schrempf-Sterling & Wettstein, 2017; Wettstein, 2015).

The late 1980s and early 1990s are seen as a key period for the broader human rights movement; it signalled a shift away from human rights advocacy that mainly targeted States to a focus on business and human rights (BHR) (Santoro, 2015). This was prompted by a series of high-profile BHR scandals that implicated prominent TNCs. Examples include the 1986 Bhopal Gas explosion, which involved the United States (US) gas company Union Carbide and resulted in 3,000 deaths; and revelations of oil giant Shell’s complicity in human rights abuses perpetrated by the Nigerian Military in 1995 (Nolan, 2016; Wettstein, 2015). These cases highlighted concerns that persist today regarding the inability or unwillingness of States to adequately enforce human rights standards trans-territorially, and the lack of responsibility TNCs take for the human rights impacts of their global operations (Nolan, 2016).

Modern slavery in global supply chains (GSCs) has emerged as a salient contemporary BHR challenge where these concerns are at play (Gold et al., 2015; New, 2015; Nolan & Boersma, 2019; Stringer & Michailova, 2018). Today, powerful lead firms—both buyers and large producers—orchestrate complex sourcing and production chains that
are globally dispersed and organisationally fragmented (Gereffi, 1994; Gereffi et al., 2001; Gereffi et al., 2005). GSCs, which frequently involve asymmetrical relationships between lead firms and suppliers, and several tiers of outsourcing in contexts with insufficient labour protections, can place downward pressure on labour standards, leading to labour exploitation (Anner, 2015, p. 2; Barrientos et al., 2011; Gereffi & Mayer, 2004; Gereffi et al., 2005; Morris et al., 2021; Taylor, 2011). GSCs of this kind are most common in the agriculture, fishing, mining, construction and garment industries (Gold et al., 2015; Klynveld Peat Marwick Goerdeler [KPMG], 2019; Mende & Drubel, 2020). The onset of the global COVID-19 crisis has placed significant pressure on TNCs in these industries. These companies now face challenges in both exporting and sourcing goods (Voss, 2020). While some TNCs have responded by engaging with, and supporting their supply chain partners, others have responded by cancelling or postponing sourcing activities (Anner, 2019). The latter has heightened pressure on workers in GSCs and increased the likelihood of labour exploitation internationally.

At its most extreme, this exploitation has been labelled modern slavery, which assumes several different forms including forced labour, the worst forms of child labour and human trafficking (Nolan & Boersma, 2019). As discussed in more detail in Chapter 2, modern slavery has emerged as a catch-all, umbrella term whose definition remains contested. In Chapter 2, drawing on the work of the International Labour Organisation (ILO) and work by modern slavery scholars, the etymology of this term and various definitions thereof are discussed. As a prelude to this, modern slavery is defined as “situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power” (International Labour Organization, 2017; Caruana et al, 2021)

Recent estimates suggest that more than 40 million people are victims of modern slavery around the world. These include 19.6 million labour slaves, many of whom are exploited in the high-risk GSCs described above (International Labour Organization [ILO], the Walk Free Foundation [WFF] and International Organization for Migration

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1 ‘Globally dispersed’ here refers to transnational, while organisationally fragmented refers to chains that involve many organisations connected by subcontracting relationships.
Recent scandals highlight the prevalence of modern slavery. In 2020, a Canadian mining company, Nevsun, was drawn into an unprecedented legal battle over the use of Eritrean military slaves in their Bisha gold, copper and zinc mine in East Africa (AFP in Ottawa, 2020); and more recently, a forced labour scandal emerging in China, where it is alleged that 80,000 forcibly detained Uyghur Muslims have been moved to factories throughout China that are linked to 83 global retail brands (Xu et al., 2020).

Effectively combatting modern slavery in GSCs is a difficult task that requires international regulators, companies and States to cooperate and adapt existing regulatory approaches. However, although international regulatory institutions (e.g. the United Nations [UN], the ILO and the Organisation for Economic Co-operation and Development [OECD]) have been active in developing soft law principles and frameworks that clarify and explain international human and labour rights, and provide guidance to key actors—States and companies in particular (Ruggie, 2020)—these actors have largely fallen short in this regard. Most States remain unwilling, or unable, to translate this guidance into robust controls over GSCs (LeBaron et al., 2017; Stroehle, 2017). Further, while businesses do engage in self-regulation of their supply chains—for example, through the introduction of sourcing codes of conduct and factory auditing regimes (Grabs, 2020; Locke, 2013; Stringer & Michailova, 2018)—these arrangements are viewed as ineffective or insufficient (Anner, 2015; Fransen & LeBaron, 2019; Locke, 2013). Hence, there remain significant weaknesses in the regulation of GSCs, which allow labour exploitation and modern slavery to persist.

1.2 The Pitfalls of Modern Slavery Reporting Laws

The last decade has seen increased pressure on States and TNCs to develop and implement regulatory solutions for modern slavery in GSCs (Lerigo-Stephens et al., 2021). Concerted advocacy from transnational advocacy networks has successfully turned modern slavery into a lightning rod issue globally (Chuang, 2015; Landau & Marshall, 2018). This advocacy, coupled with emerging guidance from international regulatory institutions—most prominently the UN—has prompted the emergence of

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2 ‘Labour slaves’ are defined in Chapter 2 (see Section 2.1.1 for elaboration); in summary, labour slaves are forced labourers in the private economy or through State-sponsored forced labour (both adults and children) (see ILO WFF, 2017).
laws targeting modern slavery in GSCs (Landau, 2019; Landau & Marshall, 2018). These modern slavery reporting (MSR) laws include the California Supply Chain Transparency Act 2012 (CTSCA),\(^3\) the United Kingdom (UK) Modern Slavery Act 2015 (UKMSA) and the Australian Modern Slavery Act 2018 (AMSA). These laws require large TNCs to publicly report on the risk of modern slavery in their supply chains and operations, including efforts to mitigate that risk (Phillips et al., 2016; Redmond, 2020; Mehra & Shay, 2016, Hess, 2019).

Some experts believe MSR laws potentially offer significant advantages in overcoming the regulatory weaknesses described above and, in turn, combatting modern slavery in GSCs (Redmond, 2020). MSR laws, at least in theory, encourage firms through a legal mandate to investigate modern slavery risk in their supply chain and to enhance or ‘ratchet up’ their self-regulatory practices to address that risk (Ford & Nolan, 2020). In addition, given the influence large TNCs have over GSCs, experts suggest these laws are likely to lead to a multiplier or cascading effect, as TNCs encourage their suppliers to also report on their own risks and develop ways to address them (Rogerson et al., 2020). Hence, this type of legislation has the potential for widespread impact.

Despite this promise, scholars and advocates have raised concerns about the design and, hence, effectiveness of MSR laws, which carry no criminal, civil law or financial sanctions for non-compliance (LeBaron & Ruhmkorf, 2017b; Mehra & Shay, 2016). Instead, they are ‘predicated on the assumption that transparency [through reporting] will empower and lead market actors [stakeholders] to reward and sanction companies for their human rights performance’ (Landau, 2019, p. 230). This external stakeholder scrutiny (e.g. from consumers, investors, suppliers and the media) is expected to promote the publication of high-quality modern slavery reports and enhancement of policy and practice related to modern slavery (Ford & Nolan, 2020; Rogerson et al., 2020). However, scholars question whether this design will achieve these aims and, hence, whether such laws will be effective. MSR laws generally entail vague and non-mandatory reporting requirements, which compromises the extent to which high quality and comparable reporting will be produced, and the capacity of stakeholders to

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\(^3\) The enactment of the California Supply Chain Transparency Act 2012 (CTSCA) preceded the United Nations Guiding Principles on Business and Human Rights (UNGPs); however, its emergence came as a result of concerted advocacy and its value has been underscored by the development and ratification of the UNGPs (Landau & Marshall, 2018)
effectively hold companies to account (LeBaron & Ruhmkorf, 2017b; Sarfaty, 2020). In addition, MSR laws do not impose a ‘conduct obligation’ requiring actual policy and practice adaptation (Redmond, 2020, p. 13). While it is assumed that engagement with the reporting process will improve policy and practice as actors internal to companies (e.g. compliance professionals and expert advisors) learn about and implement ‘best practice’, the experience under other reporting regimes (e.g. corporate social responsibility [CSR] disclosure) justifies questioning whether this will occur (Ford & Nolan, 2020, p. 39). Investigations into the effectiveness of MSR laws largely support these critiques and suggest MSR laws have been ineffective in achieving the two aims they hope to: encouragement of high-quality reporting, and enhancement of the policies and practices of companies (Business and Human Rights Resource Centre [BHRRC], 2016, 2018, 2021a, Ford & Nolan, 2020; Monciardini et al., 2021).

Criticism of MSR law design and effectiveness has intensified in recent years because of the enactment of analogous, but seemingly more robust human rights due diligence (HRDD) laws in continental Europe. Examples include the French Duty of Vigilance Law 2017 (hereinafter, the French Law) and the Dutch Child Labour Due Diligence Law 2019 (Cossart et al., 2017; Grabosch, 2020; Smit et al., 2020). At the outset, it is important to acknowledge that HRDD laws are significantly broader in scope regarding the issues they target. HRDD laws require companies to report on all human rights concerns within their supply chains and operations, of which modern slavery is a part (Landau, 2019). However, the designs these laws use to promote reporting on these issues differ from that of MSR laws in important ways that commentators believe make them more likely to be effective in promoting quality reporting and action from companies on BHR concerns (including modern slavery).

HRDD laws require companies to develop, publish and implement HRDD plans for addressing human rights risks in their supply chains and operations, and impose civil liability on companies that fail to take due care to prevent human rights harm in line with those plans (Landau, 2019, p. 231; Evans, 2020). Hence, these laws entail more prescriptive reporting requirements and punitive sanctions in the event that a company fails to comply with requirements under these laws. In addition, owing to their direct reference to the HRDD process—which is defined under the 2011 United Nations Guiding Principles on Business and Human Rights (UNGP) as ‘the process through which a business enterprise assesses actual and potential human rights impacts; acts to
prevent and mitigate these impacts; tracks the effectiveness of responses; and communicates externally on these efforts’ (Landau, 2019, p. 3)—these laws require companies to make policy and practice changes that address deficiencies identified in their investigation of their supply chains (Redmond, 2020).

Despite the above criticisms and the emergence of possibly superior analogous legislation,4 MSR laws continue to diffuse internationally. At present, MSR laws are also being considered in Canada, Hong Kong5 and in Tasmania (Australia) (Nicolson et al., 2020). This diffusion, and concern regarding the effectiveness of these laws has prompted calls for investigating the pressures that promote the emergence and adoption of MSR laws (cf. HRDD regulation) and continued analysis of their relative effectiveness (Caruana et al., 2021; Nolan et al., 2019).

Here, I argue that furthering understanding regarding, first, design outcomes and, second, effectiveness, requires a focus on process. Regarding the former, understanding legislative outcomes has long been a focus of public policy researchers who argue that policy outcomes are the result of complex interactions among actors within the policy making process (Howlett et al, 2016;2017). Regarding the latter, as discussed above, MSR laws are intended to initiate two processes that are central to their effectiveness. First, the process of stakeholder pressure, where stakeholders react to and influence companies based on their modern slavery reporting. Second, the process of policy and practice change, where actors internal to firms learn about and implement best practice. While there has been a great deal of research deconstructing the flaws in the design of these laws, much less attention has been paid to the processes underpinning their form and outcomes (Caruana et al., 2021; Nolan et al., 2019; Rogerson et al, 2020). An improved understanding of these processes is valuable for two reasons. First, it will go some way to explaining why this apparently deficient response to modern slavery in GSCs is preferred in particular institutional settings. Second, it will build on the largely theoretical understanding of the processes driving

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4 Several States are considering the implementation of human rights due diligence legislation at present. Examples include the Swiss Responsible Business Initiative and the proposed German HRDD legislation. In addition, the European Union (EU) is considering the implementation of an EU-wide human rights due diligence (HRDD) directive (Grabosch, 2020; Smit et al., 2020).

5 Recent exploitation scandal in China, and unrest in Hong Kong, has slowed progress in consideration of the modern slavery bill. At present, it is unclear whether it will be enacted. However, recently the influential business lobby in Hong Kong has thrown its weight behind the bill which has renewed discussion (Hsin, 2020).
outcomes under these laws and point to ways in which they could be adapted to ensure their future effectiveness.

In line with a focus on these processes, this thesis is guided by the overarching research question: *How do policy-making process dynamics shape the design of modern slavery reporting laws, and how do external stakeholder pressure and actors internal to firms influence their effectiveness?* This research question reflects an interest in three processes. Firstly, how policy process dynamics explain the emergence and adoption of MSR laws with seemingly deficient designs; secondly, the process of influence by external stakeholders over reporting outcomes; and finally, the processes through which internal actors shape corporate policy and practice change in line with legislative intentions under MSR laws.

**1.3 Modern Slavery reporting Laws: Exploring Design and Effectiveness**

Given the above-mentioned focus, it is necessary to employ a variety of complementary frameworks to, first, set MSR laws in a theoretical context and, second, investigate the relevant processes. In this section, I introduce *responsive regulation theory* (Ayers & Braithwaite, 1992), which addresses the first of these aims. This framework provides a heuristic that provides dimensions and a terminology that assists in comparing MSR law and HRDD law designs. As you will see below, use of this framework allows me to frame the extant critique of MSR law designs in conceptual terms as a prelude to examining the processes that shape these design outcomes and are considered essential to the effectiveness of this design. Application of responsive regulation theory is explored in more depth in Chapter 2.

Importantly, the framework does not help in examining the processes at the core of this investigation. Hence, following introduction of responsive regulation theory, I outline the rationale for exploring each of the aforementioned processes, posing three sub-questions which are addressed in three empirical chapters (3 to 5) of this thesis. Each process is analysed using a relevant theoretical framework.
1.3.1 The Design of Modern Slavery Reporting Laws in Theoretical Context

Responsive regulation theory contends that State regulatory approaches (focusing on either individual persons or collective regulatees, such as companies) can be located on a continuum ranging from encouraging pure self-regulation to highly interventionist State command-and-control regulation (Osuji, 2015). This continuum is based on two primary dimensions: first, the degree of regulatee autonomy that regulatees are afforded in pursuing the goals of regulation, ranging from high to low; and second, the severity of sanctions imposed on regulatees for non-compliance by regulators, ranging from low to high. Private regulation, discussed in previous sections, is located at the self-regulatory end of the continuum. Private regulation entails high levels of corporate autonomy and low severity of State sanctions. Criminal law, with highly prescriptive definitions of offences and obligations (i.e. limiting corporate autonomy), and severe sanctions for non-compliance, is situated at the command-and-control end of the continuum. A secondary dimension, stakeholder participation, is also identified. Stakeholder participation relates to the extent to which stakeholders are empowered to hold regulatees to account for their responses to regulation. Stakeholder participation can vary across the continuum, but does not necessarily increase or decrease between each pole. As will be discussed below, stakeholder participation is arguably more important at the self-regulatory end of the regulation continuum, where sanction severity is low and regulatee autonomy is high.

MSR and HRDD laws are contrasting forms of enforced self-regulation (Ayers & Braithwaite, 1992, p. 16), situated between the self-regulation and command-and-control poles of this continuum. Enforced self-regulation is a model of regulation that applies some legal coercion to enhance systems of self-regulation (Gilad, 2010; Osuji, 2015). MSR laws establish a legal mandate for reporting but include no punitive sanctions for non-compliance and limit the prescription of their reporting requirements (BHRRC, 2017a; Fourie et al., 2019; Nolan & Frishling, 2019; Shareholder Association for Research and Education [SHARE], 2017). They, therefore, afford firms a high level of autonomy in how they respond to the law, and limit the capacity of the State to sanction companies for non-compliance.

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6 For an in-depth consideration of the various HRDD and transparency laws in place, see Smit et al. (2020) and Grabosch (2020).
In contrast, HRDD laws impose HRDD reporting requirements, apply legal penalties for non-compliance and entail an obligation to adapt policy and practice to mitigate BHR issues (Landau, 2019). Hence, they afford companies less autonomy in responding to the law, and States have more capacity to sanction companies for non-compliance. Therefore, MSR laws more closely approximate a self-regulatory approach to enforced self-regulation, while HRDD laws are designed in a way that more closely approximates a command-and-control approach to enforced self-regulation.

The design differences described above highlight the underlying logic of MSR laws, and enable a critique of MSR law designs. MSR laws—in affording companies autonomy in how they report and in limiting sanction severity—rely primarily on stakeholder participation to promote private action by mandating that companies regularly inform stakeholders on their responses. It is expected that the public scrutiny this encourages will initiate a cycle of reporting improvement. In addition, it is assumed that stakeholder participation will encourage organisations to learn and adopt ‘best practice’, which, in turn, will enhance modern slavery reporting and improve related policy and practice over time (Redmond, 2020; Rogerson et al., 2020). However, scholars and advocates question the extent to which stakeholder scrutiny will promote reporting quality resulting in companies adapting their policies and practices under this design (Ford & Nolan, 2020; Mehra & Shay, 2016).

Drawing on the contrast highlighted above, HRDD laws also elicit this feedback process through mandating public reporting. However, the addition of more prescriptive reporting requirements, punitive compliance measures and a legal obligation to adapt policy and practice, reduces regulatee autonomy and increases sanction severity. Hence, HRDD laws are considered less reliant on stakeholder participation. Organizational compliance is promoted by the threat of punitive legal sanctions and more prescriptive behavioural requirements by regulators.

1.3.2 Investigating Processes that Explain Design and Effectiveness

As reflected in the research question, the objective of this work extends beyond a critical understanding of the form of these laws to include an exploration of the processes that have led to this deficient design and influence its effectiveness. Accordingly, additional process-focused theoretical tools are applied to answer three
related research sub-questions directed towards empirical analysis. These include a policy change process model (appropriately adapted from the work of Howlett McConnel and Perl (2016; 2017)); a model of stakeholder influence over reporting outcomes (inductively developed through a review of relevant literature) and a model of firm policy and practice adaptation under MSR laws (which integrates constructive discourse theory (Park, 2014) and regulatory intermediary theory (Abbott et al., 2017)). Below I discuss justifications for focusing on the three processes identified in the general research question as a prelude to introducing these additional sub-questions and related theoretical tools.

Regarding design outcomes —the dynamics behind the emergence of MSR laws and factors that shape this legislation—is a related, under-explored research area (Caruana et al., 2021, p. 271). In light of the emergence of contrasting templates for design internationally (i.e. HRDD laws) and the perceived deficiencies of MSR laws, this question is particularly salient. Legal scholars have explored the antecedents of MSR law designs focusing on macro-level factors; that is, the introduction of new soft law guidance from the UN and ILO (Caruana et al., 2021, p. 271). Other relevant research, focusing on the UKMSA design, has highlighted the influential role of corporate lobbying and the debating tactics adopted by the UK government to promote a more self-regulatory design (Broad & Turnbull, 2018; Craig, 2017).

Here, using a holistic, processual approach, I argue for a focus on factors related to the policy-making process, including their interaction to better understand these design outcomes. In Chapter 3, I investigate the emergence and design of the AMSA, as a case study, informed by research on policy agenda setting and policy formulation (Howlett et al., 2016; 2017; Kingdon, 1984; Sabatier and Weible, 2007). Specifically, I apply Howlett et al’s (2017) Five Stream Policy Change Framework, which defines the policy-making process as occurring over three stages: how the policy agenda is set, how policy solutions are formulated and how policy decisions are made (Howlett et al., 2017; 2017). The framework identifies a range of factors, such as focusing events, public pressure and contestation amongst political coalitions, and theorizes how they interact to explain policy outcomes. This framework guides my analysis of archival data using a directed content analysis approach (Hsieh & Shannon, 2005) and assists in developing a systematic narrative of the AMSAs emergence on the Australian policy agenda including negotiations over its ultimate design. This investigation is guided by
the following research sub-question, RQ1: *Why did the Australian Modern Slavery Act 2018 emerge and how did policy process dynamics shape the design of the legislation?*

Regarding effectiveness, there are two main outcomes that MSR laws seek to achieve. First, there is the development of high-quality modern slavery reports, while the second outcome is change in corporate policy and practice that will minimise or eliminate modern slavery in GSCs. Earlier discussions outlined that there are two related processes that support these outcomes: 1) application of external stakeholder pressure, which is expected to encourage corporations to improve their reporting quality; and 2) actors internal to the company learning about ‘best practice’ and adjusting their policy and practice accordingly (Ford & Nolan, 2020; Mehra & Shay, 2016; Park, 2014). However, empirical research has neglected how these processes work in practice including the effectiveness of their underlying logic (Rogerson et al., 2020, p. 1506).

While evidence has emerged showing that reporting quality differs significantly among companies subject to MSR laws (BHRRC, 2015, 2016, 2018, 2021b; Stevenson & Cole, 2018), explanations of this outcome have been limited (see Birkey et al., 2018; Flynn, 2020; Rogerson et al., 2020 for exceptions). Given the centrality of external stakeholder scrutiny in promoting reporting quality, surprisingly few studies have explored how external stakeholder influence impacts this key dimension of effectiveness. Chapter 4 adopts a stakeholder theory perspective (Freeman, 1984; Hahn & Kuhnen, 2013) to develop a stakeholder influence model. This model identifies influential external stakeholders and how they influence reporting outcomes under MSR laws. Seven hypotheses based on this model, related to stakeholder influence over reporting outcomes, are tested based on the coding of 327 corporate modern slavery statements across the UK and California (171 in the UK and 156 in California). The chapter is guided by research sub-question - RQ2: *How do external stakeholder relationships influence reporting outcomes under modern slavery reporting laws?*

Despite the importance of policy and practice adaptation, few scholars have explored whether changes to corporate policy and practice are triggered by MSR laws (Nolan et al., 2019, p. 21) and what factors shape this adaptation. The logic underpinning the designs of these laws suggests that this outcome is supported by companies learning about and, in turn, implementing ‘best practice’ (Rogerson et al., 2020, p. 1506). Research in this area has identified the role of compliance professionals internal to
companies, as well as regulatory intermediaries (e.g. consultants, NGO advisors and legal advisors) employed by companies as key change agents that shape how companies learn and adapt (Sarfaty, 2020; Monciardini et al., 2021). However, little is known about how this process unfolds and the ways in which change agents influence corporate policy and practice (Monciardini et al., 2021, p. 330).

Chapter 5 examines this second important dimension of effectiveness. Guided by insights from constructive discourse theory (CDT; Park, 2014) and regulatory intermediary theory (RIT; Abbott et al., 2017), this chapter explores the role of compliance professionals and regulatory intermediaries in shaping corporate policy and practice adaptation. These two theories are integrated into a process model that explains policy and practice change as contingent on the communicative patterns new legislation elicits within and between firms and their third-party advisors. Analysis of 25 in-depth interviews with compliance professionals and expert advisors to firms is guided by insights from constructive discourse theory (CDT; Park, 2014) and regulatory intermediary theory (RIT; Abbott et al., 2017). The methodology supporting the analysis follows the basic criteria of grounded theory (Glaser & Strauss, 1967) and the constructivist tradition of inductive theory development (Gioia et al., 2013; Charmaz, 2013). In short, the chapter focuses on policy and practice changes initiated by the promulgation of the AMSA and guided by research sub-question RQ3: How do actors internal to companies shape policy and practice change under modern slavery reporting laws?

In sum, application of responsive regulation theory demonstrates that MSR laws are examples of enforced self-regulation that maximise the autonomy of regulatees and minimize sanction severity. Most commentators believe this design is unlikely to promote effective responses from companies to modern slavery in GSCs. Given the prevalence of modern slavery internationally, this critique of a major policy development geared towards combatting it, raises many questions. Important among these are: how and why these laws take this form and not another (e.g. HRDD)? and whether or not MSR laws will be effective in practice?

As I have argued, answering these questions requires a focus on processes and the application of appropriate process oriented conceptual tools. As the subsequent chapters show, the aforementioned tools allow me to address each component part of my
overarching research question in turn and ultimately develop an improved understanding of processes that have not gained much attention within the literature. This is valuable for two reasons. First, it will assist in explaining why a seemingly deficient policy approach continues to diffuse internationally. Second, it will build on the largely theoretical understanding of the processes driving outcomes under these laws and point to ways in which they could be adapted to ensure their future effectiveness.

1.4 Thesis Structure

To provide a roadmap for this investigation, I briefly describe the narrative of this thesis. Earlier, I touched on some of the content of the three empirical chapters, so they will be explored only briefly here. Chapter 2 extends this first chapter, providing a more detailed assessment of the literature. First, I discuss the definition of modern slavery and the terms etymology. I then provide an operational definition delimited by the business context. This leads to a discussion of modern slavery in GSCs as a major labour and human rights’ problem, including the pressures created by particular contextual characteristics. This serves as a prelude to a more detailed examination of the emergence of MSR laws in response, and further analysis of the design and effectiveness of MSR laws, specifically, through application of responsive regulation theory.

Chapter 3 investigates how the policy process shaped the design of the Australian *Modern Slavery Act 2018* (AMSA). It demonstrates how negotiations between policy makers and stakeholder coalitions shaped policy design. Chapter 4 investigates the first dimension of effectiveness: how stakeholder pressure influences reporting quality under MSR laws. A quantitative analysis, based on a sample of corporate reports across two comparable cases (in the United Kingdom and California), finds that reporting quality is enhanced by different stakeholder relationships in different jurisdictions. I argue that institutional factors largely explain the influence of these stakeholders. Chapter 5 examines a second important dimension of effectiveness: how key change agents shape company adaptation of policy and practice under MSR laws. An analysis, based on 25 in-depth interviews, finds that adaptation of policy and practice under the AMSA is contingent on the types of expert intermediary that organisations engage and how these intermediaries define best practice. A second contingency is the extent to which organisations empower internal compliance professionals to enact and promote change.
Chapter 6 synthesises and evaluates the key findings of the preceding five chapters. Regarding design outcomes, the use of policy process theory to examine the AMSA’s emergence reveals that complex interactions between coalitions adopting different strategies precluded consideration of alternative policy options and resulted in the enactment of the AMSA. Regarding effectiveness, my findings suggest that effectiveness under these laws is contingent on how institutional variation affects stakeholder influence on reporting outcomes and the extent of support afforded to corporate change agents to improve policy and practice. Overall, these results suggest that the effectiveness of MSR laws in their current design are far from guaranteed. Hence, either adaptation of this regulatory design—perhaps more closely resembling HRDD legislation—and more active and considered engagement by regulators in steering corporate behaviour is likely needed.
Chapter 2: Phenomenon and Conceptual Orientation

This chapter elaborates and discusses the themes introduced in Chapter 1. It has three aims. The first is to define modern slavery and delimit this definition to a business context as a prelude to discussing why modern slavery is a major concern in GSCs. The second is to show how deficiencies in State and private regulatory arrangements have prompted the emergence of MSR laws. Finally, I discuss and apply in more depth responsive regulation theory, to set the design of MSR laws in a theoretical context. This serves as a prelude to exploring the processes identified in Chapter 1 within each empirical chapter.

2.1 Defining and Delimiting Modern Slavery

Today, most commentators regard slavery as a historical form of domination. Its most egregious form, ‘chattel slavery’ or the legal ownership of a person, has been illegal in nearly all countries for close to one hundred years (Bales, 2004; Mende & Drubel, 2020). Yet today, governments, companies, scholars, civil society groups and transnational governance institutions place ‘modern slavery’ high on the BHR agenda. The term modern slavery has only become widely used in public discourse over the last 10 years (Nolan & Boersma, 2019; Siller, 2016). Its emergence and prominence is widely attributed to the advocacy and academic work of slavery scholar Kevin Bales, who has promoted the merits of referring to a wide range of exploitative practices as new or modern slavery (Bales, 2016; Dottridge, 2017; Hsin, 2020). This push became increasingly influential in the 2010s, finding firm footing in a 2002 review by the UN High Commission on Human Rights (OHCHR) titled ‘Abolishing Slavery and its Contemporary Forms’ (2002). This review summarised the increasingly diverse set of international laws aimed at combatting slavery and related practices (Dottridge, 2017).

The widespread adoption of modern slavery as an encompassing term for these practices (a list and definitions of these can be found in Appendix A: Table A1) has since been institutionalised by Bale’s continued advocacy and the emergence of a growing and influential social movement. This movement has been spearheaded by the Australian mining magnate, Andrew ‘Twiggy’ Forrest, who has invested millions of dollars into advocating for the eradication of modern slavery globally (Dottridge, 2017; Landau &
Marshall, 2018). At the time of writing, this movement comprises a network of over 2,691 advocacy organisations (Polaris Project, 2021). Recently, the use of the term modern slavery has been endorsed by international institutions such as the ILO to help simplify the discourse around severe exploitation of labour (ILO et al., 2017). While the widespread use of the term has clear benefits for advocacy purposes, there is no accepted and precise definition of modern slavery (Hsin, 2020; Mende, 2019).

2.1.1 Modern Slavery’s Contested Definition

Modern slavery is often described as a ‘non-legal umbrella term’ or ‘hypernym’ that refers to a number of distinct exploitative practices (Curuana et al., 2021, p. 254; Hsin, 2020, p. 169). These practices share common characteristics (Mende, 2019, p. 233), which provides a rationale for the use of an encompassing term. These common characteristics are as follows: de facto ownership or control of a person by others; lack of choice or freedom in that relationship; use or the threat of violence and finally, the intention to exploit (Mende, 2019, p. 233; Mende & Drubel, 2020, p. 6). Many practices have been defined in several international legal instruments that share these characteristics (Stringer & Michailova, 2018).7 These include human trafficking, debt bondage, sexual exploitation, child labour, forced marriage and forced or compulsory labour (Mende, 2019, p. 230; Parliament of Australia, 2018, pp. 29–48).

Despite commonalities among these practices, what should be included and excluded as forms of modern slavery remains unclear (Fudge, 2015; Nolan & Bott, 2018). Many scholars, advocates and legal practitioners suggest severe exploitation is too dynamic a phenomenon to group and define by one homogenous term (Hsin, 2020; Marshall, 2019; Mende & Drubel, 2019; Nolan & Boersma, 2019). They note that ambiguities in the above common characteristics call into question the extent to which one form of exploitation can be labelled modern slavery while other practices are not: that is, concepts such as control, coercion and freedom are socially constructed and too slippery

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7 Important international legal instruments include the International Labour Organization (ILO) Convention Concerning Forced or Compulsory Labour (1930); the 1926 Convention to Suppress the Slave Trade and Slavery; the 1956 amendment to the latter defining institutions and practices similar to slavery such as debt bondage and serfdom; the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) (No. 182); Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, which defines human trafficking (see also Appendix A: Table A1 for a full list).
to clearly demarcate one form of exploitation from another (Chuang, 2014; Mende, 2019, p. 235). 8

It is, therefore, unsurprising that a universally agreed definition of modern slavery remains elusive (Hsin, 2020; Nolan & Bott, 2018). To illustrate, Table A1 (Appendix A) itemises practices (1–13) that are included as forms of modern slavery by the UN, the Australian government in the AMSA, two prominent slavery scholars (Justine Nolan and Martijn Boersma) in their 2019 book ‘Addressing Modern Slavery’ and the advocacy organisation Anti-Slavery International. While there is some overlap among definitions, there is little uniformity. Several practices are referenced in some but not all definitions: serfdom (No. 8), sexual exploitation (No. 9), domestic servitude (No. 11) and migrant exploitation (No. 12). In addition, definitions developed by the UN and Australian policy makers use collective terms like slavery, servitude, and institutions and practices similar to slavery, which comprise various distinct practices (outlined in column 1). In contrast, Nolan and Boersma (2019) and Anti-Slavery International emphasise discrete practices. These differences ‘highlight a lack of consensus around what the term includes’ and the terminology used to refer to these practices (Hsin, 2020, p. 169).

2.1.2 Getting a Grip on the Issue: Modern Slavery According to the International Labour Organization

This lack of unanimity has adverse implications. Chief among these are the difficulties associated with investigating a phenomenon that lacks a clear, agreed definition (Dottridge, 2014; Patterson & Zhuo, 2018; Weitzer, 2015). In keeping with the rationale of several scholars who believe that, despite the ambiguities mentioned above, a definition of modern slavery is necessary to provide a basis for research, measurement and policy (Bales, 2016; Brysk, 2011; Caruana et al., 2021, p. 270; Datta & Bales, 2013; Mende, 2019, p. 233), in this section, I delimit and operationalise the concept of modern slavery using a definition developed by the ILO. The ILO is arguably the most

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8 Take for example conditions the World Bank defines as ‘consensual exploitation’ or conditions where economic vulnerabilities limit the options of workers, leading them to accept exploitative working arrangements such as wage theft or underpayment (Keottl, 2009; Weitzer, 2015). These are arrangements that are entered into consensually and workers are in principle free to walk away from, but where their lack of alternatives places them in a highly asymmetrical relationship with their employer. In such instances a level of control and coercion is likely making it difficult to convincingly differentiate forms of modern slavery.
authoritative organisation on the topic (Patterson & Zhuo, 2018, p. 2) and the definition discussed here has been used to generate the most robust estimates of the scope of modern slavery internationally (ILO et al., 2017). This general definition of modern slavery, and its scope, are in turn delimited to a business context. I then discuss why modern slavery constitutes a major problem in GSCs.

The ILO’s definition and estimates of the extent of modern slavery are outlined in a 2017 report (ILO et al., 2017). Modern slavery is defined as forms of “exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power” (ILO, 2017; Caruana et al., 2021). This comprises three main exploitative practices according to the ILO: forced labour, forced marriage and trafficking in persons. Data collected to estimate modern slavery in this report relate only to forced labour and forced marriage (ILO et al., 2017). However, human trafficking is a primary means by which modern slaves are exploited and entrapped into conditions of forced labour (Patterson & Zhuo, 2017).

Forced labour is defined as ‘all work or service which is exacted from any person under the menace of any penalty and for which said person has not offered himself voluntarily’ (ILO, 1930). This includes (a) exploitation imposed by private agents, including bonded labour, forced domestic work and work imposed in the context of slavery or vestiges of slavery; (b) State-imposed labour, including work exacted by the public authorities, military or para-military, compulsory participation in public works and forced prison labour; and (c) forced sexual exploitation of adults, imposed by private agents for commercial sexual exploitation, and all forms of commercial sexual exploitation of children (ILO et al., 2017, p. 17). Also discussed as forms of forced labour, but for which data have been not collected specifically, are debt bondage and serfdom.

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9 It is important to acknowledge that the ILO has its own political interests i.e. ensuring improved labour conditions internationally. Consequently, the ILO’s definition of modern slavery aligns with those interests i.e. the interests of reasonable employers, workers and unions. However, given that modern slavery is a term that has only recently become widely adopted and its definition remains contested, the ILO’s long history of work on severe labour exploitation (e.g. ILO forced labour report, 2011; 2016) means it is arguably best placed to provide an authoritative definition.

10 These two practices are defined in the 1956 amendment of the Convention to Suppress the Slave Trade and Slavery as follows:
Debt bondage—"the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably
Forced marriage is defined as:

situations where persons, regardless of their age, have been forced to marry without their consent. A person might be forced to marry through physical, emotional or financial duress, deception by family members, the spouse or others or the use of force, threats, or severe pressure (ILO et al., 2017, p. 17).

Finally, trafficking in persons, for which no data was collected for the ILO report but forms part of their definition of modern slavery, is defined in line with the 2000 UN Convention against Transnational Organised Crime and the protocols thereto; United Nations Office on Drugs and Crime (2004) as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability (United Nations Office on Drugs and Crime, 2004, p. 42; ILO et al., 2017, p. 17).

Operationalising this definition, the report estimates that 40.3 million people were victims of modern slavery in 2016. Of these, 15.4 million were victims of forced marriage and 24.9 million were working under various forms of forced labour. (ILO et al., 2017).

Modern slavery in a business context can be distinguished from modern slavery more generally. According to Phung and Crane (2018, p.11; Crane, 2013, p. 51):

Modern slavery in the context of business exists when an individual or organization exercises (1) control over a human being via (2) coercion and menace of penalty to extract work or services for the purpose of (3) economic exploitation and these result in (4) the dehumanization of said human being and (5) the deprivation or restriction of their freedom.

These characteristics largely overlap with those identified previously as common among forms of modern slavery. However, modern slavery in a business context can be differentiated from modern slavery more generally in two respects related to the intent

assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined;”

Serfdom—“the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.”
of coercion. First, modern slaves in a business context are coerced to extract work or services and second, the intent of this coercion is to engage in economic exploitation.

Based on these two differentiating characteristics, the ILO definition can be further delimited. Modern slavery in a business context comprises forced labour, encompassing forced sexual exploitation; State-sponsored forced labour or forced labour in the private economy of both adults and children (this may take the form of debt bondage or serfdom); and trafficking in persons. Forced marriage can be excluded from this definition. This is not to say that forced marriage could not entail coercion for commercial purposes, or that it cannot entail the extraction of forced work or service. However, instances of forced marriage are more closely linked to long-standing cultural practices than economic drivers (ILO et al., 2017, p. 43).

To estimate the scope of modern slavery in a business context, attention here is restricted to forced labour; in particular, forced labour in the private economy and State-imposed forced labour involving private enterprises (e.g. the 2019 Nevsun scandal noted in Chapter 1). Sexual exploitation, while a serious and widespread issue, is unlikely to be directly linked to legitimate business operations. Overall, forced labour in the private economy and State-imposed forced labour were experienced by an estimated 19.6 million labour slaves in 2016. Evidence suggests that the nature of the coercion experienced by these labour slaves varies widely. In 2016, in the private economy—which includes 76% of these labour slaves—24% of such workers had their wages withheld as a form of coercion, 17% received threats of violence, 16% were victims of acts of physical violence and 12% had threats made against family.

2.1.3 Explaining Modern Slavery in Global Supply Chains: Root Causes

It is widely acknowledged that modern slavery is more common in GSCs that exhibit particular features that are summarized below (Barrientos et al., 2013; Bishkek, 2013; Gold et al., 2015; LeBaron, 2020; Stringer & Michailova, 2018). MSR laws have been

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11 Sexual exploitation is, however, a serious social problem involving migrants and the informal economy, where migrants are deceived by labour contractors. However, as this thesis is focused on exploitation within the supply chains of large transnational corporations (TNCs), sexual exploitation falls outside its scope.

12 To put this figure into context, the ILO has also estimated that annual slavery profits could be as high as US$150 billion. Two-thirds of the estimated total of US$150 billion, or US$99 billion, came from commercial sexual exploitation, while another US$51 billion was associated with various forms of labour slavery (ILO, 2014b).
introduced to leverage TNC influence in combatting modern slavery in these supply chains. Before examining the emergence of these laws, it is helpful to discuss the factors that make modern slavery more prominent in these GSCs.

Several interrelated structural factors influence worker vulnerability to exploitation (Mende & Drubel, 2020). These include poverty, discrimination, limited labour protections and restrictive immigration policies (summarised in LeBaron et al., 2017). The relative importance of these factors and their interactions is likely to vary between industries and countries. Here, we are particularly concerned with factors creating a demand for workers vulnerable to exploitation. Four interrelated root causes drive exploitation in GSCs. These root causes ‘either create pressure within the market for highly exploitable forms of labour or open up spaces within which that labour can be exploited’ and are ‘integral to the nature of global supply chains’ (LeBaron et al., 2017, p. 7). These demand side root causes are outsourcing, regulatory voids,13 concentrated corporate power and irresponsible sourcing practices (p. 8). Given contestation over the appropriateness of using the term regulatory voids (reasons for which are noted in footnote 12), from here on I refer to regulatory weaknesses.

As seen in Chapter 1, GSCs where these root causes are most pronounced include the agriculture, fishing, mining, construction and garment industries (Gold et al., 2015; KPMG, 2019; Mende & Drubel, 2020). In these industries, sourcing commonly involves several tiers of outsourcing and supply networks spanning across various countries, making effective monitoring and enforcement of labour standards a daunting and resource-intensive task for both companies and States (Reinecke et al., 2019, p. 16; Stringer & Michailova, 2018, p. 197). Government reticence or inability to take the lead, combined with TNC inaction or ineffective action to uphold labour standards, results in widespread regulatory weaknesses across these complex sourcing chains (Barrientos, 2013; Crane et al., 2019).

In addition, GSCs connect powerful lead firms14 with suppliers in highly inequitable relationships, where lead firms dictate value distribution along the chain and maintain

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13 Bartley (2018, pp. 38–41) makes a crucial point when he argues that ““regulatory voids” rarely exist officially on statute books unless deliberately created by weak implementation of standards and deliberate omissions that give the misleading appearance of “empty [regulatory] spaces”” (Morris et al., 2021, p. 6).
14 Lead firms in supply chains are organisations able to enforce the parameters under which others in the supply chain operate. This is related to their size and influence in product markets. The ways in which this influence are created varies across types of supply chains (i.e. buyer vs producer driven chains) and in
low retail prices (Taylor, 2011; Anner, 2015). This places pressure on suppliers leading to *irresponsible sourcing practices* in lower tiers of the chain (LeBaron et al., 2017; Martin-Ortega & Methven O’Brien, 2017; Stringer & Michailova, 2018). To illustrate, powerful lead firms generally outsource to minimise sourcing costs while maximising quality and time efficiency, in search of competitive advantage (Reinecke et al., 2019, p. 15). Supply partners are, in turn, encouraged to pursue similar outsourcing strategies (Barrientos et al., 2011; Stringer & Michailova, 2018, p. 193). This process can result in the use of completely unregulated ‘shadow factories’ at the bottom tiers of the supply chain, where there is little to no incentive to maintain labour standards (Gold et al., 2015; LeBaron, 2014, pp. 243–244).

Although no authoritative estimate exists, it is likely that many of the 19.6 million *labour slaves* identified as relevant in a business context, have been exploited because of the pressures these root causes create. This is significant as approximately 80% of world trade arises from GSCs, with participation increasing (Frenkel, 2018, p.234; Rawling, 2015, p. 664) after a hiatus during the Trump–COVID-19 ‘trade war’ era (2016–21). While these same pressures are evident in the domestic supply chains of developed nations, and estimates indicate some level of modern slavery in developed economies (Crane, 2013; WFF, 2018), worker vulnerability in these contexts is limited by, on average, stronger domestic regulatory frameworks that mitigate power inequity and encourage more transparency (Locke, 2016, p. 303). Ultimately, the most problematic sourcing arrangements are transnational, involving powerful lead firms sourcing from contexts with insufficient and ineffective protections for labour, and where sourcing firms inadequately monitor and enforce labour standards in their supply chain (Locke, 2016; Stringer & Michailova, 2018). These arrangements are the primary target of MSR laws.

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relation to the supply chain governance mechanisms that lead firms employ (Gereffi et al, 2004). Almost invariably, however, lead firms exert asymmetrical influence over their supply partners resulting in the pressures discussed here.

15 Australia is an example: having a fair work ombudsman (FWO) and a federal slavery law means that exploitation is not systemic; nevertheless it does occur in some parts of the economy. The office of the FWO is an independent statutory agency which monitors labour standards compliance in Australia (Fair Work Ombudsman, 2018)
2.2 Existing Regulation and the Emergence of Modern Slavery Reporting Laws

The root causes of exploitation identified above make combatting modern slavery in GSCs difficult, requiring companies and States to adapt existing regulatory arrangements. MSR laws have emerged from a growing acknowledgement that extant regulatory arrangements are insufficient or ineffective. Understanding the emergence of these laws in context, therefore, requires an account of the deficiencies of State and private regulation.

2.2.1 The Ineffectiveness or Insufficiency of State and Private Regulation

A retreat from regulation or lack of capacity by States in regulating labour in GSCs, including modern slavery, is widely acknowledged (Matten & Crane, 2005; Mayer & Gereffi, 2010; Scherer & Palazzo, 2011; Stroehle, 2017). The diffusion of GSCs has complicated traditional models of protecting workers that characterised the twentieth century. While national collective bargaining was largely confined to advanced industrial economies, it proved relatively successful in ensuring labour standards during this period (Locke, 2016). During this period, and in advanced economies, sourcing and production was largely domestically bounded and a mixture of ‘national laws, union-management negotiations and company policies’ were employed to protect workers (Locke, 2016, p. 303). The advent of GSCs, in fragmenting responsibility for protecting workers internationally, has rendered this model inadequate and curtailed the capacity of developed States to effectively combat labour exploitation (Stroehle, 2017). This lack of capacity has been coupled with a reticence by many States (largely but not universally developing country States) to implement or enforce regulation on issues in supply chains that might offend business interest groups and compromise State competitiveness in attracting investment (Morris et al., 2021, p. 6). Hence, regulatory weaknesses, whether created by a lack of State capacity or wilful weak design and/or enforcement, are common across GSCs (Bartley, 2018a, pp. 38–41).

Private regulation has emerged as a potential solution to these regulatory weaknesses (Bartley, 2007; Haufler, 2001; Locke & Romis, 2010). This consists of two main

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16 While the absence of the state is widely acknowledged and problematic, it is not universal. See Schremf-Stirling (2018) for discussion of state capacity and power to shape global governance.
processes: ‘the formulation of procedural and/or substantive rules and standards (by companies and non-government organisations [NGOs]), and their monitoring and enforcement through the same actors or third parties’ (Grabs et al., 2021, p. 1). Today, complex and diverse systems of private labour regulation exist in GSCs (Bartley, 2007, 2018; Locke, 2016). Administering these systems varies and can occur solely by companies, or in conjunction with NGOs, standards setting organisations (e.g. Social Accountability International and the Business Social Compliance Initiative) and multi-stakeholder initiatives/organisations (e.g. the Fair Labor Association [FLA] and the Electronics Industry Citizenship Coalition). Private regulation takes several different forms. These include the implementation of supplier codes of conduct, certification schemes, self-monitoring through company auditing schemes, standard setting through multi-stakeholder initiatives and auditing by professional audit firms and civil society (Bartley, 2018a; Fransen, 2012; Grabs, 2020; Jenkins, 2001; Locke, 2013, 2016; Mamic, 2004; Vogel, 2008; Yu, 2008).

Most commentators claim that private regulation of labour standards in GSCs is largely ineffective (Grabs, 2020; Stroehle, 2017). Some argue that it inevitably produces mixed results because these initiatives ‘confront a fundamental challenge of reconciling diverse and conflicting interests among key actors [including firms, suppliers, labour associations NGOs] engaged in GSCs’ (Locke, 2016, p. 305). Other, more critical, scholars suggest the use of private regulation amounts to a smokescreen that allows powerful lead firms to covertly engage in irresponsible sourcing practices, while displacing more thorough government and union intervention (Esbenshade, 2004; Fransen & LeBaron, 2019; Morris et al., 2021). More optimistic assessments suggest that private regulation is an appropriately flexible response to the complexities of GSCs (Bartley & Egels-Zanden, 2015). However, these scholars maintain that certain conditions are required for private labour regulation to be effective, including the existence of complementary public regulatory interventions. However, such arrangements are the exception rather than the rule (Amengual, 2010; Amengual & Chirot, 2016; Bartley, 2018b; Locke, 2016).

Ultimately, evidence suggests that private regulation of labour standards in GSCs ‘is enforced patchily and with varied effectiveness’ (Anner, 2012; O’Rourke, 2003; Sethi, 2003; Stroehle, 2017, p. 477). In the absence of adequate State regulation, and in light of the failures of private regulation, calls for new and ‘complementary private/public
regulatory approaches that have the greatest potential to promote labour justice in the world of global supply chains’ have increased (Amengual & Chirot, 2016; Frenkel & Schuessler, 2021; Locke, 2016 p. 313).

2.2.2 The Emergence of Modern Slavery Reporting Laws: The Role of Transnational Advocacy and International Soft Law Guidance

MSR laws are examples of complementary reforms referred to above. These have emerged over the last decade as a result of both concerted transnational advocacy pressure focused on modern slavery (Chuang, 2015; Landau and Marshall, 2018; Polaris Project, 2021) and guidance from international governance institutions (in particular the UN) on appropriate action from States and companies to combat international BHR challenges (Attorney-General’s Department, 2017; Martin, 2020).

The recent advocacy movement has succeeded in turning modern slavery into a controversial global issue (Lerigo-Stephens et al., 2021). This international focus is evidenced by the UN Sustainable Development Goals established in 2015, several of which imply action on modern slavery.17 These include 8.7 (addressing modern slavery), 5.3 (addressing child, early and forced marriage), 8.5 (seeking to secure decent work), 8.8. (protecting labour rights) and 16.2 (addressing abuse, exploitation, trafficking and all forms of violence against children) (Lerigo-Stephens et al., 2021). States have responded. As Landau and Marshall (2018, p. 314) note, the momentum created by this international advocacy movement has, in several LME’s, led to ‘political parties acting in a bipartisan manner to produce regulatory responses and business offering to do their part’. The CTSCA, UKMSA and AMSA exemplify this growing political consensus. The central aims of these MSR laws, as discussed in Chapter 1, are to use State regulation to enhance private regulatory arrangements, thereby addressing regulatory weaknesses that have allowed modern slavery to persist.

17 ‘The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are the 17 Sustainable Development Goals, which are an urgent call for action by all countries—developed and developing—in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality and spur economic growth – all while tackling climate change and working to preserve our oceans and forests’. 
The approach taken by these laws aligns with the reform agenda established under recent soft law developments advocated by the UN, the ILO (as a subsidiary agency focused on labour) and the OECD. These organisations have a long history of developing soft law that clarifies and explains international human and labour rights, and provides guidance to States and companies (Cernic, 2012; Nolan, 2016). Unfortunately, the influence of this soft law has historically been limited as it lacks sanctions and, hence, enforcement power (Cohen & Sabel, 2006; Morris et al., 2021, p. 6). However, recent soft law developments, namely the UN’s Protect, Respect and Remedy Framework (2008) and the UNGPs (2011), have proven relatively successful in shaping and promoting State responses to international BHR challenges. While the UNGPs do not include sanctions, they have created a new ‘authoritative focal point as to what human rights compliance systems should look like within states and within companies’ (Landau, 2019, p. 224).

The UNGPs set out three State and corporate pillars of responsibility for minimising BHR problems. These are: a) States’ duty to protect against human rights violations through policy making and enforcement, b) firms’ duty to respect human rights, and c) States’ duty to provide remediation to victims of human rights violations (Ruggie, 2020; Ruggie & Sherman, 2017; Hess, 2008). The promulgation of MSR laws, and their aims, are consistent with this guidance. MSR laws fulfil State duties to protect against human rights violations, in this case modern slavery, through policy making and enforcement (Pillar 1 UNGPs); and encourage businesses to respect human rights, in this case,
through mandating reporting on modern slavery risk in their supply chains and operations (Pillar 2 UNGPs).

While MSR laws have the potential to combat modern slavery in GSCs, their design and effectiveness have attracted significant criticism in recent years. This is so for two main reasons, as discussed in Chapter 1. First, evidence shows these laws, which adopt a deficient design, have been ineffective in meeting their main objectives (Ford & Nolan, 2020; LeBaron & Ruhmkorf, 2017b; Mehra & Shay, 2016; Phillips, 2015; Wen, 2016). Second, analogous HRDD laws, adopting a different and arguably superior design, have emerged and are being implemented or considered in continental Europe (Grabosch, 2020; Smit et al., 2020). Despite this, MSR laws continue to diffuse internationally (Nicolson et al., 2020) which has led to calls to investigate the pressures that promote the emergence and adoption of MSR laws (cf. HRDD regulation) and continued analysis of their relative effectiveness (Caruana et al., 2021; Nolan et al., 2019).

2.3 Theorising the Design Modern Slavery Reporting Laws

Analysing the design and effectiveness of MSR laws requires a theoretical framework capable of identifying key design dimensions of this type of law and contrasting legislation (i.e. HRDD laws). To develop such a framework, I turn to the discipline of regulatory studies. Regulatory studies scholars recognise that effectively regulating business conduct requires more diverse approaches than either affording companies absolute discretion (self-regulation) or implementing strict controls of their behaviour (command-and-control regulation) (Coglianese & Mendelson, 2010). A significant strand of research within regulatory studies has, therefore, focused on developing theories of, and empirically assessing, alternative strategies to regulating business conduct (Landau, 2019). A prominent example is responsive regulation theory (Ayers & Braithwaite, 1992). Insights drawn from responsive regulation theory can be usefully applied here to provide dimensions and a terminology that assists in comparing MSR law designs with those of HRDD laws.

As argued in Chapter 1, such a framework allows me to set the design of MSR laws within a theoretical context and enables a better understand of the prevailing critique of MSR law designs. This serves as a springboard to investigate the processes that lead to design and effectiveness outcomes under these laws using other process oriented
theoretical tools in the empirical chapters of this thesis. Building on discussion of responsive regulation theory in section 1.3.1, here I elaborate on Ayres and Braithwaite’s theory to develop a regulatory design continuum. Using this continuum to provide this springboard, I compare the designs of examples of MSR laws in the UK, California and Australia and one HRDD law in France.

Before introducing and applying responsive regulation theory, some important caveats to my discussion are required. Ayers and Braithwaite developed the responsive regulation theory for a particular audience, being regulation scholars and policy makers interested in designing effective regulation. Here, I am using the theory to identify design variability. In addition, I am addressing an academic community beyond regulatory design scholars, for whom I am interpreting the theory and tailoring it to the above purpose. This has meant changing some of the terminology so that the theory is more aligned with other sociological and political science work in the broader field of business and human rights challenges in GSCs.

As evident below, I have relabelled Ayres and Braithwaite’s ideas on regulatory intrusiveness, enforcement and tripartism, as regulatee autonomy, severity of sanctions and stakeholder participation, respectively. I have done so to clarify their meaning, as the terms used by Ayres and Braithwaite are not self-explanatory. The newly adapted terms are synonymous but, in my view, more easily interpreted by readers not acquainted with the work of Ayres and Braithwaite or regulatory theory more generally. In addition, I have conceptualised these as dimensions of variation along a continuum. This is in keeping with Ayres and Braithwaite’s original proposal of a pyramid of regulatory strategies, where intrusiveness, enforcement mechanisms and levels of tripartism vary between self-regulation at the base of the pyramid and strict government control at the apex. Reconceptualising this as a continuum allows for clearer differentiation between regulatory formulations of MSR and HRDD laws.

2.3.1 Understanding Differences in Regulatory Design Through Responsive Regulation Theory

Ayers and Braithwaite’s (1992) introduced responsive regulation theory in order to end the apparent stalemate between proponents and opponents of business regulation. At the time the book was published, discussions on regulatory approaches were divided
between those who argued that regulation limited growth and those who claimed that regulation had been captured by large corporations and was consequently ineffective. The laissez-faire advocates called for deregulation, the cutting of red tape and a hands-off approach by government more generally (Dudley & Brito, 2012; Sinclair, 1997). The corporate capture critics argued for more transparency, and stricter monitoring and enforcement of non-compliant corporate behaviour (Lodge & Wegrich, 2012). Ayers and Braithwaite’s contribution was twofold. First, in attempting to overcome this division, these authors provided a discourse for discussing the design of regulatory interventions, and second, they specified a set of strategies to adjust design to ensure compliance with regulatory goals (Nielsen and Parker, 2009; Van Der Heijden, 2020). Since its publication, responsive regulation theory has become a central work within the field of regulatory studies (Parker, 2013). It has led to over 1,000 scholarly articles that review various applications of the theory across different policy domains and countries (Ivec et al., 2015). The framework’s significance is demonstrated by its broad applicability to fields such as construction, finance, health and philanthropy, in China, Britain, the Netherlands and South Africa (Braithwaite, 2016; Van Der Heijden, 2020).

Responsive regulation theory posits that State regulators should be responsive to the conduct of regulatees (either individual or collective actors). That responsiveness requires regulators to acknowledge that ‘sometimes punishment works and sometimes it backfires—and likewise with persuasion’ (Braithwaite, 2011, p. 484). The authors suggest that thinking about regulation responsively is ‘an attitude that enables the blossoming of a wide variety of regulatory approaches’ (Ayers & Braithwaite, 1992, p. 5). These can be continuously adjusted to ensure effective compliance and, hence, avoid the problems created by reliance on self-regulation or strict government control.

In essence, responsive regulation theory envisages a flexible model of regulation, where regulators adjust their strategies between two poles on a continuum between self-regulation and command-and-control regulation, with various mixes of ‘persuasion and contingent sanctions’ existing between these poles (Osuji, 2015, p. 272). The theory promotes self-regulation as the most desirable and flexible mode of regulation. However, the theory also outlines strategies for enhancing the strength of interventions regulators engage in, based on the behaviour of regulatees (Osuji, 2015). More interventionist regulation affords regulatees less autonomy and involves more severe sanctions. Hence, although responsive regulation has a normative focus on encouraging
regulatee (citizens or firms) self-regulation, it includes a range of strategies that are compatible with a variety of regulatory designs.

2.3.1.1 Designing and Adjusting Responsive Regulation

Ayers and Braithwaite (1992) suggest that regulators should seek to design regulation guided by two main principles. First, regulation should be minimally interventionist; that is, it should allow maximum autonomy for regulatees in pursuing regulatory goals. Second, regulators should seek to create institutional arrangements that maximise participation by industry, regulatory agencies and citizens (Ayers & Braithwaite, 1992). This gives democratic legitimacy to compliance requirements. Ayres and Braithwaite’s rationale for advocating for minimally interventionist and participative regulation is that such regulation is most likely to be viewed as legitimate and hence followed by regulatees. Under this kind of regulatory design regulatees are able to respond in a manner that is tailored to their unique circumstance and in a way that is informed by the views of their stakeholders (Van Der Heijden, 2020). However, scholars acknowledge that such designs do run the risk of regulatees not conforming to the regulation’s intentions. Therefore strategies are developed for changing an initial design in response to recalcitrant regulatees’ behaviour (Van Der Heijden, 2020). In such cases, the design strategies would be re-calibrated towards the command-and-control end of the continuum. In other words, the autonomy of regulatees would be reduced, thereby curtailing company flexibility to respond to regulation (Osuji, 2015).

Regarding sanctions, the authors introduce the ‘enforcement pyramid’ (p. 26), which outlines ways in which regulators can escalate the severity of sanctions to elicit desirable compliance responses from regulatees. The severity of sanctions within the enforcement pyramid range from strategies that are non-punitive and sit at the base of the pyramid, to severely punitive enforcement strategies at the apex. Where self-regulation fails to elicit a response consistent with the law, this may be followed in a business context by warnings, civil penalties, criminal penalties, suspensions and revocation of licences (Osuji, 2015). The role of an explicitly defined and scalable enforcement pyramid is twofold: first, to directly address persistent non-compliance through adjusting sanction severity; and second, to serve as a threat by clearly defining potential escalation in enforcement measures. The idea behind this threat signalling role is to introduce the notion of ‘benign big guns’, when self-regulation fails. As the authors
suggest, the bigger and the more various are the sticks available, the greater the success regulators will achieve by speaking softly (Ayers & Braithwaite, 1992, p. 19; Braithwaite, 1990, p. 1).

Ayers and Braithwaite argue that adjusting levels and types of citizenship participation or tripartism can also help to ensure compliance. The authors note that self-regulatory arrangements ‘run the risk of an evolution of capture and corruption’ (Ayers & Braithwaite, 1992, p. 6). In response, ‘tripartism—empowering citizen associations via coalition building—is advanced as a way of solving this dilemma’ (Ayers & Braithwaite, 1992, p. 6; Van Der Heijden, 2020). Increasing tripartism encourages regulatees to comply as more actors are privy to, and involved in, establishing compliance goals. Hence, these actors are able to exert pressure on regulatees to conform to implementation norms. Tripartism, under responsive regulation theory, includes both formal involvement of relevant stakeholders in defining regulatory goals—for example, through providing ‘a seat at the negotiating table’ for unions and/or consumer groups—and making information on regulatory outcomes freely available for assessment and critique by relevant stakeholders (Ayers & Braithwaite, 1992, p. 57). In the case of MSR laws, tripartism is employed through the latter mechanism. Hence, as noted above, for ease of understanding, I refer to tripartism by the broader term, stakeholder participation, from here on.

In sum, at the heart of responsive regulation theory lies a commitment to developing regulation that affords regulatees autonomy but is adaptable in response to regulatee behaviour. Under responsive regulation theory, authorities are advised to consider various regulatory strategies that combine the above dimensions in ways that are consistent with the ‘behaviour, history, culture and motivations of regulatees’ (Osuji, 2015), and hence, successfully promote compliance.

2.3.1.2 Developing a Responsive Regulation Continuum

Figure 1 depicts the range of regulatory adaptability available under responsive regulation theory, as discussed above. It assumes that from the outset, regulators are adopting a responsive approach, attempting to implement regulation close to the self-regulatory pole, relying on sanctions of low severity and affording regulatees maximum autonomy. Private regulatory arrangements described earlier are an example. Moving
from left to right reflects the process of creating a more robust regulatory response by reducing regulatee autonomy and increasing the severity of sanctions. On the opposite pole to self-regulation sits command-and-control regulation, which, in keeping with the strategies described by Ayers and Braithwaite, involves limited regulatee autonomy and severe sanctions. Criminal law, with highly prescriptive definitions of offences and punishments for non-compliance, sits at the command-and-control end of the continuum.

Figure 1: Responsive regulation continuum

Hence, regulatory designs range between these two poles, based on two primary dimensions. The first is the level of autonomy afforded to regulatees in pursuing the goals of regulation, ranging from high to low. The second is the severity of sanctions imposed on regulatees for non-compliance by regulators, ranging from low to high. In addition, stakeholder participation may occur across the continuum, encouraging compliance with various regulatory forms. Stakeholder participation can be achieved through different means, as discussed above: either directly involving stakeholders in the development of standards and/or furnishing them with information on the performance of regulatees in meeting such standards.

Enforced-self regulation in Figure 1, discussed in more detail in Section 2.3.2, is positioned between the poles, in the middle of the continuum. In Ayers and Braithwaite’s description, enforced-self regulation involves increased intervention from regulators when compared with self-regulation; that is, a decrease in regulatee autonomy and an increase in sanction severity. This is achieved through the development and monitoring of legal standards, and the employment of sanctions from the middle of the enforcement pyramid; for example, warnings or civil penalties (Ayers
& Braithwaite, p. 26). Stakeholder participation is particularly important under regulatory strategies that tend towards the self-regulatory pole. The effectiveness of stakeholders in promoting corporate compliance will be a key determinant of how much adjustment towards the command-and-control pole is required to ensure compliance.

Regarding the actors, Figure 1 depicts the regulator at the top and the regulatee at the bottom. Moving from self-regulation to command-and-control, regulators may adapt their strategies over time in response to the behaviour of regulatees. The arrows connecting the regulator and the regulatee illustrate the changing relationship of the regulator with regulatees as strategies are adjusted towards the command-and-control pole. Under a self-regulatory approach, this relationship is bottom up: regulatees drive the process, develop a response to an issue and communicate that response to the regulator and important stakeholders. Under the command-and-control approach, this relationship is top down: the regulator adopts a hierarchical relationship with the regulatee, in that it defines prescriptive standards and the consequences for non-compliance. The enforced self-regulation approach implies that regulators and regulatees engage in a two-way relationship; that is, regulators are involved in developing standards or a mandate for action for regulatees, and regulatees are tasked with fulfilling regulatory standards through their self-regulatory capacity.

**2.3.2 Understanding the Aims of Enforced Self-Regulation**

Ayers and Braithwaite advocate for enforced self-regulation as an innovative regulatory design that uses variation in the above dimensions to chart a middle path between pure self-regulation and more intrusive command-and-control approaches (1992, p. 101-102; Neilsen & Parker, 2009). As noted above, under an enforced self-regulatory design, regulatory standards are agreed by companies and regulators; these standards are then ratified by stakeholders who, in turn, monitor corporate adherence to them. In addition, more severe sanctions from the middle of the enforcement pyramid are employed in the event of non-compliance. As such, this strategy escalates the level of regulator intervention through mandating certain standards—thus reducing regulatee autonomy—and increasing sanction severity relative to pure self-regulation. Importantly, this strategy empowers stakeholders to hold companies to account for fulfilling those standards through their public ratification and monitoring.
Enforced self-regulation promotes the development and maintenance of regulation processes within companies and, hence, sits within a family of process-oriented regulation strategies (Gilad, 2010). Process-oriented regulation refers to a group of regulatory strategies ‘that allow firms to adapt regulation to their individual circumstances, while holding them accountable for the adequacy and efficacy of their self-regulation systems’ (Gilad, 2010, p. 485). Many process-oriented regulatory theories have emerged over the last 30 years, including ‘reflexive law theory’ (Teubner, 1983), ‘new governance theory’ (Rhodes, 1996), ‘meta-regulation’ (Parker, 2002), ‘experimentalist governance’ (Sabel & Zeitlin, 2010; Sabel et al., 2012) and, of course, ‘enforced self-regulation’ (Ayers & Braithwaite, 1992). These theories promote a model of regulation that applies some legal coercion to develop self-correcting systems of self-regulation. They share the fundamental assumption that laws can be used as both a ‘medium’ for communicating norms and an ‘institution’ for facilitating self-regulation (Teubner, 1983, p. 270). MSR and HRDD laws are forms of process-oriented regulation in that they apply legal coercion to codify regulatory goals. These laws encourage companies to investigate and report on modern slavery or human rights concerns in their supply chains and operations. However, they place the onus of achieving those goals on companies, in their self-regulatory capacity.

2.3.3 Understanding the Design and Effectiveness of Modern Slavery Reporting Laws

Design differences between MSR and HRDD laws demonstrate the pursuit of different approaches to enforced self-regulation. Below, I illustrate these differences by comparing the designs of the CTSCA, the UKMSA, the AMSA and the French Law (an HRDD law). This comparison demonstrates how the design of MSR laws can vary slightly based on the three responsive regulation theory dimensions discussed above (shown in the first column of Table 1), but that they share important common features. Furthermore, in contrasting MSR law designs with an HRDD law, the framework highlights the design features of MSR laws that have been the subject of significant critique since they have been popularised (LeBaron & Ruhmkorf, 2017b; Mehra & Shay, 2016).
2.3.3.1 Severity of Sanctions

Table 1 shows that the four cases differ in the severity of sanctions available to regulators. The CTSCA, UKMSA and AMSA all limit the severity of sanctions available to regulators. Instead, they rely on stakeholder participation and provisions that allow a relevant minister or authority to issue a warning letter if companies do not comply with reporting obligations. The French Law, in contrast, features warning letters and legal penalties for non-compliance. Hence, failure to comply under the French Law leads to stronger sanctions than under the other three laws. Note that the AMSA differs from the CTSCA and the UKMSA by including an additional inbuilt governance mechanism—a three-year formal review requirement—that affords more options in terms of potential sanctions. This review process was established to consider the need for financial penalties in the future. It was explicitly communicated to regulatees when the AMSA was established, so it can be considered a ‘benign big gun’ encouraging firms to comply (Ayers & Braithwaite, 1992, p. 19).
Table 1: Supply chain disclosure legislation: California, UK, Australia and France

<table>
<thead>
<tr>
<th></th>
<th>2012 CTSCA</th>
<th>2015 UKMSA</th>
<th>2018 AMSA</th>
<th>2017 French Law</th>
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<tbody>
<tr>
<td>1.</td>
<td><strong>Sanction severity:</strong> Enforcement mechanisms available</td>
<td><strong>Sanction severity:</strong> Enforcement mechanisms available</td>
<td><strong>Sanction severity:</strong> Enforcement mechanisms available</td>
<td><strong>Sanction severity:</strong> Enforcement mechanisms available</td>
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<td></td>
<td>Market pressure: Firms that comply will enjoy reputational benefits, while those that do not will suffer reputational damage. The duty to issue a statement is enforceable by the California Attorney-General through an injunction.</td>
<td>Market pressure: Firms that comply will enjoy reputational benefits, while those that do not will suffer reputational damage. The duty to issue a statement is enforceable by the Secretary of State through an injunction. Independent review of the Act and its effectiveness has been conducted; however, no consistent review period is built into the legislation’s governance procedures.</td>
<td>Market pressure: Firms that comply will enjoy reputational benefits, while those that do not will suffer reputational damage. Section 16A introduces a 'comply or explain' provision, enabling the relevant minister to pursue an injunction for non-compliance. Review of the effectiveness of the Act is planned to be conducted every 3 years, with the explicit mandate that penalties should be considered if compliance is not achieved.</td>
<td>Market pressure through public reporting and civil recourse: Any concerned party has standing to request that a judge compel a company to establish, implement or publish a vigilance plan. Companies may be subject to liability if individuals are harmed by their failure to establish or implement a plan.</td>
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<td>2.</td>
<td><strong>Regulatee autonomy: Reporting requirements</strong></td>
<td><strong>Regulatee autonomy: Reporting requirements</strong></td>
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<td></td>
<td>Suggested disclosures:</td>
<td>Suggested disclosures:</td>
<td>Mandated disclosures:</td>
<td>Mandated disclosures—Companies are expected to make their vigilance plans and regularly report on:</td>
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<td></td>
<td>• Verification: Verify product supply chains to evaluate and address risks of human trafficking and slavery;</td>
<td>• A description of the organisation’s structure, business model and supply chain relationships;</td>
<td>• Identify the reporting entity;</td>
<td>• Procedures to identify and analyse the risks of human rights violation or environmental harms in connection with the company’s operations;</td>
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<td></td>
<td>• Auditing: Perform supplier audits to evaluate compliance with company standards;</td>
<td>• Information on policies in relation to slavery and human trafficking;</td>
<td>• Describe the structure, operations and supply chains of the reporting entity;</td>
<td>• Procedures to regularly assess risks associated with subsidiaries, sub-contractors and suppliers with which the company has a commercial relationship;</td>
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<td></td>
<td>• Certification: Require certification by direct suppliers that materials incorporated into company products comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business;</td>
<td>• Details of the due diligence process in relation to its business and supply chains;</td>
<td>• Describe the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls;</td>
<td>• Actions to mitigate identified risks or prevent serious violations;</td>
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<td></td>
<td>• Internal accountability: Maintain internal accountability standards</td>
<td>• The areas of the business and supply chains at risk of slavery and human trafficking and the steps taken to assess and manage that risk;</td>
<td>• The actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes;</td>
<td>• Mechanisms to alert the company to risks and collect signals of potential or actual risk;</td>
</tr>
<tr>
<td>2012 CTSCA</td>
<td>2015 UKMSA</td>
<td>2018 AMSA</td>
<td>2017 French Law</td>
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<td>and procedures for employees or contractors that fail to meet company standards on slavery and trafficking; and</td>
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<tr>
<td>Training: Train relevant company employees and management on human trafficking and slavery, particularly concerning the mitigation of risk within supply chains. (N.B. companies have the option of submitting a ‘no action taken’ disclosure.)</td>
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<tr>
<td>• Any training available to staff. (N.B. companies have the option of submitting a ‘no action taken’ disclosure.)</td>
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<td>• Describe how the reporting entity assesses the effectiveness of such actions;</td>
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<td>• Describe the process of consultation with stakeholders;</td>
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<tr>
<td>• Include any other information that the reporting entity, or the entity giving the statement, considers relevant.</td>
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<tr>
<td>• Mechanisms to assess measures that have been implemented as part of the company’s plan and their effectiveness.</td>
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<tr>
<td>• The law mandates companies to practice HRDD, seen by the UNGPs as the main operational principle to put companies’ responsibility to respect human rights into practice (Redmond, 2020)</td>
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3. **Stakeholder participation (Tripartism)**

<table>
<thead>
<tr>
<th>2012 CTSCA</th>
<th>2015 UKMSA</th>
<th>2018 AMSA</th>
<th>2017 French Law</th>
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</thead>
<tbody>
<tr>
<td>Singular public statement required; i.e. no annual reporting</td>
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<tr>
<td>Annual public reporting</td>
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Annual public reporting
The government has established the Online Register for Modern Slavery Statements to aid in monitoring and assessment of reporting.
Independent reviews have been conducted but are not built into the legislation’s governance procedures.
2.3.3.2 Regulatee Autonomy

The four laws differ in terms of the autonomy they afford firms in pursuing regulatory goals. This is evidenced through consideration of the reporting requirements outlined under each law (see the second row of Table 1). Some form of guidance or reporting standards have been developed by governments under each law. However, the level of autonomy that firms have in responding to this guidance varies across jurisdictions. In the case of the CTSCA and the UKMSA, disclosure content is suggested, affording firms autonomy in how they respond to these laws. The AMSA is different: its disclosure requirements are mandated and recall HRDD requirements. However, commentators point out that the AMSA stops short of including a conduct obligation and, hence, affords firms autonomy in their responses to the law (Redmond, 2020, p. 13).

Under the French Law, companies are required to report in line with HRDD principles (discussed in Chapter 1). Under this law, companies are also subject to a conduct obligation, requiring them to adapt their policies and practices to address BHR concerns in their supply chains and operations. Hence, the French Law provides less autonomy to companies. More emphasis on this command-and-control approach can, in part, be explained by the French State’s history of adopting a dirigiste approach to industry regulation. This involves close ties between the state and industry and state directives regarding industry policy and practice (Golder, 1997).

2.3.3.3 Stakeholder Participation (Tripartism)

As alluded to in Chapter 1 and above, the CTSCA, UKMSA and AMSA rely heavily on stakeholder participation by consumers, or group pressure by stakeholders, for compliance. This arises from publicly available reporting; that is, reporting transparency. In contrast, the CTSCA only requires public reporting on modern slavery in supply chains; companies are not compelled to report annually, which is a requirement under the other three laws. In fact, the CTSCA requires only one public statement from companies. While the intent behind the CTSCA is for companies to update this statement regularly, in practice, companies have not done so (Bayer & Hudson, 2017; Fourie et al., 2019).
The AMSA is likely to encourage stronger stakeholder participation than the other three laws. The Australian government has committed to implementing a public modern slavery register to which companies are required to submit reports. This allows stakeholder scrutiny, thereby highlighting variation in reporting efficacy by firms. This feature, which facilitates stakeholder access to reports, may provide citizen coalitions with information that can be used to pressure regulatees into improving corporate supply chain labour practices. Recently in the UK, consideration of establishing a similar repository has been growing following a 2019 review into the efficacy of the UKMSA (Secretary of State for the Home Department, 2019). The French Law also requires public reporting of HRDD plans, which would encourage consumer and stakeholder pressure; however, by limiting autonomy and increasing sanctions severity, reliance on this pressure is reduced.

2.3.3.4 Supply Chain Transparency Laws and the Continuum

The above analysis shows that these laws are all examples of enforced self-regulation, in that they encourage, through legal coercion, businesses to assess, control and monitor the risks they create (Fairman & Yapp, 2005, p. 491). However, they differ regarding how closely each approximates a self-regulatory approach or a command-and-control approach to encourage this objective. Figure 2 locates the four laws along a continuum based on design differences.

The CTSCA most closely approximates a self-regulatory approach to enforced self-regulation. It includes suggested reporting areas and relies on stakeholder pressure to promote compliance. Importantly, the CTSCA entails no penalties for non-compliance and, relative to the UKMSA and AMSA, the effectiveness of stakeholder pressure is less likely given that reporting is not required annually. The UKMSA also closely approximates a self-regulatory approach. It suggests disclosure details and relies on stakeholder pressure as a means of enforcement through annual reporting. Similar to the CTSCA, there are no legal or financial penalties for non-compliance. These laws do entail the ability for a relevant minister to serve firms with a warning letter but, in practice, this has rarely been done. A recently published review on the UKMSA has recommended changes to this design, including inclusion of more sanctions and mandatory reporting criteria (Secretary of State for the Home Department, 2019).
Figure 2: Modern slavery responsive regulation continuum
Compared with the CTSCA and the UKMSA, the AMSA is located slightly closer to the command-and-control end of the continuum. It includes mandatory reporting requirements. However, it also relies on stakeholder pressure to elicit compliance and entails no penalties for non-compliance. Like the UKMSA, it requires annual reporting, but there are additional governance mechanisms in place. These include a review of the Act’s effectiveness every three years with the express intention of considering the introduction of punitive compliance measures if required, which may function as a ‘benign big gun’. Finally, the French Law most closely approximates a command-and-control approach. It mandates HRDD reporting, with punitive legal measures for non-compliance. Hence, regulatees have less autonomy and are subject to more severe sanctions compared with the other three laws. This law also generates stakeholder pressure through mandating public reporting but, in contrast to the other three laws, does not rely on this pressure to ensure compliance.

The design differences between MSR and HRDD laws are based on different assumptions of what will lead to compliance and make these laws effective. As discussed in Chapter 1, MSR laws, in affording companies autonomy in how they report and in limiting sanction severity, rely primarily on stakeholder participation to govern private action by mandating that companies regularly inform stakeholders of their responses to regulation. In addition, it is assumed that this stakeholder scrutiny will encourage organisations to learn about ‘best practice’ and, in turn, improve their policy and practice related to modern slavery over time (Redmond, 2020; Rogerson et al., 2020). However, commentators question whether these processes can ensure compliance (Nolan & Bott, 2018). HRDD laws also employ public oversight. However, the addition of more prescriptive reporting requirements, a conduct obligation to adapt policy and practice and punitive compliance measures, reduces autonomy and increases sanction severity. Hence, HRDD laws are considered less reliant on this stakeholder feedback process for ensuring the goals of legislation are met.

2.4 Conclusion

As argued in Chapter 1 and elaborated here, responsive regulation theory provides a valuable framework for understanding variation in the design of MSR and HRDD laws and hence understanding the prevailing critique of MSR laws. My analysis reveals that MSR laws are examples of enforced self-regulation, more closely approximating a self-
regulatory design than HRDD laws. This is based on three key dimensions: regulatee autonomy, sanction severity and stakeholder participation. Concerns over the effectiveness of adopting this design have prompted calls for investigation of the processes that have led to adoption and outcomes (i.e. reporting and policy and practice change) (Caruana et al., 2021; Nolan et al., 2019) of this design.

To address these areas, I pose the following over-arching research question: How do policy-making process dynamics shape the design of modern slavery reporting laws, and how do external stakeholder pressure and actors internal to firms influence their effectiveness? The question reflects an interest in three processes. Firstly, how policy process dynamics explain the emergence and adoption of MSR laws with seemingly deficient designs; secondly, the process of influence by external stakeholders over reporting outcomes under MSR laws; and finally, the processes through which internal actors shape corporate policy and practice change in line with legislative intentions under MSR laws.

To address this overarching research question three studies are conducted in the following chapters (3-5). In Chapter 3, building on the above analysis, I examine how dynamics of the policy process have shaped the design of one of these laws, the AMSA, into a more self-regulatory form. This provides insights regarding factors influencing the regulators in designing this law, with implications for the design of other MSR laws in similar institutional settings.

Following this in Chapters 4 and 5, I explore how two processes that are central to the effectiveness of MSR laws play out in practice. First, in Chapter 4, I examine how stakeholder relationships influence reporting outcomes under the UKMSA and the CTSCA. Second, in Chapter 5, I examine how actors internal to the firm shape changes to corporate policies and practices aimed at minimising modern slavery in supply chains in response to the AMSA (Ford & Nolan, 2020). These studies advance the largely theoretical understanding of the processes driving outcomes under these laws and point to ways in which they could be adapted to ensure their future effectiveness.”
Chapter 3: Designing Modern Slavery Reporting Laws: The Case of the Australian Modern Slavery Act

3.1 Introduction

Chapter 2 demonstrated that MSR laws are examples of enforced self-regulation, and that they closely approximate a self-regulatory approach to enforced self-regulation. The dynamics behind the emergence of MSR laws adopting this design and factors that shape this is an intriguing, under-explored research area (Caruana et al., 2021, p. 271). In light of the emergence of contrasting design templates (i.e. HRDD cf MSR laws) and the perceived deficiencies of the latter (LeBaron & Ruhmkorf, 2017b; Mayer & Phillips, 2017; Rawling, 2015; Wen, 2016), this question is particularly salient. In this chapter, I approach this issue from a processual perspective, examining the mechanisms that have resulted in apparently deficient design. I focus on the emergence of the AMSA design, thereby responding to recent calls (see Chapter 1 and 2) for further research on the emergence and design of MSR laws (Caruana et al., 2021). Accordingly, this chapter is guided by the following research question: RQ1: Why did the Australian Modern Slavery Act 2018 emerge and how did policy process dynamics shape the design of the legislation?

This chapter draws on policy change theory recently developed by Howlett et al. (2016, 2017) to explore this question. Qualitative data were collected and analysed using a directed content analysis approach (Hsieh & Shannon, 2005). AMSA-related events from 2011 to 2018 are reconstructed and critical factors leading to emergence of the Act on the Australian policy agenda identified. In addition, I identify the varying policy positions adopted by important stakeholder coalitions and explain how these shaped policy makers’ final design decisions.

This chapter proceeds as follows. Section 3.2 explores the literature on the emergence and design of MSR laws. A conceptual framework that extends current understanding of this process is then outlined. Section 3.3 details the methodological approach to addressing the research question posed. Section 3.4 explores policy-related contextual information as a prelude to reporting the findings of the analysis in Section 3.5. Section
3.6 discusses key findings and how they extend the literature. Section 3.7 concludes the chapter by summarizing its central insights.

**3.2 Literature Review**

The following review examines research in two areas relevant to the research question. First, I summarise research on factors that have prompted the emergence and shaped the design of MSR laws that closely approximate a self-regulatory model (e.g. the UKMSA, CTSCA and AMSA). Second, the review considers relevant theory derived from the policy studies field that assists in extending explanations of how these laws have emerged and are designed. Here, the focus is on policy change processes. Policy change researchers have long sought to explain policy emergence and variation in design. I show that Howlett et al.’s (2016, 2017) five-stream policy change framework, appropriately adapted, is especially useful for analysing the AMSA’s emergence and design.

**3.2.1 Factors Influencing the Emergence and Design of Modern Slavery Laws**

It is possible to identify variables that explain both the emergence and design of MSR laws. Factors discussed below are drawn from the literature. Research into emergence and design has been sparse and focused largely on the UKMSA. Hence, while some factors discussed below are universal, most relate specifically to the emergence and design of the UKMSA. Given that the UKMSA is analogous to the AMSA, this research is relevant for this investigation.

**3.2.1.1 Emergence**

Legal scholars have highlighted the role of international legal proceedings and the growing prominence of international soft law in encouraging governments to implement modern slavery reform in recent years. Two influential cases heard in the European Court of Human Rights, *Siliadin v France (2006)* and *Ranstev v Cyprus (2010)*, underscored the need for reform. These cases recognised the obligation of State authorities to criminalise slavery offences and take proactive steps to mitigate their impact (Craig, 2017; Mantouvalou, 2018, p.1020). This sentiment, enhanced by pressure from international institutions, including the UN (through ratification of the UNGPs), the ILO and the OECD (through development of their *Guidelines for*
Legal scholars have also highlighted the influence of ‘philanthrocapitalists’ in framing and promoting responses to modern slavery globally (Chuang, 2015). Philanthrocapitalism is a new form of philanthropy involving ‘ultra-rich’ business people creating, funding and managing philanthropic ventures (Chuang, 2015, p. 1518). Prominent examples include the Melinda and Bill Gates Foundation and the Chan Zuckerberg Foundation, which have varying foci including provision of clean water in developing nations, poverty reduction and ensuring equitable access to education worldwide (Bill & Melinda Gates Foundation, 2021; The Chan Zuckerberg Initiative, 2021). In the area of anti-trafficking and modern slavery, one philanthrocapitalist—Andrew Forrest—has emerged as a major figure in directing global governance on the issue. As part of this objective, he has been active in advocating for policy reform targeting modern slavery in supply chains (Dottridge, 2014). His active involvement in the emergence of the AMSA features prominently in the following analysis.

To explain the UKMSA’s emergence specifically, scholars have highlighted domestic factors as well as the above-mentioned international pressures. Through examination of the history of UK slavery policy, Broad and Turnbull (2018) show that until 2011, policy makers had prioritised responses to sexual exploitation over labour exploitation. However, mounting evidence of modern slavery in supply chains presented by civil society organisations (Broad & Turnbull, 2018, p. 16), as well as the impetus for change created by expert scrutiny of UK slavery policy, created a momentum towards formulating the UKMSA. Examples include a 2013 Centre for Social Justice report identifying deficiencies in the UK policy infrastructure and recommending the implementation of a supply chain reporting scheme (Broad & Turnbull, 2018, p. 16).

3.2.1.2 Design

Contributions related to design have shown how asymmetry in power affected the policy debate about the design of the UKMSA, and ultimately promoted a law that afforded firms autonomy and limited sanction severity under the Act. LeBaron and Ruhmkorf (2017a) illustrate how business support for private, business-led regulatory
approaches, rather than more prescriptive and punitive approaches, shaped the UKMSA. LeBaron and Ruhmkorf illustrate how ‘business–NGO partnerships and collaborations’ have been used as a vehicle through which firms promote a self-regulatory design (2017b, p. 51). The authors propose that by aligning themselves with the modern slavery cause, corporate actors are able to dilute legislation to maintain the status quo (i.e. self-regulation), while appearing to support change.

Craig (2017) demonstrates an influence of elite political actors on the UKMSA design; in particular, the Conservative Cameron Government adopted debating tactics that deflected criticisms of the proposed UKMSA, watering down its stringency. These included scheduling the final debate on the Act shortly before a suspension of Parliament. The government used this as an opportunity to rush through ‘half a bill’ (Craig, 2017, p. 21) rather than respond to calls for less autonomy and more severe sanctions.

Additional recent research on design influences has demonstrated the role of powerful regulatory intermediaries in perpetuating a self-regulatory design in the UK. In general, research on regulatory intermediation has stressed the ways in which intermediaries facilitate private regulatory capture (Abbott et al., 2017; Bres et al., 2019). Fransen and LeBaron (2019) explore the specific influence of professional service firms (PSFs) on the design of MSR laws. The authors show that these intermediaries engage in a variety of official and unofficial influencing practices that help to promote and intrench their agenda of ‘incrementalist, soft-law labour governance’ (p. 260). Examples of these influencing practices include developing close contacts with decision makers in the government responsible for making decisions about the substance of the MSR laws, financial and non-cash donations to offices responsible for development and implementation of MSR laws, and, finally, hosting events and publishing with leading anti-slavery NGOs, including Free the Slaves and the Walk Free Foundation (Fransen and Lebaron, 2019, p. 270).

In sum, research thus far on the emergence of MSR laws has identified pressures created by international legal precedent and international regulators, as well as the advocacy of prominent ‘philanthrocapitalists’ in promoting reform generally. Work focusing specifically on the emergence and design of the UKMSA has identified the role of scrutiny and the critique of extant slavery policy by think tanks and civil society
groups, and the ways in which law makers and powerful business groups have been able to promote self-regulatory designs through debating tactics employed in the policy-making process and strategic coalitions with civil society groups. Such research has emphasised discrete factors rather than examining them as a system of interconnected parts. Consequently, little is known about how these factors interacted to influence the design of the reforms in question.

3.2.2 Policy Process Research: Theory Development and Contemporary Change Frameworks

Policy process research investigates ‘interactions among the machinery of the State, political actors and the public’ and how those shape policy outcomes (Petridou, 2014, p. 12). This type of theory has been around for a long time, initially as a rational staged process. Lasswell’s (1956) seven-stage model breaks down the policy process into seven stages consisting of gathering intelligence, promotion, prescription, invocation (explaining the new rules), application, appraisal and termination. Later work highlights the limitations of rational policy decision making arising from prevailing norms and institutions, and the cognitive limitations of human actors (John, 2018). Allison and Zelikow’s (1971) seminal book on US foreign policy decisions in the 1960s explicates three kinds of policy decision making: the rational actor model; the organisational process model; and the bureaucratic decision-making model. The text marks a shift away from explaining policy decisions as a function of decision makers and what they know, towards a view that policy decisions are a function of complex interactions between institutions and networks of actors.

Contemporary policy process theory continues the trend away from models that emphasise the role of policy decision makers and rational choice. Theories emerging in the 1980s and 1990s assumed that policy emerges and is shaped by a multitude of factors, in particular the salience of ideas (John, 2018; Pierce et al., 2017; Sabatier & Weible, 2007). Frameworks of this era focused on how ideas become salient and hence are pushed through the policy-making infrastructure (John, 2018). Many contemporary policy change frameworks have emerged, as evidenced by reviews conducted by Petridou (2014) and John (2018). I draw on two of these frameworks: Kingdon’s (1984) multiple streams framework (MSF) and Sabatier and Jenkins-Smith’s (1993) actor
coalition framework (ACF). These form the foundation of Howlett et al.’s (2016, 2017) policy change framework, which I apply in the following empirical investigation.

3.2.2.1 Multiple Streams Framework

Kingdon’s (1984) MSF has been used in many policy contexts. A recent review highlights 22 varied contexts, including agriculture, the arts, defence, diversity, economic, education, emergency services, energy, environment, firearms and foreign relations (Rawat & Morris, 2016). The framework was developed to explain how, within a given policy subsystem (a policy environment that contains all the actors concerned with a particular issue [Zahariadis, 2007]), possible shifts in policy emerge on the political agenda under conditions of ambiguity (Howlett et al., 2016, 2017). Three ‘streams’ are considered important to the policy agenda setting: politics, problem and policy. The politics stream encompasses party politics, public sentiment and advocacy campaigns. Within the politics stream, actors seek to voice their position relating to an issue and search for political opportunities where they might be able to further their cause. Political opportunities might occur during periods of political upheaval including elections, or after periods of concerted advocacy that create enough political pressure to motivate changes in policy (Kingdon, 1984; Zahariadis, 2007).

The problem stream encompasses the various issues that policy makers and citizens within a subsystem want addressed (Jones et al., 2016). Problems are defined by three factors. The first is the emergence of new indicators, which reveals insights into the scope and nature of an issue. Examples include NGO evidence of modern slavery in GSCs as noted by Craig (2017) above. Second, problems are defined by the occurrence of critical scandals that are significant and sudden, and highlight the need for a policy response. Birkland (2004) discusses the 9/11 attacks as an example of an event that reframed security policy in the US. Finally, problems are defined through feedback, or critical assessment of current or comparable policy. Positive and negative assessments of these programs focus attention on a problem and highlight necessary policy changes or improvements.

The policy stream encompasses the ‘soup’ of ideas and solutions available to actors to address an issue (Jones et al., 2016, p.15). This includes self-regulatory supply chain initiatives like the UKMSA or command-and-control initiatives such as the French Law.
Under Kingdon’s model, the emergence of new policy ideas on the agenda requires the coupling of all three streams (Mukherjee & Howlett, 2015; Zahariadis, 2007). This process generates a solution that is aligned with a particular problem at an opportune political moment—a policy window that facilitates sufficient momentum to change the political agenda. To explain this coupling process, Kingdon introduces the ‘policy entrepreneur’ (Rawat & Morris, 2016). Policy entrepreneurs take a position on a particular policy problem and are central to coupling streams. They are often well resourced and influential individuals or organisations, and possess qualities such as persuasiveness, authority, content knowledge and negotiation skills (Rawat & Morris, 2016). Policy entrepreneurs have been shown to be decisive in engineering agenda shifts in diverse policy areas. Notable examples include global water policy (Huitema et al., 2011) and more controversial areas such as Australian stem cell research (Mintrom, 2013). The influence of policy entrepreneurs may sometimes be overstated: Botterill (2013) highlights the inability of individuals to motivate policy change in complex and highly contested policy domains.

3.2.2.2 Actor Coalition Framework

Sabatier and Jenkins-Smith’s (1993) ACF explains how concerned actors seek to influence the type and form of policy that will be implemented to address an issue. The framework is useful for understanding high conflict situations involving distinct coalitions, policy learning, and policy change (Petridou, 2014, p. 14-15). The ACF has also been applied across a range of policy domains including, climate, energy education and aviation (Pierce et al., 2017, p. 9). The framework posits that like-minded actors will form coalitions in support of certain types of policy change (Sabatier & Weible, 2007). While the ACF was developed to explain the entire process of policy change from emergence to evaluation (Sabateir & Jenkins-Smith, 1993), the framework is arguably best used to explain the process of policy formulation, which involves negotiation between actors over policy design (Howlett et al., 2016, 2017). The focus of the ACF is explaining how policy actors within a subsystem use their available resources and translate their beliefs into action (Mukherjee & Howlett, 2015; Sabatier & Weible, 2007). Policy actor beliefs, under the ACF, can be disaggregated into ‘policy core beliefs’, which are entrenched and align with priorities and goals related to a particular issue; and ‘policy secondary beliefs’, which are beliefs related to specific
means or instruments for achieving policy goals, and are generally more malleable (Heikkila et al., 2014, p. 67).

3.2.2.3 A Combined Policy Change Framework

A recent stream of research led by Howlett et al. (2016, 2017) has sought to synthesise and integrate key aspects of the three foundational frameworks of Lasswell’s (1956) policy cycle model, Kingdon’s (1984) MSF and Sabatier and Jenkins-Smith’s (1993) ACF. Figure 3 summarises Howlett et al.’s framework, the five-stream framework of policy change.

![Figure 3: Howlett et al.’s five-stream policy change framework Source: Howlett et al. (2016)](image)

Howlett et al. (2016, 2017) advance several arguments for combining these three frameworks. First, the authors outline that while Lasswell’s framework has been criticised for being overly simplistic and not ‘engaging with agency, power, ideology and complexity’ (Howlett et al., 2017, p. 13) in the same way as subsequent policy
change theory has, the stages model is a parsimonious and useful heuristic to structure understanding of how the policy change process evolves. They contend that the addition of the MSF and ACF logic suitably addresses questions of power, agency and complexity. The authors also suggest that while the MSF explains agenda setting well—that is, how policy issues become salient—it does not convincingly explain negotiation associated with policy formulation and ultimate decision making. Conversely, these scholars argue that while the ACF presents a compelling explanation of how negotiations within a policy subsystem influence policy change, how policy issues reach the point of negotiation is less clear under the ACF. In sum, connecting the stages, the ACF and MSF provide complementarity: using the strengths of each helps counteract their respective weaknesses.

As seen in Figure 3, the combined framework describes the policy emergence and change process as proceeding through five stages: S1) agenda setting, S2) policy formulation, S3) decision making, S4) implementation and S5) evaluation. This investigation focuses on Stages 1, 2 and 3 and their interface. Because the AMSA has only recently been enacted (2018) and actual reporting has been delayed by the COVID-19 pandemic, the present investigation concentrates on the emergence, formulation and decision-making stages. The final two stages are beyond its remit as implementation and evaluation at the time of writing is limited. Figure 3 shows how, in line with Kingdon’s MSF, three streams (coloured lines) are coupled at an opportune time (policy window or critical juncture #1). Howlett et al., in line with the MSF, highlight the importance of policy entrepreneurship during this first stage, which is critical to creating a policy window and coupling the three streams. After this juncture and at the point that a new policy agenda is set, the policy framework transitions into Stage 2—policy formulation. In Stage 2 and drawing on the ACF framework, Howlett et al. (2016, 2017) argue that what influences and shapes the formulation of policy is a combination of the debates driven by coalitions, the resources they have available and their beliefs. At this stage, coalitions negotiate alternative policy options, leading to the decision-making stage, where debates continue but policy is or is not enacted in a particular form.

From Figure 3, it is evident that at Stage 2 (policy formulation), Howlett and colleagues introduce a fourth stream not included in Kingdon’s model. This is the process stream (black line). The process stream denotes the commencement of a centralised effort (by authorities in a given policy subsystem) to investigate an appropriate policy design. In
the process stream, policy makers provide a venue for various political actors and stakeholders to discuss their positions on potential policy options and put forward possible policy solutions. Policy makers use this process and the information provided to formulate various possible policy solutions.

After the formulation stage, where alternative policy solutions have been developed, a second critical juncture is reached. This is where the policy change process transitions into a decision-making stage. In the case of successful policy changes, the decision-making stage involves political decision makers considering the various policy alternatives that have been formulated. During this stage, decision makers assess arguments made by various coalitions to decide on the final formulation of the policy change and begin implementation. The framework in Figure 3 shows that during the decision-making stage, the policy stream (red line) separates from the main flow of the other streams. This illustrates a focus on a defined set of policy alternatives.

Howlett et al.’s (2016, 2017) framework also seeks to explain the subsequent implementation and evaluation phases of the policy change process. This is enabled by the authors adding a fifth program stream to the framework. As previously noted, the present investigation concentrates on the emergence, formulation and decision-making stages (Stages 1–3). Figure 4 presents a stylised version of the stages of interest in this investigation. First, it shows Stage 1: agenda setting, which involves the coupling of the three streams (policy, problem and politics) and the commencement of the process stream. Second, it depicts the policy formulation stage in which coalitions develop and negotiate various policy alternatives. Third, it indicates the decision-making stage, where policy decision makers (politicians) assess and eliminate various policy alternatives, nominate their preferred option and enact the policy change.

In the previous section, I reviewed scholarship, examining factors that explain the emergence of MSR laws and their design. These factors have been explored in isolation. To extend understanding, I use the above model to identify and examine these, and any additional factors, as part of a policy change system. Hence, this chapter explores how various factors interact to influence policy outcomes.
Figure 4: Study focus—Stylised model of agenda setting, policy formulation and decision making

Source: Adapted from Howlett et al. (2016)

Notes: The black dotted line denotes the limits of this chapter, which focuses on Stages 1–3. ‘PE’ indicates the presence of a policy entrepreneur.
3.3 Methodology

The empirical investigation of this chapter’s research question is separated into two parts that align with Stage 1 (agenda setting) and Stages 2 and 3 (policy formulation and decision making) of Howlett et al.’s model. Agenda setting and emergence are used as interchangeable terms from here on, while policy formulation and decision making are conceptualised as two parts of the design process. The methodological approach used to examine these stages is described below. Following this description, I provide a justification for adopting this methodology and argue its suitability for answering the research question.

3.3.1 Agenda Setting

Data used for analysis of agenda setting include news articles and technical documents from government agencies, advocacy organisations and experts. Media articles were sourced from the news archive Factiva. The key words used to identify relevant material were ‘modern slavery’ and ‘modern slavery act’. The search was limited to publications within Australia and the Asia Pacific region, and the search date range was 2011–17. The lower bound of this date range was selected as the year in which the UN ratified the UNGPs. This is commonly thought of as an inflexion point, where debates and action related to BHR concerns and modern slavery in supply chains significantly accelerated. The ratification was also preceded by the founding of Andrew Forrest’s WFF in 2010, which was decisive in promoting the importance of reform (Chuang, 2015; Dottridge, 2014).

After removing duplicates from the media sample and other sources based on relevance, 433 documents were obtained for analysis. For the purposes of this investigation, the agenda setting stage is defined as ending with the commencement of the 2017 Australian inquiry and consultation process into establishing modern slavery legislation in Australia. This represents the coupling of the process stream in Howlett’s model, which formally begins negotiations about form; that is, the formulation and decision-making stages. While the transition between these stages is not clear cut, the commencement of this formal investigation procedure is a suitable separation point as it

21 Excision decisions were made only when documents had no bearing on modern slavery, the Australian Modern Slavery Act 2018 (AMSA), or reference issues and events that lie outside the investigation window.
indicates that the possibility of an AMSA had been formally established as part of the Australian government’s agenda. In other words, the Australian government was willing to set aside resources to concertedly investigate the viability of reform and the appropriate design of that reform.

To analyse these documents related to agenda setting, a directed content analysis was conducted (Hsieh & Shannon, 2005) using predetermined codes as explained in Table 2. These predetermined codes and their definitions follow those adopted by Howlett et al. and other research on the MSF agenda setting process (Jones et al., 2016; Kingdon, 1983). Table 2 shows that within the policy stream, the coding distinguishes between evidence of a) domestic policy solutions and b) international policy solutions. References to potential, impending and current policy solutions were coded to develop a clear picture of the policy reference points that were in place for the Australian government and other stakeholders interested in reform to emulate.

Table 2 indicates that within the politics stream, three codes were developed: a) domestic advocacy, b) international advocacy and c) political responses (any political commentary on the issue; e.g. a politician providing their opinion or their party’s opinion on appropriate reform). During the process of agenda setting, advocacy pressure and political receptiveness to that pressure are critical to shifts in the agenda. Table 2 shows that within the problem stream, the codes refer to evidence of a) indicators, b) feedback and c) critical scandals. During the process of agenda setting, actors within the policy community rely on three kinds of variable to define an issue. These are: a) measures and metrics of a problem (indicators), b) assessment of the success of analogous policies dealing with that or a similar problem (feedback) and c) major, discontinuous events highlighting a need for reform (critical scandals). Finally, to capture evidence of policy entrepreneurs, or prominent individuals and their influence, I coded and interpreted references to influential policy actors.
Table 2: Agenda setting analysis: Predetermined coding structure and definitions

<table>
<thead>
<tr>
<th>Policy Stream:</th>
<th>Definition — The finite but complex collection of policy solutions and ideas available to policy actors</th>
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<tbody>
<tr>
<td>Domestic policy solutions</td>
<td>Any reference to policy solutions addressing modern slavery domestically (potential, impending or current)</td>
</tr>
<tr>
<td>International policy</td>
<td>Any reference to policy solutions addressing modern slavery internationally (potential, impending or current)</td>
</tr>
<tr>
<td>UKMSA</td>
<td>Any references to the UKMSA (pre- and post-enactment)</td>
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<tr>
<th>Politics Stream:</th>
<th>Definition — The institutional and cultural context of the policy change process (party politics, national mood, advocacy coalitions and advocacy pressure being important elements)</th>
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<tr>
<td>Domestic advocacy campaigns</td>
<td>Any reference to Australian advocacy raising awareness of or promoting solutions to modern slavery</td>
</tr>
<tr>
<td>International advocacy campaigns</td>
<td>Any reference to international advocacy raising awareness of or promoting solutions to modern slavery</td>
</tr>
<tr>
<td>Australian political responses</td>
<td>Any reference to political responses to the issue of modern slavery or advocacy pressure related to modern slavery.</td>
</tr>
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</table>

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<tr>
<th>Problem Stream:</th>
<th>Definition — Process of defining the policy issue that is perceived as problematic (i.e. modern slavery)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Critical scandals discussed</td>
<td>Any reference to sudden events relating to modern slavery that provide an impetus for change</td>
</tr>
<tr>
<td>Indicators</td>
<td>Any reference to means by which actors identify and monitor modern slavery (i.e. metrics that measure relative severity)</td>
</tr>
<tr>
<td>Feedback</td>
<td>Any reference to critique of current policy regarding modern slavery</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Policy Entrepreneurship:</th>
<th>Definition — The active role of influential and well-resourced policy actors who motivate policy action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prominent individuals</td>
<td>Any reference to influential and well-resourced advocacy groups or individuals active in promoting policy change</td>
</tr>
</tbody>
</table>


Findings for the above analysis are reported with reference to the problem, policy and politics streams, and policy entrepreneurship discussed above (Kingdon, 1984). A summary table of the coded content analysis for the agenda setting stage, which forms the basis of these findings, is available in Appendix B: Table B1. Corresponding exemplar quotes for each coding category are available in Table B3.
3.3.2 Policy Formulation and Decision Making

Data used for the policy formulation and decision-making analysis were drawn from a 2017 Parliamentary inquiry into establishing a Modern Slavery Act in Australia (Parliament of Australia, 2017); the supporting public consultation concerning the implementation of a supply chain protocol as part of the AMSA (Attorney-Generals Department, 2017); and transcripts from Parliamentary debates that led to the AMSA’s enactment. The consultation, which encompassing 99 submissions, is most relevant to exploring the formulation stage. The consultation paper contained a proposed formulation of the AMSA supply chain protocol (set forth by the Liberal Turnbull Government) and invited policy actors to comment on this document. Submissions were guided by a series of questions concerning how the government might amend the proposed AMSA (see). From the Parliamentary inquiry, 41 submissions were from actors or organisations that had also submitted entries to the consultation and were thus included in the sample as further relevant data on the positions of those actors. Overall, 125 of these 140 documents were analysed after reviewing the full corpus for relevance.22

These documents were submitted by 84 policy actors (some made two submissions to the consultation). These consisted of five groups a) business actors ($N = 32$), which included sourcing firms and industry associations (mostly large multinational corporations and associations from the mining, aviation, agricultural, retail, financial and construction sectors), b) advocacy actors ($N = 33$), which included trade unions, and both international and national civil society organisations (mostly religious or issue-specific non-profit organisations), c) consultancies ($N = 10$), d) academic actors ($N = 3$) and e) legal actors ($N = 6$). This sample is representative of the relevant policy community and debate around the AMSA. It is assumed that most actors with a significant interest in the area would contribute to the government-driven consultation process. Submissions were also analysed using a directed content analysis approach. Coding definitions are outlined in Table 3.

22 Of the 41 documents identified in the Parliamentary inquiry, 15 had no relevance to the question of design. These submissions largely focused on modern slavery’s scope and risk in Australia.
Table 3: Policy formulation analysis: Predetermined coding structure and definitions

<table>
<thead>
<tr>
<th>Policy Core Belief</th>
<th>Definition — Basic priorities, goals and values related to a particular issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parameter</td>
<td>Definition</td>
</tr>
<tr>
<td>Support for supply chain initiative</td>
<td>Whether the actor a) supports or b) does not support the establishment of a supply chain reporting initiative</td>
</tr>
</tbody>
</table>

**Policy Secondary Beliefs**

Definition — Policy actors’ beliefs concerning the means or instruments for achieving the goals of a policy; i.e. the specific policy formulation of a policy instrument

<table>
<thead>
<tr>
<th>Typological Parameters</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance mechanism</td>
<td>Does the actor a) support or b) not support the introduction of penalties as a compliance mechanism?</td>
</tr>
<tr>
<td>Reporting requirements</td>
<td>What is the actor’s position on the reporting requirements that should be established as part of the supply chain protocol?</td>
</tr>
<tr>
<td></td>
<td>a) proposed reporting requirements are appropriate; b) reporting requirements should be made more flexible; or c) reporting requirements should be made more prescriptive.</td>
</tr>
<tr>
<td>Reporting scope</td>
<td>What is the actor’s position on how ‘supply chain’ would be defined for reporting purposes?</td>
</tr>
<tr>
<td></td>
<td>a) the definition should be deep and encourage material and targeted reporting based on risk; b) the definition should be deep and mandate comprehensive reporting of the entire supply chain; or c) the definition and reporting should be flexible and discretionary.</td>
</tr>
<tr>
<td>Regulatee coverage</td>
<td>What is the actor’s position on the reporting threshold of $100 million and over?</td>
</tr>
<tr>
<td></td>
<td>a) the threshold should be lower; b) the threshold is appropriate; or c) the threshold should be higher.</td>
</tr>
</tbody>
</table>


Codes refer to a) policy core beliefs and b) policy secondary beliefs. Core beliefs are captured by a code indicating whether an actor supports or does not support the implementation of a supply chain reporting initiative, which is a fundamental belief that is less likely to be compromised through negotiation. Secondary beliefs are referred to by four typological parameters relating to specific formulations of the proposed AMSA; that is, positions of the parameters are less foundational and more likely to shift during negotiations.
Typological parameters include:

a) the type of compliance mechanism supported—that is, whether policy actors were in favour of penalties or a market pressure mechanism (related to the sanction severity and the stakeholder participation dimensions in Chapter 2),
b) the position of policy actors on the type and form of reporting requirements—that is, whether they should allow more or less regulatee autonomy or that the proposed criteria are appropriate,
c) the position of policy actors on how reporting scope should be defined—that is, whether the definition should be broad, prescriptive, targeted or flexible (related to the regulatee autonomy dimension in Chapter 2), and
d) the position of policy actors on the entity coverage of the initiative—that is, whether it should be lower, higher or remain at the proposed $100 million revenue threshold (not directly tied to dimensions discussed in Chapter 2, but an important concern in the texts analysed).

A summary table of the coded content analysis for the formulation stage, which forms the basis of the findings discussed below, is available in Appendix B: Table B2. Corresponding exemplar quotes are available in Table B4.

To examine the decision-making stage of Howlett et al.’s model, six Parliamentary debate transcripts were analysed to identify the design preferences (in line with the above parameters) of policy makers in both the Parliament and the Senate. This analysis focused on the decision-making process in the Senate where the specifications of the proposed AMSA were fiercely debated, and advocacy groups used their influence with independents and minor parties in an attempt to influence the process. This analysis was also informed by relevant interview data discussed below.

### 3.3.3 Additional Primary Data

While the main data source for this analysis was secondary documents, the analysis was complemented by field work. Five days were spent in Canberra observing debates on the AMSA in the federal Parliament. Further, six interviews—with one former politician (labelled PI1), three representatives of civil society groups (CI1–3) and two government staffers (GI1–2)—were conducted. These interviews focused on participant recollections of the emergence of the AMSA and their view of the key determinants of the AMSA’s design (see Appendix B: Table B5 for the interview protocol). Three of the six interviews were recorded and transcribed. The remaining three were recorded via extensive field notes. All interviewees are anonymised and referred to using the code...
system detailed above. Data from interviews were used to triangulate and extend findings drawn from secondary material at all stages.

3.3.4 Justification of Methods

Process research is focused on understanding how things change over time and explaining why things change the way they do (Van de Ven & Huber, 1990). In this chapter, I am interested in understanding the process of policy change that led ultimately to the enactment of the AMSA. In the words of the noted process researcher Anne Langley, to understand processes and their outcomes researchers must collect data that “consists largely of stories about what happened and who did what when - that is, events, activities, and choices ordered over time” (Langley, 1999, p. 692). Hence, my data collection choices reflect the need for a data set that can explain how events evolved over-time and capture which actors and activities influenced the process of policy change that led to the AMSA.

As already discussed, the field of policy change research is mature and a wide variety of frameworks exist that conceptualize how events, actors and their choices interact to explain policy outcomes. Here, I have applied the work of Howlett et al., who combine several frameworks and break down the policy change process into five stages, of which I am interested in three (agenda-setting, formulation and decision making). My data collection choices purposefully seek to understand how events unfolded and how the activities and choices of relevant policy actors help to explain the AMSA’s design across these three stages.

To explore the agenda setting stage, media data were collected to trace the development of slavery policy both domestically and internationally. In addition, media data helped identify the events, activities and influential actors that explain why the AMSA was considered an appropriate policy response by Australian regulators in 2018. To explore the formulation and decision-making stages, a combination of inquiry submission data and Parliamentary and Senate transcripts were collected and analysed to understand, first, the position of various policy actors on the appropriate design of the AMSA and, second, trace the activities and choices of political decision makers related to policy design during these stages. Finally, interview data were collected to complement this documentary evidence. In other words, the interview data were used to probe whether
there were events, activities and decisions important to the emergence and enactment of
the AMSA that were not captured by these documentary sources. As is evident in the
discussion of this study’s findings, interview data emerged as an important source of
information that revealed significant aspects of the policy making process not captured
by the documentary evidence. Examples include behind the scenes negotiations between
NGOs and independent senators to promote changes to the design of the AMSA (see
section 3.5.2.2). Together these sources of qualitative data were used to execute a
process study that adopted a narrative strategy which “involves construction of a
detailed story from the raw data” and thick description of important events, activities
and choices from actors to explain a phenomenon (Langley, 1999, p. 697). In this case I
addressed the question of why the AMSA emerged and how dynamics in the policy
change process shaped its design outcome.

In terms of the analysis strategy adopted, I suggested above that I would be using a
directed content analysis strategy (Hseih and Shannon, 2004). A directed content
analysis strategy is best suited to areas where theoretical explanations of a phenomena
already exist and one is either applying these to understand a phenomenon or attempting
to refine extant theory. The fact that policy change theory is at an advanced stage means
a directed content analysis is particularly appropriate for making sense of the qualitative
data collected in this study. Howlett et al’s framework is used to develop the
predetermined coding structure explained in sections 3.3.1 and 3.3.2 and in turn develop
the rich narrative of the AMSA’s emergence discussed in the findings section below.

3.4 Australian Political Economic and Policy Context

Three contextual aspects are relevant to the following analysis: 1) the Australian
political system and economy; 2) the risk of modern slavery in Australian company
operations and supply chains; and 3) policy responses to labour exploitation in Australia
that existed immediately prior to the investigation period (2011–18). This contextual
information provides some background to the findings of this investigation and are
referred to throughout the findings and discussion. The political and economic history
of Australia provides context for government decision making, including the decision to
emulate the UKMSA and the reticence of law makers about considering inclusion of
certain design elements such as penalties as part of the AMSA (see Table 1 in Chapter
2). In addition, the discussion of modern slavery risk in Australian supply chains and
existing policy on modern slavery leading to the investigation period provides background as to why the issue of modern slavery is relevant in Australia and why a supply chain reporting law was considered an appropriate addition.

3.4.1 Australian Political System and Economy

In Australia, the two main political parties that routinely make up the government and opposition are the Labor Party and the Liberal Party. The Labor Party has traditionally been based on the working class, having its origins in the union movement. It favours government spending and market regulation (Australian Labor Party, n.d.). The Liberal National Party is the most electorally successful party in Australian federal politics, with ideological leanings towards limited government spending and free enterprise (Liberal Party of Australia, 2020). Its electoral success has been facilitated by successfully building coalitions with other conservative political parties. The Liberal National Party has been in government since 2013; however, this period of Liberal Government was preceded by a period of Labor incumbency in the period 2007–13. Over the last 30 years Australia has, with its allies, the US and UK, actively engaged in the global trade liberalisation project. Neo-liberal restructuring during this period was initiated by the reforms of Labor governments in the 1980s and furthered by the return of the Liberal Party to power in 1996 (Humphreys & Cahill, 2017). Today, Australia remains an open economy with strong trade links to Asia Pacific countries and ongoing ties with the UK and USA.

3.4.2 Australian Supply Chains and Modern Slavery Risk

The Global Slavery Index (GSI) estimates that in 2016 there were 15,000 people living in conditions of modern slavery in Australia. This includes all forms of modern slavery and is not limited to labour slaves (see Chapter 1 for definitions). Industries that pose significant exploitation risk to workers in Australia include agriculture, construction, domestic work, meat processing, cleaning, hospitality and food services (KPMG, 2019; WFF, 2013, 2016, 2018). These industries employ a high percentage of migrant workers on temporary visas who are at increased risk of exploitation (WFF, 2013, 2016, 2018).

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23 The party is in fact made up of a coalition of the Liberal Party of Australia and the National Party of Australia. The latter is a conservative party traditionally representing rural Australia.
In addition, a significant risk exists in regional supply chains, in which Australian companies and government enterprises are implicated. Australia’s two-way trade in goods and services totalled AU$763 billion in 2017, making up more than 40% of nominal Gross Domestic Product (GDP). This two-way trade is largely conducted within the Asia Pacific region, which in 2017 accounted for 60% of Australia’s two-way trade. ILO estimates suggest that 62% of the world’s modern slaves are exploited in the Asia Pacific region. High-risk products imported to Australia from this region include information technology (laptops, computers, and mobile phones), apparel and clothing accessories, fish, rice, and cocoa (KPMG, 2019; WFF, 2013, 2016, 2018).

3.4.3 Australia’s Historical Response to Modern Slavery (2000–11)

The AMSA was a response to this domestic and international modern slavery risk. However, the law did not emerge in a vacuum. Australia has a history of policy responses to slavery, both domestically and internationally. In the period 2000–11, there were several important policy developments in Australia related to this issue. As noted in Chapter 2, until 2011, human trafficking was the most prominent framing of slavery issues. Australia was involved in anti-trafficking efforts domestically, regionally, and internationally during this period.

Notable initiatives include the commencement in 2000 of the regional conference referred to as the Bali Process. This collaboration program aims to raise regional awareness of the consequences of people smuggling, trafficking in persons, and related transnational crime (International Organisation for Migration, 2021). The Bali Process led to the 2016 Bali Process Declaration, an agreement to cooperate and align policy regarding trafficking in the region (Bali Process, 2018). Additionally, the Australian government ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children in 2005. Domestically, by 2011, Australia had established legislative protections and plans to further efforts to combat forms of severe exploitation. For example, divisions 270 and 271 of the Criminal Code Act 1995 criminalise human trafficking, slavery, and slavery-like practices (Parliament of Australia, 2017, p. 15; WFF, 2013, 2016, 2018). From a coordination standpoint, the Australian government overhauled its strategy concerning trafficking in 2004 and

established a ‘whole of government’ response strategy (Department of Social Services Australia, 2020). This mainly referred to increased intergovernmental cooperation on the issue. Additionally, Australia created forums for policy discussion and coordination. These included the 2008 National Round Table on Human Trafficking and Slavery and the Interdepartmental Committee on Human Trafficking and Slavery (Parliament of Australia, 2017, p.14-20 ). From 2011 onwards, there have been further policy developments related to eliminating modern slavery both domestically and internationally, including the 2018 AMSA. These developments are discussed in detail below.

In sum, Australia is a liberal democratic country with strong regional and international trade ties. These trade connections pose significant modern slavery risks as they involve complex and opaque supply lines into and out of the Asia Pacific region. While Australian authorities had pursued policy responses regarding the risk of labour exploitation domestically and internationally before 2011, attention to modern slavery risk in GSCs was limited. This gathered pace following international ratification of the UNGPs in 2011, which marks the start of this chapter’s investigation period.

### 3.5 Findings

The findings that follow are discussed in two main sections. First, I outline findings related to the agenda-setting stage. As noted in the methodology section, findings related to the agenda-setting stage refer to results of the directed content analysis summarized in Table B1 (in Appendix B). Following this, I outline findings related to the policy formulation and decision-making stages. These findings refer to results that are summarized in Table B2 (in Appendix B).

Figure 5 below presents a timeline of key international and domestic policy developments from 2011 (the ratification of the UNGPs) to 2018 (the enactment of the AMSA) superimposed on the policy process model outlined in Figure 4 above (Section 3.2.2). These provide temporal reference points to discuss the findings of my analysis across the above stages of the AMSA’s enactment. This timeline and the process model are frequently referred to, to structure a coherent and systematic narrative of the policy change process.
Figure 5: Process model and AMSA emergence timeline
3.5.1 Agenda Setting: Problem, Politics and Policy Streams

In line with Howlett et al’s (2016; 2017) model of policy agenda setting, below I discuss dynamics within the problem, policy and politics stream in turn. I conclude by discussing how these streams were coupled with the help of policy entrepreneurs, leading to the AMSA becoming a part of the Australian policy agenda.

3.5.1.1 Problem Stream

This section explores the emergence and definition of modern slavery in supply chains as a new salient problem in Australia. A clear definition of the problem was only emerging at the start of the investigation period. However, as I show, this issue rapidly became more salient after the ratification of the 2011 UNGPs. As one civil society interviewee suggested, ‘There had been people campaigning around slavery and trafficking issues, you know the Salvation Army etc., for many many years, but not with this concerted focus on getting up an act on corporate supply chains’ [CI1]. The factors that explain this growing emphasis can be summarised according to three categories associated with Kingdon’s problem stream (1984, p. 30): indicators, feedback and critical scandals.

According to Kingdon (1984), the emergence of a new problem definition is generally preceded and reinforced by a proliferation of indicators related to that concern. These help develop a clearer understanding of the scope and nature of an issue and can help emphasise its salience. From 2011 to 2017, there was a growth in measurement efforts and attention to instances of modern slavery reported in the media, with a particular focus on supply chains. Until 2013, authoritative estimates relating to slavery were produced by the ILO (Global Estimates of Forced Labour) and the US (Trafficking in Persons Report) (ILO, 2014a, 2012; US State Department, 2017). In October 2013, a new index (the GSI) was released by the WFF, as mentioned earlier. The GSI covers more than 167 countries and seeks to estimate modern slavery in all its different forms (WFF, 2013). When first published, the GSI attracted significant attention; it features in 61% of sources examined in the media analysis related to indicators of modern slavery from 2011 to 2013. The GSI was spearheaded by Australian mining magnate,

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25 See Chapters 1 and 2 for different forms of modern slavery.
26 Subsequently an updated version of the GSI was released in 2016 and 2018.
Andrew Forrest, and his daughter, Grace Forrest, in response to concerns over the risk of labour exploitation in the supply chains of Forrest’s iron ore empire. The GSI emphasises supply chain transparency and the modern slavery risks posed by complex and opaque supply chains that extend into under-regulated regions of the global economy (WFF, 2013). The GSI has highlighted the prevalence of modern slavery in the Asia Pacific region (WFF, 2013, p. 12). As seen in the contextual discussion earlier, the Asia Pacific is a region with which Australian businesses routinely engage through their GSCs.

Other noteworthy indicators that emerged during this period are the 2017 ILO, WFF and IOM Global Estimates of Modern Slavery (ILO et al., 2017) and those in reports by the Baptist World Aid (an Australian NGO) on the electronics (2014) and garment industries (2015). The former report and indicators, discussed in Chapter 2, remains the most authoritative scoping exercise relating to international modern slavery to date. The report reveals a striking level of severe exploitation, and features heavily in the media sample analysed (13% of indicator references), highlighting human rights risk in the Asia Pacific region. The Baptist World Aid reports, which were inspired by the 2013 Rana Plaza factory collapse, emphasise supply chain risks relating to worker safety standards and worker exploitation in electronics and clothing manufacturing (Baptist World Aid, 2015; Boersma, 2017). While these reports assess the policies and practices of many large multinational corporations, the Australian public and authorities were a primary audience for this advocacy material, raising questions about ethical sourcing by Australian companies (Baptist World Aid, 2015).

Several critical scandals were identified by the media, further highlighting the risk in Australian supply chains (both internationally and domestically) and the need for policy reform. Examples are discussed below. Internationally, the issue of slavery in supply chains was highlighted in a series of investigative reports into the New Zealand fishing industry (Sunday Star-Times, 2012). These showed that labour exploitation and slavery existed in an unexpected context, uncomfortably close to Australia. Similarly, the Rana Plaza factory collapse of 2013, which resulted in the death of 1,133 people, and injury of 2,500 others, underscored the need for supply chain transparency to counteract
exploitative labour practices (Baptist World Aid, 2015). Media reports alleging Australian companies sourcing from Bangladesh were likely implicated in unethical arrangements also emerged at the time, highlighting the relevance of this scandal for Australia (ABC News, 2014). In addition, several instances of worker exploitation involving migrant workers within Australia were revealed during this period. Examples include the 2013 Fair Work Ombudsman’s (FWO’s) investigation of Australia’s largest poultry processing company, Baiada, which reported that workers were being forced to work up to 18 hours a day and paid illegally low wages (Patty, 2015). Another example was the Maroochy Sunshine farms scandal in 2014 (Cullen, 2016) in which workers were shipped in from Vanuatu and had their passports confiscated before being subjected to extreme work hours and wage theft.

Feedback, according to Kingdon (1984), involves a critique of current policy that addresses a focal issue—in this case modern slavery in supply chains. It is generally pursued by policy makers or directed to them to highlight deficiencies in current policy that require attention by policy experts (Jones et al., 2016). Three examples of Australian authorities seeking feedback on their policies in response to the above indicators and scandals are noteworthy. The first is the 2013 Joint Standing Committee on Foreign Affairs and Trade Inquiry, entitled ‘Trading Lives: Modern Day Human Trafficking’ (see Figure 5). The inquiry’s main recommendations included migrant visa reform and improved regulation of supply chains (Parliament of Australia, 2012). Regarding the latter, the committee recommended that the government undertake a review in consultation with relevant stakeholders, directed towards introducing legislation to improve transparency in supply chains. Subsequently, as identified in Figure 5, the federal government’s Attorney-General’s office established its Supply Chain Working Group in 2015, which released recommendations in 2016 that called for laws requiring companies to disclose the steps taken to identify adverse human rights impacts in their supply chain, and for government to strengthen its own procurement processes to identify abuse (O’Brien & Boersma, 2016). The release of these recommendations was described by an interviewee as a ‘central precipitating event’

27 The Rana Plaza collapse was the result of inadequate workplace health and safety standards, but ignited a wider debate regarding labour standards in global supply chains (GSCs).
28 The aforementioned reports can be viewed as forms of feedback, as can advocacy from non-government organisations (NGOs), which are discussed below. In this section I focus on feedback sought by the Australian government to clearly delimit these categories and avoid confusion.
that stimulated government interest in a response to modern slavery in GSCs. In addition, the federal government’s Productivity Commission conducted a review of the *Australian Workplace Relations Framework* in 2015. This report assessed the existing migrant visa framework and the role of the FWO in providing support to victims of worker exploitation. The review’s findings recommended that the resources of the FWO be increased to better cope with exploitation in Australian workplaces, as well as changes to the *Migration Act 1958* to ensure the protection of migrant workers (Australian Productivity Commission, 2015).

In sum, over the investigation period, modern slavery in supply chains emerged as a salient and clearly defined concern for actors in the Australian policy subsystem. This emergent problem definition was prompted by various indicators that highlighted the scope of the issue in supply chains internationally and within Australia. In addition, critical scandals, both domestically and internationally, highlighted a need for policy responses specific to supply chain risk. Moreover, feedback sought by Australian authorities in response to these events showed that a gap existed in the Australian policy infrastructure relating to mitigation of modern slavery in supply chains.

### 3.5.1.2 Policy Stream

Critical to the introduction of a new agenda item is the coupling of a defined problem with technically feasible solutions in the *policy stream* (Howlett et al., 2016, 2017; Kingdon, 1984). Within Australia, few feasible policy solutions to modern slavery in supply chains were available prior to 2011. However, as noted earlier, several policy changes had been proposed and enacted internationally and were considered appropriate for Australia.

As discussed in the context section (3.4.3), policy in Australia relating to severe exploitation was in place prior to 2011. However, as seen above, sources of feedback highlighted deficiencies relating to mitigating labour exploitation in supply chains. Plans for strengthening policy in this area are emphasised in the media analysis findings, and include the 2014 Australian *National Action Plan on Human Trafficking*

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29 The role of the FWO is to promote harmonious, productive and cooperative workplace relations. The FWO also monitors, inquires into, investigates and enforces compliance with Australia’s workplace laws, building strong and effective relationships with industry, unions and other stakeholders (FWO, 2018).
and Slavery (see Figure 5). This action plan formed part of Australia’s obligations under the UNGPs to develop policy infrastructure aimed at mitigating the risk of BHR concerns in Australia and within its sphere of influence. In the plan, Australian authorities signalled their intention to ‘consider a response to labour exploitation in supply chains’, (Attorney-General’s Department, 2014, p. 2); however, the plan did not include any policy options.

Internationally, several initiatives seeking to address labour exploitation in supply chains were emerging. Notable policy solutions that appear in the media sample include the 2013 US executive order addressing modern slavery by holding companies responsible for their anti-slavery actions and inactions overseas (David, 2013). This executive order, which was ultimately scrapped by the Trump government, was precipitated by the 2012 enactment of the CTSCA (Figure 2). Additionally, the New Zealand government responded to long-term criticism of exploitation in fishing by introducing its Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2016 (Manning, 2016). By far the most widely canvassed policy solution in the media analysis, as shown in Table B1 is the impending and eventually enacted (in 2015), UKMSA. References to the UKMSA are most frequent in 2016 and early 2017, immediately prior to the Australian Parliamentary Inquiry into establishing the AMSA and the subsequent consultation paper. As discussed in more detail later, several interviewees highlighted the relationship between UK senior politicians and their Australian counterparts. This was a driving force behind the considerable attention being paid to the UKMSA. One interviewee noted that: ‘there was significant pressure from [then British Home Secretary and later Prime Minister] Theresa May to adopt similar legislation during international summits on migration and trade in 2015. She put a lot of pressure on Malcolm Turnbull, the prime minister at the time’ [CI3]. This focus on the UKMSA is reflected in the framing of the 2017 Parliamentary inquiry into establishing the AMSA and the supporting public consultation, whose terms of reference explicitly mentioned the UKMSA (Parliament of Australia, 2017, p. 1). The 2014 French Law, discussed in Chapter 2, did not feature in media discussions within the region, despite its relevance to the issue; nor was it included in the terms of reference of either the inquiry or consultation.

The above discussion details the dynamics by which the second stream in the process model—the policy stream—became coupled with the problem stream in the policy
window. In sum, while Australia had a domestic policy concerning serious labour exploitation, the increasing salience of labour exploitation in supply chains led to consideration of alternative policy solutions (e.g. by the Supply Chain Working Group and in the Trading Lives: Modern Day Human Trafficking inquiry). Given the lack of experience in combating supply chain exploitation problems in Australia, several international policy solutions emerged as focal policy reference points. The most often discussed among these policy solutions was the UKMSA. Other more command-and-control-like examples, including the French Law, were excluded from serious consideration in investigations of an appropriate policy response.

3.5.1.3 Politics Stream

Within the politics stream, actors promote their preferred policy options and oppose less attractive alternatives. Ultimately, to successfully shift the policy agenda, a new policy problem and its coupled solution(s) must be matched with significant political support and pressure to motivate change. Political momentum can emerge from several sources, including party politics, public sentiment and advocacy campaigns (Kingdon, 1984; Jones et al., 2016). By the same token, political momentum towards reform can be undermined by pressure from those sources. Two different mechanisms that created political momentum in the current case are explored below. These are engineering consensus across the political parties and advocacy from both corporate and civil society actors.

Engagement from Australian politicians on the issue of modern slavery in supply chains accelerated during 2015–17. Calls for action were largely greeted with bipartisan support during these years, with differing perspectives on what policy might look like. Politicians agreed that a reporting requirement would be suitable, but disagreed on proposed parameters of such a policy (this division translated into the formulation and decision-making stages discussed below). Liberal Party representatives were promoting a design that more closely reflected a self-regulatory approach, in line with the UKMSA (Australian Department of Home Affairs, 2017) while Labor politicians favoured a design that included penalties and more prescription, similar to a HRDD law.

Bipartisan support for reform was, however, absent before 2015. Interviewees from advocacy organisations suggested that Labor support for legislative reform was apparent
from as early as 2011: ‘in our earliest campaigns we got reception and support from the labour party, Penny Wong [Labor Party Senate leader] was supportive and so was the shadow attorney general Dreyfus, but no one else’ [CI2]. However, support from the Liberal Turnbull Government was less forthcoming. Two individuals are credited by interviewees CI2 and CI3 with encouraging Liberal Party support: Member of Parliament (MP) Chris Crewther and Andrew Forrest. These entrepreneurs managed to convince important Liberal cabinet members such as Julie Bishop (then foreign minister) and then Prime Minister Malcolm Turnbull of the value of reform. The work of these two individuals, coupled with pressure from Theresa May from 2015 onwards (as noted above), saw support quickly gather around the possibility of reform on both sides of Australian politics. As one interviewee pointed out, the timing of the formal inquiry into the AMSA’s feasibility (Figure 2) was surprising and represented a level of political momentum that was not expected by some civil society groups: ‘That [the inquiry announcement] was quite a surprise. As I said, when the joint Parliamentary inquiry was announced, the timing of it, it happened far sooner than people thought there was realistically going to be movement’ [CI1]. Several factors related to timing of this political support and the inquiry—beyond the influence of prominent policy entrepreneurs—were discussed by interviewees. One noted that from 2015 onwards, Australia was seeking a position on the UN Human Rights Council [CI3] and was duly elected as a member of that council in 2017. The interviewee noted that in the lead up to that election, Australia was actively highlighting its human rights credentials to UN delegates, a process that appeared to have been successful.

In exploring Kingdon’s politics stream, Mukherjee and Howlett (2015) note the importance of advocacy as an indicator of political pressure. The media analysis identifies a marked increase in discussion of international and domestic advocacy campaigns by NGOs from 2011 to 2017. This contributed to the growing consensus among politicians described above. Most of these codes (66%) are related to advocacy by Andrew Forrest and the WFF. Examples include Andrew Forrest’s establishment of the 2014 Freedom Fund led by former Attorney-General chief of staff Nick Grono and the Global Freedom Network, which brought together faith leaders across the world to campaign against modern slavery (Global freedom Network, 2015). Hence, Forrest, via his influence with important political figures and his concerted advocacy, was instrumental in engineering political momentum. Other notable advocacy campaigns
were also identified, including the work of faith-based groups such as the Salvation Army’s and Australian Catholic Religions Against Trafficking in Humans’ Freedom Partnership to End Modern Slavery (Burrell, 2015; Robertson, 2013), and campaigns from secular groups like STOP THE TRAFFIK (now Be Slavery Free) and Anti-Slavery Australia. These advocates and the growing prominence of their campaigns from 2011 to 2017 (see Appendix A: Table A1) increased pressure on governments to respond to the issue of modern slavery in supply chains.

Advocacy by these organisations involved various tactics. Interview data identify two groups of civil society advocates. Pseudonyms are used to refer to these groups to preserve the anonymity of the organisations comprising their membership (as requested by participants discussing these coalitions). The first group, referred to here as coalition advocates, tended to adopt a coalition building approach. These advocates recognised the importance of ‘bringing businesses along the journey’ and ‘demystifying some of their concerns’ [CI1] relating to any policy reform. The second group, dubbed here hard-line advocates, preferred a hard-line approach. These organisations adopted a less flexible approach that promoted set specifications for any proposed legislation. These contrasting tactics are explored in more depth later in discussions around the formulation and decision-making stage.

The media analysis suggests that advocacy on the issue was largely the preserve of prominent NGO groups. However, interview data suggest that corporate support was also a factor. While the positions adopted by businesses on modern slavery policy reform varied, interviewees pointed to several prominent companies and industry groups, including Nestlé, Rio Tinto, Konica Minolta, the Business Council of Australia and the Property Council of Australia as important political voices from 2015 onwards. These leading corporate actors campaigned for the Act, on the basis that it would ‘even the playing field’; that is, reduce the competitive imbalance faced by these organisations, which claimed to already implement anti-slavery policies in their supply chains. As one civil society interviewee outlined:

*The Liberal Party got some pressure from business. Um, and the Liberal Party is, you know, a small government, small regulation-type approach. So for them to have put it through was pretty mammoth. But the interesting thing was that businesses were willing*
Evidence from the formulation analysis below suggests that these advocacy voices from business were in the minority, with most businesses favouring the UK model. Nonetheless, these voices would have been instrumental in creating political momentum around reform, demonstrating an appetite among prominent business actors that would have been difficult for the Liberal Party to ignore.

The above analysis shows that within the politics stream, several factors contributed to the emergence of the AMSA as a policy agenda item. From 2015 onwards, politicians showed that there was a growing interest in policy reform. This was evidenced by strong bipartisan support for a reporting law like the AMSA and the announcement of an official inquiry into the feasibility of an AMSA in 2017. This consensus was created by several factors, including civil society advocacy (particularly Andrew Forrest’s activities) supported by business advocacy for reform from some prominent firms. In addition, this political momentum would have been aided by the influence of the political policy entrepreneur MP Chris Crewther, who brokered support for reform within the government and with other political decision makers. More broadly, Liberal Party leaders were also under pressure from senior UK officials to emulate the UKMSA and show leadership on human rights to ensure election of an Australian representative to the UN Human Rights Council. Together, these created sufficient political momentum around the idea of an Australian MSR law. This momentum promoted the coupling of the politics stream with the problem and policy streams, which established modern slavery in supply chains as a new policy agenda item.

3.5.1.4 Policy Entrepreneurship and Stream Coupling

Section 3.2 highlighted the importance of policy entrepreneurship to the agenda setting process. It is important to note that a shift in the policy agenda does not necessarily lead to policy change. As Howlett et al.’s framework suggests, agenda setting is the first confluence point of the streams model, where a policy change is considered in earnest and formally introduced into the policy change machinery of the State (e.g. through the inquiry and consideration in Parliament in this case). However, at the agenda setting stage, varying policy alternatives are not yet formulated and a formal decision on whether policy will be enacted, and in what form, has not yet been made. The role of
two policy entrepreneurs—political entrepreneur MP Chris Crewther and advocacy entrepreneur Andrew Forrest—in setting the AMSA policy agenda is outlined below.

Several individuals were identified in the coding as influential political actors. These included then Foreign Minister Julie Bishop, then Justice Minister Michael Keenan, then Defence Minister Linda Reynolds and MP Chris Crewther, who championed new policies on modern slavery in supply chains. The most prominent (in the coding) of these was MP Chris Crewther. This Liberal MP was formerly a lawyer who had exposure to instances of modern slavery through his work in Kosovo in the wake of the 1998–99 conflict. He was identified by all interviewees as a particularly influential driving force behind the introduction of the AMSA and credited by CI2 and PI1 for his role in generating interest in the reform, within the Liberal Party.

Crewther chaired the Foreign Affairs and Aid Sub-Committee that initiated the formal inquiry process into the feasibility of the AMSA. As noted above, the timing of this inquiry was a surprise to civil society advocates. As PI1 indicated Crewther initiated an investigation into modern slavery in supply chains and potential solutions as early as 2016:

“So in 2016 Crewther put the initial proposal to the Sub-Committee. To be honest, it didn't have the approval of different members across the chamber, including members from Labor and the Greens. We had to convince them that it was a good idea to begin with. He managed to do that, and got the approval of the Sub-Committee, and then got approval of the full Committee. After a bit of advocacy behind the scenes, that was then referred back to us a few months later. We weren't sure if we would get it up in the end, but it got through [PI1].

While his influence was not confined to the politics stream as this label might suggest, Crewther’s major contribution was through galvanising political support around the newly defined issue of modern slavery in supply chains. His role in the process can therefore usefully be conceptualised as one focused on engineering political consensus. Importantly, through this role, Crewther promoted the UKMSA as a policy reference point to emulate.

By far the most referenced individual in the media analysis is billionaire philanthropist Andrew Forrest, who features in 59% of all references to prominent individuals.
Primarily these codes relate to his and the WFF’s international advocacy. Forrest’s prominence internationally also reflects the work of his daughter Grace—who co-founded the WFF—and a team of advocates assisting the organisation. However, Forrest’s role merits emphasis: his business success, resources and strong networks to critical decision makers allowed him to play a prominent role in defining and promoting modern slavery as a policy issue on the world stage and within Australia. For example, as noted earlier, in 2013, Forrest commenced a significant advocacy campaign to bring together world faith leaders to combat modern slavery. In December of that year he brought together leaders of the world’s disparate religious faiths to sign a declaration to work against modern slavery (O’Connell, 2014). In 2017, Forrest was invited to a select UN gathering, which included then British Prime Minister Theresa May, to speak about his modern slavery campaigning (Hewett, 2017). Other examples from the data that exemplify Forrest’s influence internationally include the fact that he was one of a select few Australian ‘philanthrocapitalists’ (Chuang, 2015) to be invited to a dinner with Bill and Melinda Gates in 2015, where they discussed their various philanthropic endeavours.

Forrest’s political influence and access to Australian decision makers also emerge from the data. Forrest was the subject of a 2015 Four Corners (prominent TV documentary) investigation that highlighted his resources and influence. An excerpt from the program abstract reads, ‘given his great wealth and the political muscle he displayed in opposing the mining tax, Twiggy Forrest is deserving of public scrutiny and, as such, he was the subject of this week’s Four Corners’ (Long, 2015). In addition, eight references in the data identify connections between Forrest and leaders in both the Liberal Turnbull Government and the Labor Party opposition during the AMSAs emergence. For example, in 2015 then Foreign Minister Julie Bishop and Labor’s Foreign Affairs Spokeswoman Tanya Plibersek attended the launch of the Australian arm of his Global Freedom Network initiative, the ‘Australian Freedom Network’. CI2 provided several examples of how Forrest exercised his influence through letters to Prime Minister

31 Despite this influence and apparent success, Forrest’s advocacy was met with scepticism among many experts working in the field. They argued that his approach, although successful in drawing attention to the issue, did not address the complexity of modern slavery. As an example, UN consultant Anne Gallagher noted, ‘when someone starts talking about ending slavery in his lifetime … that sets off alarm bells, because it is a very clear indication someone does not have a clear fix on the solution’ (Burrell, 2015).
Malcolm Turnbull at the time and phone conversations with powerful politicians, particularly in his home state of Western Australia [CI2].

Forrest was a keen proponent of legal intervention that emulated the UKMSA. In 2016, he was quoted as saying, ‘Australia could be the first country in the region to enact comprehensive legislation that ensures corporations are held to account for modern slavery in their supply chains, similar to the UK Modern Slavery Act 2015’ (Ingram, 2016). Forrest closely aligned his position on possible reform with that of the UK government. He advocated for several important aspects of the UKMSA to be included in Australia legislation: for example, he supported the creation of an anti-slavery commissioner role and inclusion of public sector procurement. However, he stopped short of arguing for the implementation of penalties or of HRDD reporting requirements. As one interviewee noted, ‘Twiggy was very much against there being penalties’ [CI3].

In addition to this personal influence, Forrest’s NGO influenced political negotiations regarding the AMSA through former Labor Senator Chris Evans. Evans was employed by the WFF as a political strategist, and was described by one interviewee as a ‘20-year veteran of the Senate’ [CI4]. While Forrest’s influence was critical in gathering support internationally and promoting the value of action on modern slavery, Evans was employed to navigate the political process of promulgating the Act, particularly in the hard-fought political battle in the Senate, discussed later. Evans advised several civil society campaigners on lobbying, including representatives from Anti-Slavery International, the Red Cross and STOP THE TRAFFIK. In sum, Forrest, supported by his Modern Slavery NGO the WFF, carved out an entrepreneurial role as an advocate and political influencer. Through this role, he participated in campaigning activities that had both international and domestic outcomes. In Australia, he helped define the policy problem (e.g. through the development of the GSI), promoted certain policy solutions (e.g. legislation mandating supply chain transparency similar to the UKMSA) and engineered political momentum around policy reform through his influence with important political figures and his representatives. His role can be differentiated from that of Chris Crewther in that he was not involved in the formal machinery of the policy-making process, and sought to influence policy outcomes as an external advocate.
3.5.2 Policy Formulation and Decision Making

In this section I move on to examining findings relate to the formulation and decision-making stages of Howlett et al’s model. I begin by discussing the transition from the agenda setting stage to the policy formulation stage. Following this, I discuss the varied positions taken by policy actors on the appropriate design of the AMSA during the formulation stage and how these actors brought to bear their influence over its design as the bill passed through the Australian Parliament and Senate (i.e. the decision making stage).

3.5.2.1 Policy Formulation

The policy formulation stage commencing in 2017 introduced a fourth, *process* stream (demonstrated in Figure 5). This featured a formal effort by authorities to identify and assess alternative policy formulations that address a new policy agenda item. In the case of the AMSA, the policy process stream consisted of two government inquiries that commenced in 2017. These were the *Hidden in Plain Sight* Parliamentary inquiry into establishing a Modern Slavery Act in Australia (Parliament of Australia, 2017), and the supporting public consultation, commissioned by the Minister of Justice (Keenan), concerning the implementation of a supply chain protocol as part of the AMSA (see Figure 5) (Attorney-Generals Department, 2017).

These inquiries were venues for coalitions of stakeholders in the policy subsystem to advocate for policy alternatives, mediated by the Australian government. As outlined in the methodology (section 3.3), submissions to these inquiries were analysed using a further coded content analysis. This analysis focused on the alternative positions various stakeholder coalitions communicated in their submissions during the formulation stage. Findings in the previous section demonstrate that during the agenda setting stage, the problem of modern slavery in supply chains became tightly coupled with a legislative solution similar to the UKMSA (2015). As one interviewee noted:

*The government consultation started by laying out three options. And none of those really considered, a human rights due diligence approach [HRDD laws like the French Law] ... I think that was directly driven by the government's appetite for not imposing any further regulation on business. So the way the three options in the consultation papers were drafted, it basically positioned what we ended up getting in the Act as the*
The most radical option, the most ambitious option. I think one of the other options was ‘do nothing really’—so I think that [framing the options in that way] was a strategic decision and for me, that laid out instantly how far the government was prepared to go [C13].

This indicates a clear limit to the appetite of the government for reforms that aligned with HRDD principles and included penalties. Debate in these inquiries focused largely on this ‘ambitious option’, which was a supply chain reporting requirement with flexible (i.e. non-mandatory) reporting criteria and no punitive sanctions. The proposed solution did include measures that differentiated the proposed AMSA from the UKMSA and involved the inclusion of a government-run reporting repository [P11].

The formulations promoted by stakeholder coalitions varied and some organisations challenged this framing. Analysis of submissions to the inquiry and consultation revealed differences according to five typological parameters. Definitions of these parameters are included in Table 3 above and the coding of which parameters were supported by which actor groups can be found in Table B2 of Appendix B. The percentage figures discussed below are drawn from Table B2. These parameters include, first, whether actors were supportive of reform or not, defined as a policy core belief. The other four of these relate to various design elements promoted by actors. These are secondary beliefs and include reporting requirements and compliance mechanisms, regulatee coverage and supply chain definition. These typological parameters are related to the design dimensions outlined in Chapter 2: that is, regulatee autonomy (from high to low), sanction severity (from low to high) and stakeholder participation. Below I describe the range of positions articulated by various actor categories in relation to these parameters.

The first parameter relating to policy core beliefs was supported by all actors; that is, all were supportive of reform, indicating broad support for a supply chain reporting law. However, actors disagreed on the desired features of the four other typological parameters (outlined above). Regarding compliance mechanisms, punitive measures were supported by 96% of advocacy actors who discussed the parameter, while market pressure approaches that characterise a more self-regulatory model were supported by 73% of business actors. Similarly, a prescriptive reporting requirement was largely supported by advocacy organisations (85%), while most business actors favoured more
flexible reporting requirements (54%). Some support was identified for increased prescription among business actors (26%). As discussed above, companies favouring increased prescription sought clear legislative guidance to create an ‘even playing field’ where all firms are held to the same explicit standard.

Regarding reporting scope, actors were grouped into three categories. Actors advocated for a reporting scope that should be: (1) deep (implying beyond the first tier of suppliers), targeting material risk in the organisation’s supply chain; (2) deep and comprehensive (i.e. account for the organisation’s entire supply chain); or (3) flexible and at the organisation’s discretion. Categories 1 and 2 were largely supported by advocacy actors (36% and 32% respectively) while Category 3 was largely supported by business actors (70% of business actors).

In terms of coverage, most business actors who addressed this parameter (61%) supported the company threshold of AU$100 million annual turnover (proposed by the government), while all advocacy actors sought a lower threshold implying inclusion of more firms. A lower threshold, similar to that applied in the UKMSA, was supported by 38% of business actors who favoured international consistency. Almost all academics and legal organisations supported a lower threshold. This was primarily to ensure the Act covered as many firms as possible and, less importantly, to align with the UKMSA.

These findings suggest a relatively stark contrast between the positions of business actors—including most consulting firms—and civil society organisations, which were supported by academics and most legal organisations. The former supported flexibility—that is, high levels of regulatee autonomy (as evidenced by the reporting requirements and scope they promoted); persuasion over punishment—that is, low sanction severity and a reliance of stakeholder scrutiny (as evidenced by the compliance mechanisms they supported); and a limit to the coverage of reform. The latter promoted a command-and-control-like design with a wider scope, reduced regulatee autonomy and higher sanction severity.

As seen in the analysis of emergence above, the situation was more nuanced than this contrast in formal inquiry submissions by business and civil society organisations. Several prominent business actors were advocates for an act that went beyond the government’s proposal, and were aligned with the preferences of civil society advocates

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in some respects. These preferences related to the inclusion of more prescriptive reporting requirements [CI3]. Penalties were, however, not favoured by most business actors. Interviewees noted that very few business leaders, namely only David Cooke from Konica Minolta, and a Nestlé representative, favoured penalties for non-compliance. Most supported a design that maximises regulatee autonomy, with low sanction severity.

Civil society groups were united in promoting the above formulation; however, differences in their willingness to compromise on some proposed elements—including inclusion of penalties and HRDD requirements—resulted in different approaches to advocacy. As shown in the previous section on agenda setting, one group favoured a compromise that would ‘bring business along for the journey’ even if penalties were not included, demonstrating a desire to work collaboratively and compromise with businesses; while another adopted a hard line focused on punitive design elements. According to a civil society interviewee:

Yeah. I mean if all of civil society, the whole way through the process had been just hammering penalties and hammering penalties, I don’t think we would’ve gotten anything done yet because penalties were just not an option for most businesses ... If that had been the approach, the business support wouldn't have been forthcoming. Government listens to business; government doesn't really listen to civil society [CI1].

That same interviewee suggested that the more collaborative approach was instrumental in fostering the support from prominent businesses discussed earlier:

Particularly at the end, when the bill kept falling off the Parliamentary agenda, we sent a joint letter that communicated a very visible coalition going to the PM. We had Rio, Nestlé, the Property Council, etc. on there saying we really want this modern slavery act [CI1].

These findings show that despite disagreement on design variants between civil society and businesses in general, a pragmatic, compromising approach emerged among a group of civil society actors and business actors during the formulation stage.
3.5.2.2 Decision Making

According to Howlett et al.’s model, a final confluence point (critical juncture #3 in Figure 4) occurs at the end of the formulation and decision-making stages, when policy decision makers formally decide on a feasible solution. In Australia, to be promulgated into law, a bill must be presented to Parliament or the Senate in a ‘reading’ and debated two or three times in both houses. These readings encourage amendments that are or are not agreed to. Ultimately, the design of any legislative change must satisfy a majority of representatives in both houses. Below, I consider the position of the two major parties in the Australian Parliament and negotiations over the Act’s design in the Senate between policy makers and lobbying groups (civil society and business advocates). The latter leveraged their influence with independents and minor parties to influence decision making. During these debates it became clear that the government was unwilling to make changes to certain design elements of the Act that civil society organisations discussed in their submissions. These included penalties for non-compliance, the introduction of more prescriptive reporting requirements that follow HRDD principles and changes in the Act’s coverage. However, new adaptations were promoted by civil society groups that ultimately were included in the design of the Act and served to increase its command-and-control like features. These changes were made possible by advocates leveraging the poor reporting outcomes that had emerged under the UKMSA at the time the AMSA was being debated.

Debates in both houses commenced in June 2018 and continued until November of the same year (see Figure 5). During this period, the Liberal Party governed through various coalitions (Australian Parliament House, 2018). The Labor Party constituted the formal opposition. Analysis of the six debate transcripts from the lower house indicated that the Liberal Turnbull Government, who introduced the AMSA Bill into Parliament, supported a design similar to the UKMSA, with very few changes. Liberal Party representatives emphasised limiting penalties and emulating the UKMSA in most respects. This is evident from the following Parliamentary transcript:

Counter to the Labor Party's declared view, this Bill does not seek to introduce punitive penalties for noncompliance. Consistent feedback to the government during the consultation period strongly suggests that market pressure and reputational risk would be far more effective in driving compliance. In many respects the Modern Slavery Bill
2018 has sought to follow similar, highly effective legislation introduced into the United Kingdom in 2015 (MP Ted O’Brien, Parliamentary Transcript, 2018, 12 September, p. 8754).

In contrast, the Labor Party view favoured a design that included penalties:

One of the deficiencies in this bill that particularly troubles me is the lack of any penalties for non-compliance with the Act. A mandatory scheme with no penalty regime is like a tiger without teeth; it would soon starve to death. Why would a company report if there were no penalties for not reporting? There are some costs associated with reporting, so if your competitor chooses not to report, why would you?

(MP Graham Perret, Parliamentary Transcript, 2018, 12 September, p. 8756).

Despite the contrasting positions on the bill in the lower house, the draft legislation passed the house without any proposed amendments, courtesy of the Liberal Party majority in the house (Modern Slavery Bill 2018: Schedule of the amendments made by the Senate, 2018).

Interview data and analysis of transcripts from debates in the Senate (upper house) suggest the bill was more contentious in this setting. During this time in the Senate, the Liberal Party did not control the house and required a record 9 crossbench votes to reach a Senate majority. Hence, it was during the Senate debates that civil society and business advocates were able to leverage their connections with independent senators in an attempt to change the design features of the AMSA that had passed the lower house. According to a civil society interviewee: ‘The other groups that were really important because it got fought out in the Senate, were the independents and the minor parties. Um, all of those independents were really, really crucial in our advocacy’ [CI3]. The foundation of this civil society challenge came from analysis of the UKMSA’s efficacy at the time:

One reporting cycle had been completed under the UK act when we were close to getting ours done. And we were able to use the poor-quality reporting under the UK act to emphasise the importance of penalties, due diligence requirements and the value of a commissioner. As well as promote other changes such as mandatory criteria [increasing reporting prescription], and a three-year review built in [review of efficacy of the Act] [CI3].
Civil society groups sought to leverage these assessments of the UKMSA’s efficacy in an attempt to promote more command-and-control like features, which were assessed at the formulation stage. This prompted consideration of other changes—mandatory criteria and the three-year review—discussed in more detail below.

It was at this stage of the policy change process that the contrasting approaches of the hard-line coalition of advocates and coalition building advocates became most pronounced. According to CI1:

*There was some awkwardness because I think we had different ideas about strategy and we had different views about how far to push ... So our side, we worked with crossbench particularly the Centre Alliance folks to draft an amendment, but we were pretty willing to say this is how far we are going to get this ... the other camp wanted a bit more and they were pushing. I think they're pushing until the end for due diligence requirements and penalties.*

This approach contrasted with that of the more hard-line coalition as articulated by CI2:

*In terms of the NGO sector, we worked really hard to get an agreement on the main issues. Um, so we worked on an approach of let's decide the three, four or five things that we all want. So to stick for the commissioner to stick to the penalties, et cetera, et cetera, to make it clear that the most important thing was to get through. There was another small group of NGOs that felt that we should compromise. We felt that the compromise was the job of the political parties, not the job of civil society.*

By the second reading in the Senate (in November 2018) it became clear that the more hard-line coalition would not succeed in having penalties, due diligence reporting requirements or an anti-slavery commissioner included in the Act. It appeared that this push might ‘*sink the bill*’ [CI1]. As one civil society actor from the coalition building group stated: ‘*We had walked the crossbench, the Greens and the Centre Alliance, to the edge of the cliff [in terms of proposed amendments] and then the government, pulled the bill from debate, right in the final days and that showed that they weren't playing around*[CI3]. At this point of the decision-making stage, by removing the bill from the debating agenda, the government signalled that amendments that contained penalties, a commissioner and due diligence requirements would not be entertained. This also reflected the position of most business actors. As a result, more hard-line civil society actors were willing to concede their position on these elements.
Ultimately, the Act included several changes that were conceded to groups lobbying for change in light of the poor performance of the UKMSA. These features were mandatory reporting criteria (as noted in Chapter 2: Section 2.3.3.2, the AMSA’s requirements must be reported on while reporting under the UKMSA and the CTSCA reporting areas are suggested); the establishment of a public register for reporting; and a review of the Act’s effectiveness every three years. These reviews would ‘require consideration of the necessity and timing for future reviews and whether amendments are needed, including additional compliance mechanisms, such as civil penalties’ (Modern Slavery Bill 2018: Schedule of the amendments made by the Senate, 2018). Moreover, an annual report on the Act’s implementation would be commissioned, and a ‘comply and explain’ provision would be included in the Act. The latter change allows the relevant minister to request companies to explain why they are not compliant with the Act, and to take remedial action to be compliant. In the event that the company fails to comply, the relevant minister has the power to publish details regarding the company on the government-administered Online Register for Modern Slavery Statements (Modern Slavery Bill 2018: Schedule of the Amendments Made by the Senate, 2018).

3.6 Discussion

Through the above analysis I have reconstructed the narrative of the AMSA’s emergence and design formulation, leveraging Howlett et al.’s (2016, 2017) policy change framework. I now discuss the findings from this analysis in light of research explored in the literature review on the factors that have led to the emergence and shaped the design of modern slavery reform.

3.6.1 Agenda Setting: The Emergence of the Australian Modern Slavery Act

The literature on the emergence of modern slavery reform explores four main factors. First, there is the emergence of international legal precedent related to human rights abuses in corporate supply chains and how this is promoting government reform (Mantouvalou, 2018). Second, there are pressures created by international regulators like the ILO and the UN, through establishing soft law norms as a factor promoting government responses (Nolan, 2016). Third, there is the role of a prominent philanthrocapitalist, Andrew Forrest, who has been instrumental in promoting action on modern slavery internationally (Chuang, 2015; Landau & Marshall, 2018). Finally,
analysis of the UKMSA reveals the influence of think tanks and civil society organisations in promoting modern slavery reform in the UK (Broad & Turnbull, 2018; Craig, 2017). The present analysis highlights all these factors, reveals some additional factors and demonstrates interactions between them in line with Howlett et al.’s theory of policy change to account for the emergence of the AMSA on the Australian political agenda. This is demonstrated below through discussion of findings related to the problem, policy and politics stream.

Regarding the problem stream, Howlett et al.’s theory suggests that indicators, critical scandals and feedback interact to promote the salience of reform and define a policy problem. The findings from the current analysis demonstrate this interaction from 2011 to 2017. First, the emergence of indicators related to modern slavery, for example, the GSI, defined and identified the scope of modern slavery in Australia and abroad. No research has explored the role of these indicators in the emergence of MSR laws. While scholars have pointed to the role of international institutions like the ILO and advocacy organisations like Forrest’s WFF in building momentum towards policy change (Chuang, 2015; Landau & Marshall, 2018; Nolan, 2016), the specific role of the indicators produced by such organisations has not been highlighted. In line with Howlett et al.’s theory of policy change, such indicators serve as an important sensitising influence that clarifies what modern slavery is and why it is important for policymakers to pay attention to.

Also related to the problem stream are critical scandals. In this case several critical scandals highlighted the salience of modern slavery in Australian supply chains. These include the Rana Plaza disaster, which implicated Australian garment companies; and exploitation scandals in Australian agriculture supply chains. The role of critical scandals in shifting the policy agenda, more generally, has been examined by several scholars (Birkland, 1998; Birkland & Warnement, 2013). However, scholars examining reform on modern slavery have not paid them due attention. The analysis here showed how the timing of critical scandals emphasised the relevance of modern slavery in Australian supply chains, arguably increasing the attention paid by policymakers to the problem.

These events and indicators were shown to prompt both unsolicited feedback from NGOs on current supply chain regulation (e.g. from Baptist World Aid) and
government-funded investigations of extant responses to modern slavery in supply chains. For example, the Supply Chain Working Group was established and produced a series of recommendations, including in relation to establishment of a supply chain reporting law. This confirms the importance of policy feedback in promoting reform, as highlighted by Craig (2017) and Broad and Turnbull (2018, p. 127) in their investigations of the emergence of the UKMSA, where think tank reports were identified as critical factors promoting reform. Taken together, these findings show how the problem definition process involves an interaction between indicators, critical scandals and feedback. The literature on the emergence of MSR laws highlights the role played by feedback, but not that of indicators or critical scandals, or how these factors interact to define and underscore the salience of reform.

The current analysis also considered the process through which a defined policy concern became associated with a feasible policy option in the policy stream. As indicated, the UKMSA was identified as a promising and feasible policy response for Australian policy makers to emulate during the AMSA’s emergence. Explaining this choice of reference point is particularly important, given its bearing on the subsequent formulation and decision-making stages discussed below. Scholars examining the emergence of the UKMSA note the choice of the CTSCA as a policy reference point, which partly explains the self-regulatory design of the UK law (Von Spiegel, 2020). However, the choice of the UKMSA as a model for the Australian case is more puzzling, given that by the time the AMSA was being considered, the French Law (i.e. an HRDD law) had emerged as a possible alternative and evidence critical of the effectiveness of the UKMSA and the CTSCA was readily available.

One explanation might be the noted trend that Western neo-liberal economies are more likely to develop and implement modern slavery laws with a self-regulatory design, compared with European corporatist economies, which have been more willing to implement more command-and-control like approaches (Ahlquist & Mosley, 2021; Landau, 2019). Scholars have argued that this results from the increased tendency for regulatory capture in neo-liberal economies, where firms are more able to shape the design of legislation to suit their agenda and limit onerous restrictions (Ahlquist & Mosley, 2021). Hence, the choice of the UKMSA as a policy reference point might have resulted from the influence of businesses over the policy process in Australia, which at
the time of the AMSA’s emergence had a pro-business, small government party in power.

However, the findings from this investigation do not support this rationale based on corporate influence entirely. They suggest that the Turnbull Government at the time was a strong proponent of emulating the UKMSA and its self-regulatory design features, despite some prominent business support for more command-and-control design features (including a higher regulatee coverage and more prescriptive reporting requirements). Influential business voices calling for adaptation of the initial self-regulatory proposal included the Business Council of Australia, the Property Council of Australia, Nestlé and Konica Minolta. Two pieces of evidence from this analysis suggest that the choice of the UKMSA as a policy reference point could instead be explained by institutional isomorphic pressures on the Australian government (DiMaggio & Powell, 1983). First, Australia’s strong ties to the UK, both politically and in terms of their regulatory traditions (both active participants in global neo-liberal movement), manifested in dialogue between senior leaders in the two countries. As seen above, some interviewees suggested that this dialogue involved pressure from UK politicians to adopt a similar approach to theirs to ensure continuity internationally. Second, the ideological leanings of the Australian Liberal Party, which supports small government and is anti-regulation, are similar to those of the UK Conservative Party that enacted the UKMSA. This alignment would have endeared a design similar to that of the UKMSA to the Turnbull Government. These factors suggest that a combination of mimetic and normative forces guided the emulation process at the government level. In other words, given uncertainty around appropriate reform, the Australian government sought to emulate the policy response of a similar government, which was encouraging it to follow this policy line.

Regarding political momentum in the politics stream, the findings show that several external pressures on Australian policy makers were influential. These include, first, concerted advocacy from civil society. This advocacy was spearheaded by Andrew Forrest, his daughter Grace and the WFF, who generated significant political momentum through both international advocacy work and the political influence Forrest employed with Australian politicians. As noted earlier, the influence of this advocacy movement, and Forrest specifically, over regulatory reform through heightening attention on the issue of modern slavery has been identified by scholars (Chuang, 2015;
Landau & Marshall, 2018). The above findings confirm the importance of this advocacy and suggest that Forrest, in this case, was particularly active in brokering political consensus in the early stages of the AMSA’s emergence. In addition, the findings highlight that in 2017, the Australian government was a nominee for a position on the UN Human Rights Committee and hence particularly motivated to demonstrate its human rights credentials. This finding is an example of the influence international regulators can have in driving policy change (Mantouvalou, 2018; Nolan, 2016). While this is a unique set of circumstances in Australia, the influence of these regulators would be widely felt by members of the UN through the soft law norms established under the UNGPs.

Internally, the brokering role of a motivated political entrepreneur in MP Chris Crewther was instrumental in developing political consensus on the need for reform. The primary vehicle through which this was achieved was Crewther’s role as chair of the Foreign Affairs and Aid Sub-Committee. In this capacity Crewther initiated a Parliamentary inquiry into modern slavery in Australian supply chains, which prompted a further government consultation on the appropriate response to this challenge. Surprisingly little research has focused on the role of political actors (i.e. political staffers and politicians) in promoting the emergence of reform on modern slavery. As seen above, most research has focused on external factors pressuring policy makers. The current findings suggest more attention should be paid to the role of political entrepreneurs like Crewther who, from inside the government, are crucial actors in shaping the policy agenda.

Taken together these findings show that the emergence of the AMSA onto the Australian political agenda can be explained by a confluence of domestic and international contextual pressures that highlighted a need for reform (problem stream), promoted certain policy reference points to emulate (policy stream) and generated political momentum towards reform (politics stream). This proposed reform was shaped by the ideological leanings of the Australian government at the time and its strong ties to the UK, where a comparable reform had been enacted. Ultimately, the coupling of the problem, politics and policy streams resulted in a narrow agenda that focused on the UKMSA to frame the formulation and decision-making debates subsequently. These insights extend current understanding of the dynamics that promote the emergence of these laws. The literature focuses on the influence of international soft law and legal
precedence; how policy feedback promotes reform; and the role of advocates and advocacy organisations in pressuring governments to shift their agenda. This analysis shows that while these factors are important, additional factors such as critical scandals, the presence of analogous reform in other jurisdictions and the role of political entrepreneurs within the government should also be considered. Further, the analysis shows how these factors interact in various streams that coalesce to establish a new policy agenda, which has not been demonstrated in previous research on the emergence of MSR laws.

3.6.2 Design Formulation and Decision Making

As outlined in the literature review, research on factors influencing the design of MSR laws has been relatively sparse. To date, relevant research has focused on how lawmakers and powerful business groups have been able to promote self-regulatory designs through debating tactics employed in the policy-making process and strategic coalitions with civil society groups (Broad & Turnbull, 2018; Fransen & LeBaron, 2019; LeBaron & Ruhmkorf, 2017a). Such research was focused on the design process leading to the UKMSA. Analysis of the formulation and decision-making stages of Howlett et al.’s framework in the current research shows that the design of the AMSA was influenced by the positions advanced by various coalitions of actors and how they sought to promote and defend those positions. Overall, my analysis shows how these coalitions mobilised and used power of various forms—associational, ideological and deliberative—to shape design outcomes in this case. These insights extend the literature in this area, which explores how actors (here, businesses and policy makers) mobilise and use power to promote their agenda but focuses on specific actors individually, rather than assessing the influence of various actors and how their approaches differ and interact in policy negotiations. Three main phases of the policy formulation and decision-making process emerge from the above findings that demonstrate varied mobilisation and use of power from different actor coalitions.

The first phase is agenda framing. As seen in the previous section, the AMSA emerged as a policy agenda item closely emulating the UKMSA. Interviewees suggested that the government purposively framed inquiries into establishing the AMSA in this way to signal how far they were willing to go in terms of the command-and-control elements of its design. I argue that this constitutes a mobilisation of ideological power from the
Australian government. As Weber (1978, pp. 1158–1211) notes, ideologies, ‘generate and reinforce a set of shared understandings of how people should act in their relations with each other [that] are necessary for sustained social cooperation’. As discussed earlier, promoting the UKMSA as a policy reference point in this case, reflects similarities in the ideologies shared by the UK and Australian governments at the time. These similarities include a belief in ‘small government’ and limiting red tape. Hence, the choice of emulating the UKMSA is consistent with the ideological leanings of the Australian government at the time, and furthered its broader political agenda. Imposing restrictions on the scope of debate through this choice of a reference point constitutes a mobilisation of ideological power to protect that agenda. This choice of reference point is also interesting when considering how interactions in the policy-making process influence design. It demonstrates how the selection of a policy reference point at the agenda setting stage can frame subsequent debates around suitable design. As seen in the literature review, relevant research has focused on either factors promoting the emergence or factors influencing the design of MSR laws. The connection between these stages, revealed through application of Howlett et al.’s model, created a path dependency that shaped the ultimate design of the AMSA. This has not been identified in previous research in this area.

The second phase involved *agenda challenging*. The proposed AMSA prompted challenges from different coalitions of civil society and leading business actors who sought to strengthen the command-and-control elements of the Act. The findings suggest two important coalitions existed. First, a hard-line civil society coalition advocated for command-and-control design elements and were unwilling to compromise on issues like penalties and increased reporting prescription. Second, a group of civil society organisations promoted command-and-control features but were willing to compromise to ensure business support. The development of this middling coalition is of particular interest. Research on the design of the UKMSA has investigated the way in which business groups in the UK aligned themselves strategically with civil society groups to limit the command-and-control features of the UKMSA (LeBaron & Ruhmkorf, 2017a). The dynamics within the coalition in the Australian case are similar to those described by LeBaron and Ruhmkorf, in that civil society groups in the middling coalition were willing to compromise on more hard-line positions to ensure that business cooperation in promoting reform was enacted. Further
research into these dynamics is warranted as they seem to be reproduced across these two different settings. This finding demonstrates the mobilisation of associational power from civil society groups and business actors forming this middling coalition. Through association, these actors were better able to promote their priorities in the design debate. Business actors in this case were able to dampen possible vocal opposition to a self-regulatory design; and civil society actors within this coalition were able to bolster their legitimacy in the eyes of policy makers and in this way be better placed to ensure some form of regulation was enacted, even if it did not align with their ideal design specifications.

The third and final phase saw the Australian government reach its change threshold. The final days of negotiations regarding the design of the Act saw intense debate in the Senate, where hard-line civil society organisations and their allies in minor parties sought to promote design changes that would increase the command-and-control features of the AMSA. Ultimately, the findings show that there was a limit to the extent to which the Australian government was willing to entertain these challenges from more hard-line elements who were advocating for penalties and prescriptive reporting requirements. This adds further weight to the conclusion above that the Turnbull Government was the main actor promoting a self-regulatory design. During this debate the government communicated that its change threshold had been reached, by removing the proposed bill from further debate. The tactics employed by the Australian government prompted more hard-line elements to soften their position and settle for a more middling approach. Similar tactics were employed during the UKMSA design debate, where law makers who opposed certain design changes scheduled the debate on the UKMSA very late in the debating period, which allowed them to ‘rush through half a bill’ (Broad & Turnbull, 2018).

While design elements such as penalties and more prescriptive reporting requirements were not going to be entertained, civil society groups were able to successfully negotiate a compromise on other features of the Act. As seen above, these included mandatory reporting criteria, the establishment of a reporting register, the inclusion of public reporting as part of the Act and a guaranteed three-year review of the efficacy of the enacted AMSA. This compromise was largely made possible by emerging criticism of the effectiveness of the UKMSA, which supported adaptation of the proposed AMSA design despite government reticence.
The act by the Australian government of pulling the bill from consideration; the ways in which civil society groups leveraged emerging evidence about the effectiveness of the UKMSA; and the connections of such groups with minor parties to make a case for adapting the Act’s design constituted further mobilisation and use of power by actor coalitions. In the case of the government, this constituted a use of deliberative power. The government’s control over what is considered and not considered in policy-making venues was used to shape priorities in deliberation over the design of the Act. It signalled to those in opposition of the government’s plan (i.e. hard-line civil society coalitions, their political allies and more liberal businesses) that there would be no further compromise. Hard-line civil society organisations in this phase mobilised and used a combination of associational and deliberative power to promote their position. Deliberative power was exercised by introducing compelling evidence about the effectiveness of the UKMSA into the final stages of debate over design to shape deliberations in their favour. In addition, these organisations exercised associational power through relationships with minor parties in the Senate to promote their agenda.

These insights align with findings on the factors that influenced the design of the UKMSA, including those related to government strategies to limit stringency and businesses throwing their weight behind civil society coalitions who were willing to compromise on the most intrusive and punitive design changes being discussed. However, these findings also highlight the importance of the UKMSA as a reference point for both limiting the formulation debate initially and then subsequently as a leverage point for actors promoting changes to the reform proposed by the Australian government (but not beyond a change threshold). Overall, they highlight how various actor coalitions sought to influence the ultimate design of the AMSA and the forms of power they mobilised and used to do so. This analysis and interpretation extends current understanding of the factors shaping the design of MSR laws in two ways: first, by identifying several relevant coalitions of actors involved in policy negotiations, rather than focusing on discrete actor groups; and second, by demonstrating the varied approaches these actors took and how these interacted to explain design outcomes.

3.7 Conclusion

This chapter sought to understand how the AMSA emerged and what explains its design. The analysis shows the value of exploring the policy emergence and design
process as a system of interconnected influences guided by Howlett et al.’s (2017) policy change framework. In the case of the AMSA, analysis demonstrates how international and domestic pressures highlighted the salience of modern slavery in supply chains within Australia, prompted selection of a relevant policy solution and generated the political momentum required to establish the AMSA as a part of the Australian reform agenda. Critically, in Australia, the proposed reform agenda set by the Australian government emulated the design features of the UKMSA from the outset, reflecting the ideological leanings of the Liberal Party, the political and historical connections between Australia and the UK, and the influence of prominent philanthrocapitalist Andrew Forrest. The reasons for this emulation of the UKMSA warrant further investigation. This analysis showed how influential policy reference points are in shaping design outcomes through connecting the agenda setting, formulation and decision making stages of the policy process. Hence, future trajectories of reform in this area are likely to be dependent on the reference points policy makers choose, either to model reform of existing policy or as a basis for new policy instruments. This is discussed in more detail in Chapter 6.

Regarding design, the analysis reveals how the ultimate design of the AMSA was shaped by negotiations between advocacy coalitions with varied design positions that supported or challenged the design formulation proposed by the government to varying degrees. The analysis shows that these coalitions promoted either a design that more closely approximated a self-regulatory approach, as originally proposed by the Australian government, or a design that was more command-and-control like. Ultimately, the design compromise reached changed certain aspects of the original proposed design and heightened the stringency of the AMSA in comparison with the UKMSA (i.e. mandatory reporting requirements, a three-year review of effectiveness and a reporting register). However, this compromise stopped short of addressing the main concern of the civil society and business advocates promoting a different formulation; that is, the lack of penalties and adequate government oversight over firm responses.

Several factors that promoted a more self-regulatory design and a more command-and-control design during these debates were identified. Regarding factors promoting the more self-regulatory approach, these included: the initial framing of the proposed policy solution (AMSA) by Australian politicians, which emulated the basic design elements
of the UKMSA and constituted a mobilisation of ideological power by the Turnbull Government. Second, tactics employed by the Turnbull Government in the final stages of debate over the Act’s design, which constituted a mobilisation of deliberative power. Regarding factors promoting a more command-and-control approach, these included: civil society coalitions with liberal business advocates and minor party representatives in the Senate, who mobilised associational power to promote more command-and-control features, and civil society organisations highlighting emerging evidence that questioned the effectiveness of the UKMSA as policy to emulate, constituting a mobilisation of deliberative power.

Overall, the analysis reveals that the emergence and design process cannot be explained as a rational one where goals are defined, and solutions are developed and implemented in line with those goals. Contestation regarding appropriate regulatory tools is present throughout the process. Understanding the ultimate regulatory outcome here requires a systematic consideration of the pressures promoting change, the interests of relevant stakeholder coalitions and how they bring to bear their influence over the policy change process. Limitations of this chapter that relate to research design and future research opportunities are discussed in Chapter 6.
Chapter 4: Explaining the Quality of Modern Slavery Reporting: Stakeholder Influence in California and the United Kingdom

4.1 Introduction

There are two related outcomes that MSR laws seek to achieve. The first is the development of high-quality MSR, and the second is corporate adaptation of policy and practice related to modern slavery that will minimise or eliminate modern slavery in GSCs. This chapter focuses on the former; more specifically, the often-cited relationship between stakeholder pressure and improved reporting quality under MSR laws (Redmond, 2020; Rogerson et al., 2020).

Stakeholder pressure is defined here in line with Freeman’s (1984) stakeholder theory. Stakeholder theory suggests that an organisation’s survival and success depends on its ability to effectively manage its stakeholder relationships and the demands of those stakeholders. Hence, stakeholder relationships result in pressure to conform to those demands or needs. A definition of reporting quality is discussed and operationalised in Section 4.4; in brief, reporting quality here refers to the extent to which companies reporting under MSR laws fulfil the requirements established by policy makers in their reporting guidance material (UK Home Office, 2015a; California Department of Justice, 2015). Under MSR laws, it is assumed that relevant primary and secondary stakeholders with an interest in companies effectively responding to MSR laws will pressure firms to report in line with best practice, thereby improving reporting quality.

Analyses of reporting quality under MSR laws have shown reporting quality varies widely between regulated companies (BHRRC, 2015, 2016, 2017a, 2017b, 2018; Caruana et al., 2021; Ergon Associates, 2017a, 2017b, 2018; Stevenson & Cole, 2018).32 For example, a recent analysis of reports from FTSE100 companies under the UKMSA that operationalised reporting quality as the extent to which reporting aligns

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32 Analysis of responses in Australia has not yet occurred as reporting has been delayed because of COVID-19 concerns immediately after the AMSA’s promulgation. However, analysis of existing modern slavery policies of large publicly traded companies has been conducted to assess their preparedness to report (see Christ et al., 2019)
with best practice, showed quality ranged from as low as 6% to as high as 78% (BHRRC, 2018, p. 3). Scholars are increasingly seeking to explain this variation and identify factors that promote improved reporting quality under MSR laws. For example, a stream of literature in the accounting and supply chain management disciplines explains these reporting outcomes with reference to variation in environmental, industry and organisational factors (Birkey et al., 2018; Flynn, 2020; Flynn & Walker, 2021).

This literature pays some attention to stakeholder pressure. For example, scholars have highlighted the different ways in which NGOs pressure companies to produce quality reporting (Birkey et al., 2018; Islam & Van Staden, 2018). However, given the assumed centrality of the stakeholder pressure–reporting quality nexus in the effectiveness of MSR laws, surprisingly little research has focused on the relationships between reporting companies and relevant primary and secondary stakeholders, and how the pressures created by these relationships influence reporting quality. This chapter seeks to address this gap. Hypotheses are developed regarding how the varied relationships shared between reporting companies and primary and secondary stakeholders (investors, customers, suppliers, the media and NGOs)—and the pressures created by these relationships—impact reporting quality under the UKMSA and the CTSCA.

Accordingly, the research question guiding this chapter is RQ2: How do external stakeholder relationships influence reporting outcomes under modern slavery reporting laws?

The chapter proceeds as follows. In Section 4.2, I provide a literature review focusing on research seeking to explain reporting quality under MSR laws, to highlight what we know, and do not know, about the influence of stakeholder pressure on reporting quality. Motivated by inferences from this review, Section 4.3 outlines seven hypotheses related to stakeholder relationships and reporting quality under the UKMSA and the CTSCA. Section 4.4 explains the methodology used, including the analysis strategy and how variables are operationalised to test the hypotheses. Section 4.5 presents and discusses the results of the analysis. Section 4.6 concludes the chapter by summarising key findings and exploring their implications.

33 Best practice is defined by expert NGOs and guidance from the United Kingdom (UK) government related to the six United Kingdom Modern Slavery Act 2015 (UKMSA) reporting categories detailed in Table 1: Chapter 2.
4.2 Literature Review

Below I review the literature on the determinants of reporting quality under MSR laws, paying particular attention to how research has explained the impact of stakeholder pressure on reporting outcomes. I demonstrate that research on reporting quality to date has paid some attention to stakeholder pressure as a determinant of reporting quality. However, research has largely operationalised this pressure using blunt variables as proxies for firm visibility and exposure to stakeholder pressure generally. Consequently, understanding of which stakeholder relationships influence reporting quality most, and through what mechanisms, remains poor.

4.2.1 Explaining Reporting Quality under Modern Slavery Reporting Laws

Research on reporting quality under MSR laws has been conducted focusing on the CTSCA and the UKMSA. Reporting research on the US Dodd-Frank Conflict Minerals Disclosure Provision (2010) (the Dodd-Frank Provision)\(^{34}\) is also considered here. The Dodd-Frank Provision entails a command-and-control design (i.e. more prescriptive reporting requirements and higher sanction severity). However, it also requires public reporting on modern slavery concerns (Islam & Van Staden, 2018; Sarfaty, 2015; Kim & Davis, 2016). Given the limited amount of research on reporting quality determinants under MSR laws, insights related to how stakeholder relationships influence disclosure under the Dodd-Frank Provision are considered here as they share this reporting focus.

Research on reporting quality under the CTSCA has examined various industry- and firm-level variables related to the level of scrutiny firms are exposed to from stakeholders (Birkey et al., 2018). These include firm size, membership of a socially or environmentally damaging industry (high risk) and whether a firm has reported negative social or environmental information previously. Birkey et al. show that firms in a high-risk industry are more likely to produce higher-quality reports. The authors argue that this result suggests that firms engage in CTSCA disclosure for strategic legitimation reasons; that is, they report to satisfy their stakeholders that they are adequately

\(^{34}\) “In politically unstable areas, the minerals trade can be used to finance armed groups, fuel forced labour and other human rights abuses, and support corruption and money laundering. These so-called ‘conflict minerals’ such as tin, tungsten, tantalum and gold, also referred to as 3TG, can be used in everyday products such as mobile phones and cars or in jewellery” (European Commission, 2021)
accounting for risks in their operations. Surprisingly, firm size—as a proxy for firm visibility and hence exposure to stakeholder pressure—was not found to be a significant predictor of reporting quality under the CTSCA.

Research on the CTSCA and the UKMSA has also focused on investor reactions to these laws and has hypothesised how those reactions might affect reporting outcomes. However, this relationship has not been assessed directly. Birkey et al. (2018) show that the CTSCA’s enactment led to a significant negative reaction from investors, defined as cumulative abnormal market returns, and that this negative reaction was heightened for companies facing legitimacy pressures in the form of higher visibility (firm size) and operating a high-risk supply chain (p. 834). Based on these findings, the authors argue that investor scrutiny in California could reduce the amount and quality of firm reporting, suggesting this as a possible explanation for larger public firms not making significantly higher-quality disclosures (see above finding on size in Birkey et al., 2018). More recent research on the promulgation of the UKMSA shows that overall, no abnormal stock returns were associated with its enactment, although for companies in higher-risk industries, such as garments or mining, investor reactions were negative (Cousins et al., 2020, p. 5283). This implies that most shareholders in the UK value the introduction of the UKMSA, or at least do not perceive it as a risk, unlike in California. While these authors do not make predictions regarding the effect of this investor reaction, in keeping with Birkey et al.’s (2018) logic, this result could motivate publicly listed UK companies, outside high-risk industries, to produce higher-quality disclosures.

Other relevant research has adopted an institutional theory perspective to frame determinants of reporting quality under the UKMSA (Flynn, 2020). Flynn constructs a continuum of response types that range from defiance (negative) to acquiescence (positive) (p. 6). Flynn’s results suggest that improved reporting quality is significantly predicted by, first, a firm’s existing social responsibility orientation (operationalised as commitment to relevant sustainability agreements; e.g. the Ethical Trading Initiative); second, its involvement in Environment, Social and Governance (ESG) networks (which produce mimetic pressures to comply with the UKMSA); third, the context in which it is headquartered (operationalised as UK headquartered or not); and fourth, its size (as a proxy for visibility and increased reputational risk) (pp. 12–13).
As mentioned, relevant research has also been conducted on disclosures under the US Dodd-Frank Provision. Islam and Van Staden (2018) examine the influence of NGO pressure on disclosures from electronics-reliant firms ($N = 139$) under the Dodd-Frank Act.\textsuperscript{35} Specifically, the authors examine firm collaboration with NGOs and firm exposure to NGO protest. The researchers show that firms that collaborate with NGOs produce higher-quality disclosures (Islam & Van Staden, 2018, p. 11) and that collaboration is a more significant predictor of reporting quality than is protest. In addition, based on a sample of 967 firm reports, Chilton and Sarfaty (2017) adopt a mixed methods approach to investigating compliance levels under the Dodd-Frank Provision. Focusing on firm-level characteristics, they assess the influence of brand strength, firm size, profitability and liquidity to test whether a) firms that have a stronger brand reputation, and are therefore subject to heightened stakeholder pressure, are more likely to comply, and b) whether firms with more substantial resources are more likely to comply. Overall, the results suggest that reputational considerations are significant predictors while resources are not (Chilton & Sarfaty, 2017, pp. 447–448).

4.2.2 Inferences from the Literature

Studies that seek to understand determinants of reporting quality under the above MSR laws have generally operationalised stakeholder pressure using proxies for visibility that attract increased stakeholder scrutiny, such as size, investment in branding and membership of a high-risk industry (Birkey et al., 2018; Sarfaty, 2015). Evidence on the effect of this visibility and consequent pressure is mixed, but overall, these results suggest that stakeholder scrutiny is an important factor in promoting improved reporting quality. Size is a significant indicator in the UK and under the Dodd-Frank Act (but not under the CTSCA). Branding, which has only been investigated under the Dodd-Frank Act has been shown to be a significant predictor of reporting quality. Under the CTSCA, researchers have shown that the additional attention attracted by membership of a high-risk industry leads to higher-quality disclosure. While these results confirm the importance of stakeholder scrutiny to improved reporting quality, operationalising stakeholder pressure through these blunt proxies provides little insight into which

\textsuperscript{35} Most likely to be dependent on conflict minerals as their products require the use of various rare metals.
specific stakeholder relationships—and hence pressures—influence reporting quality, and how this improvement is promoted by stakeholders.

There is a need for research that identifies specific stakeholder relationships that create this pressure and the mechanisms used to influence reporting quality under MSR laws. As noted above, scholars have investigated the relationships between firms and NGOs under analogous legislation (Islam & Van Staden, 2018) and investor reactions to MSR laws (Birkey et al., 2018; Cousins et al., 2020). However, no study has explored the influence of a broad range of relevant primary and secondary stakeholder relationships to understand their relative influence over reporting quality. Below I develop hypotheses regarding different stakeholder relationships and the pressures they create, to extend the literature on determinants of reporting quality under MSR laws.

4.3 Hypotheses

In keeping with the view that reporting quality under MSR laws is promoted by primary and secondary stakeholder pressure, I adopt here a stakeholder theory perspective to guide the development of hypotheses relevant to reporting in the UK and California. As noted, stakeholder theory suggests that an organisation’s survival and success depends on its ability to effectively manage its stakeholder relationships (Freeman, 1984).

Stakeholder theory emphasises the importance of firms attending to the needs of stakeholder groups, particularly those deemed powerful, because of their ability to control resources and enhance the perceived legitimacy of the organisation (Grey, 1996; Ullmann, 1985).

Powerful primary stakeholders may include customers, investors and suppliers. Secondary stakeholders include NGOs, unions, other civil society groups and the media. Following Clarkson (1995), primary stakeholder are stakeholders without whose support a company is unable to survive because they engage in routine and essential transactions with those stakeholders. Consequently, primary stakeholders include customers, investors and suppliers. Stakeholders that do not share a direct transaction relationship with companies e.g. NGOs, unions and the media are considered secondary stakeholders.

Reporting quality here is hypothesised to be shaped by the nature of the relationships firms have with primary and secondary stakeholders, and the pressures these
relationships create for companies as they seek to address the needs of these stakeholders. Hypotheses have been developed focusing on pressures created by investor relationships, customer relationships, supplier relationships, media exposure and NGO relationships.

4.3.1 Investor Scrutiny

Researchers examining CSR and sustainability disclosures highlight the impact of shareholder pressure on firm reporting outcomes (Fifka, 2013; Hahn & Kuhnen, 2013; Newson & Deegan, 2002). Publicly listed firms have reporting obligations non-listed firms do not; their listing on public exchanges requires submission of a listing application and signing of a listing agreement that compels annual disclosure of material information to investors (as defined by the Securities and Exchange Commission [SEC] in the US and the Companies Act 2006 in the UK) (Buzby, 1975; Newson & Deegan, 2002). These firms are therefore subject to heightened investor scrutiny relative to non-listed companies. In both the UK and the US, ownership of listed companies is diverse, but involves few individual investors and several large institutional investors, who control the balance of market power and influence over companies (Aguilera et al., 2006; Nyombi, 2018). Over the last decade, these institutional investors in both countries have emerged as a powerful advocacy voice promoting the value of increased transparency and non-financial reporting on social and environmental risk (Harper Ho, 2020, p. 23). This summary leads to hypothesis H1: Publicly listed companies are more likely to produce high-quality reporting than are non-listed companies under MSR laws.

Evidence discussed in Section 4.2 suggests that investors in the UK have reacted more favourably to the implementation of the UKMSA than investors in California regarding the CTSCA. Birkey et al. (2018) suggest this may be why large listed firms in California do not produce significantly higher-quality disclosures when compared to non-listed companies. Based on this argument, I propose hypothesis H2: Publicly listed companies in California are less likely to produce high-quality reporting than are publicly listed companies in the UK, where investor perceptions of the UKMSA are more favourable.
4.3.2 Customer Online Engagement

My literature review suggests that the relationship between consumers and companies, and its bearing on disclosure, has not been directly investigated under the UKMSA and the CTSCA. Outside research on MSR reporting, there is ample evidence that suggests companies exposed to consumer pressure are more likely to produce higher-quality reporting than those which are not (Wilmshurst & Frost, 2000, p. 21; Roberts, 1992; Hackston & Milne, 1996). Ethical consumerism is on the rise, particularly among young professionals and millennials who are increasingly advocating for more transparency from businesses in several areas; for example, in regard to environmental and social issues (Anderson, 2015; Hudson et al., 2013). More specifically to the context of labour standards in supply chains, scholars highlight how company relationships with customers have been critical in motivating companies to adapt their supply chain governance practices, which arguably would translate into improved reporting practices under MSR laws (Donaghey et al., 2014).

Further support for the influence of customers on reporting quality has been provided by research on the Dodd-Frank Provision. Sarfaty (2015) shows that firms that invest significantly in their brand image are more likely to generate quality disclosures. While she suggests this is in part because of corporate efforts to maintain a positive brand image with their customers, it is likely that significant investment in brand image also invites pressure from various stakeholders (e.g. investors and NGOs) who would also be quick to identify corporate behaviour that does not align with the brand image promoted by firms. Hence, a more targeted operationalisation of customer relations is required to determine the influence customers have over firm reporting practices under MSR laws.

In recent years, social media has emerged as a key tool through which firms engage with their customers and generate business value (Mahoney, 2021). Firms that have an active social media presence are afforded new opportunities to interface with their customers; by the same token, these media channels open new venues for consumer pressure and criticism of their behaviour. This logic leads to hypothesis H3: Firms that interact more frequently with customers via social media are more likely to demonstrate better reporting quality vis à vis MSR laws.
4.3.3 Supplier Orientation

Global value chain scholarship suggests that the nature of a company’s relationship with its supply chain will influence labour standards in the relevant supply chain (Barrientos, 2013; Gereffi, 2014; Gereffi et al., 2005). Fransen and Burgoon (2012) argue that companies participating in the manufacture and design of products (makers) are more exposed to the concerns of their suppliers and, in turn, more likely to engage in stringent supply chain governance activities (p. 250). The authors suggest that, in contrast, firms that participate in mostly retail-oriented activities (buyers) are more detached from their supply chains, which are often managed through intermediaries (Fransen & Burgoon, 2012, p. 250). These differences mean garment firms that are makers are more likely to engage in stringent supply chain governance activities than are retailers (Fransen & Burgoon, 2012, p. 254). While this does not relate directly to reporting quality, it is likely that these different orientations to supply chain management would also lead to firm variation regarding best practice reporting on their modern slavery practices. This leads to hypothesis H4: A company’s ‘maker’ status, or a closer relationship with its suppliers, is positively associated with high-quality reporting under MSR laws.

4.3.4 Traditional Media Pressure

Firms that attract media attention experience heightened legitimacy pressures as they are highly visible. Consequently, their behaviour can be easily and consistently scrutinised (Deegan & Islam, 2014; Nikolaeva & Bicho, 2011). Firms that have a history of media attention are likely to be proactive in their fulfilment of various obligations in the eyes of their stakeholders. Not doing so runs the risk of exposing their inaction or ineffective action through the media. This would constitute a legitimacy threat. Research on the UKMSA argues that the media represents a control mechanism that amplifies normative pressure on firms to actively engage with their social obligations (Flynn, 2020). Media attention has been shown to be particularly influential when focused on social concerns and would hence influence the way that companies report on these issues in their supply chain (Reverte, 2009). The above logic leads to hypothesis H5: Firms that attract more traditional media pressure are more likely to engage in high-quality reporting under MSR laws.
4.3.5 Non-government Organisation Relationships

Insights from the social movement literature suggest that civil society relationships with companies are an important influence on company behaviour (De Bakker et al., 2013). Recently, these insights have been used to explore disclosure responses under laws targeting forms of modern slavery (Islam & Van Staden, 2018). Relationships of different types, either collaborative or combative (i.e. characterised by protest), have been shown to have varying effects on firm disclosure practices. Scholars have argued that collaboration between NGOs and firms encourages firms to act more responsibly (Islam & Van Staden, 2018). Collaborating with NGOs creates a dialogue that clarifies civil society and other stakeholder expectations, and thereby solicits appropriate firm responses; for example, more comprehensive reporting (Hofmann et al., 2018). By the same token, combative relationships with civil society, operationalised as negative NGO attention in the media and online, also leads to improved firm reporting quality (Islam & Van Staden, 2018). However, this naming and shaming approach has been shown to be less effective in positively influencing firm reporting practices under the Dodd-Frank Act (Islam & Van Staden, 2018 p.7). This leads to the following two hypotheses:

*H6:* Firms that collaborate with NGOs are more likely to engage in better quality reporting.

*H7:* Public naming and shaming of firms by NGOs is likely to be positively but weakly related to better quality reporting.

Islam and Van Staden (2018) suggest collaboration is likely to be more strongly associated with creating change in corporate accountability and disclosure practices (p. 16) than are naming and shaming strategies. The former gives NGOs a more direct line into influencing corporate practices. The latter generally involves public protests that attract media attention, which NGOs hope will shape corporate practices to be favourable to their goals.

4.4 Research Design

To test the hypotheses, I focus on firms that reported in a single financial year, 2016–17, in California and the UK. Guidance material regarding MSR was released in 2015
by the government in each jurisdiction. This provides a useful baseline against which firm responses can be measured. In 2015, the Californian state government reminded firms of their responsibilities under California law. The Californian Attorney-General sent a letter to over 15,000 relevant firms highlighting their responsibilities for the following reporting period (Bayer & Hudson, 2017). Unlike the UKMSA, the CTSCA does not require an annual statement; however, many Californian firms either renewed their statement or reported for the first time in the 2016–17 reporting period. Consequently, 2016–17 is considered a year when disclosures in the two jurisdictions can best be compared.

Disclosures were drawn from the Modern Slavery Registry (Modern Slavery Registry, 2020),36 a UK NGO thatcatalogues disclosures in both jurisdictions. Ten industries were selected, based on a minimum threshold of N = 30 firm disclosures available in both jurisdictions. The industries chosen are *food products, specialty retail, machinery, food and staples retailing, textiles and apparel, chemicals, metals and mining, building products and healthcare products* (Modern Slavery Registry [Global Industry Classification Standard classifications], 2018). Twenty firms and their disclosures were selected randomly in each industry for coding. Ultimately, the analysis considered 171 firm disclosures in the UK (17 in each industry, except for textiles and apparel where 18 disclosures were considered) and 156 in California (15 in each industry except for food products, metals and mining and building products where 17 disclosures were considered) after accounting for missing data.

**4.4.1 Justification of Research Design**

In this chapter I am interested in identifying specific stakeholder relationships that pressure firms to produce high quality modern slavery reports and the mechanisms used by stakeholders to influence reporting quality under MSR laws. Thus far, no study has explored the influence of a broad range of stakeholders over reporting quality, despite this process of influence being central to the effectiveness of MSR laws.

Accordingly, I have chosen to explore the effect of stakeholder pressure on reporting outcomes under the UKMSA and CTSCA. At the time of writing these jurisdictions are

36 The registry has recently ceased operations, but archived statements remain available at https://www.modernslaveryregistry.org/
the only two that have adopted MSR laws and where data is available on reporting outcomes. The AMSA, which is also an MSR law, and therefore suitable for inclusion in this analysis has only recently been enacted and reporting data are unavailable. Thus, the rationale for choosing the CTSCA and the UKMSA is partly practical and a function of data availability.

Selection of these two cases follows a “typical” logic for case section or “analysis of a single unit or a small number of units (the cases), where the researcher’s goal is to understand a larger class of similar units (a population of cases)” (Seawright and Gerring, 2008, p. 296). This case selection approach involves exploring “typical” examples of a case category that share the attributes researchers are interested in understanding further. The typical case selection approach requires analysis of a representative case or sample of cases to understand aspects of a larger class of similar cases. In this case, the relationship between stakeholder pressure and modern slavery reporting is common among MSR laws, and my intent was to probe the dynamics (i.e. how stakeholders exert pressure) and outcomes (i.e. how this pressure effects reporting quality) of this relationship (Seawright and Gerring, 2008, p. 297).

In designing this research study, the similarity in the design of the UKMSA and the CTSCA was considered the main justification for selecting these two cases because they are typical of the broader class of MSR laws. As seen in Chapter 2, the CTSCA and the UKMSA are both examples of enforced self-regulatory laws that afford regulatees autonomy and minimize sanction severity and thus rely on stakeholder pressure to promote compliance. The fact that the CTSCA is a State Law and the UKMSA is a Federal Law does raise questions regarding whether consideration of the dynamics observed in the two jurisdiction is comparing like with like. As discussed in the limitations section of Chapter 6, a potentially more suitable comparative study would be to compare the functioning of the AMSA and the UKMSA, as they are both national MSR laws. However, given data and time constraints, and the similarity in the design and intent of CTSCA and UKMSA, this comparison was deemed most suitable and feasible.

As shown and discussed later, the results observed in this analysis suggest that there are important differences across the contexts where these laws have been enacted. These contextual differences moderate the influence of stakeholders over reporting outcomes.
This suggests that future research should focus on how institutional variability impacts the functioning of MSR laws in more detail, and future case selection should take this variation into account when making design decisions.

### 4.4.2 Variables and Data Sources

The dependent variable in this analysis is reporting quality. Disclosure statements are coded against a benchmark of best practices. These are defined in the guidance material released in each of the UK and California (see Appendix C, DV Coding Tool and Categories, which integrate reporting guidance). This material sets out several categories important to quality disclosure. These categories have been broken down into key disclosure items, against which firms are rated and given a quality percentage score.37 This coding approach draws on established rating systems used by the BHRRC (2018), and adopted by researchers in the area (see Birkey et al., 2018; Islam & Van Staden, 2018). The coding items are detailed in Appendix C (DV coding tool and categories: California and UK). A reliability analysis was carried out on the quality disclosure coding tools used for both jurisdictions. Cronbach’s alpha showed the tools reached acceptable reliability: $\alpha = .859$ (California) and $\alpha = .855$ (UK). All items appeared worthy of retention, as alpha decreased if any was deleted (See Appendix C: Tables C1 & C2).38

In addition, I applied a weighting procedure to constituent categories. This was done to reflect the relative importance of various disclosure categories. The above-mentioned categories can be aggregated into two broader categories: a) risk assessment and mitigation, constituted by auditing, verification and certification in California and due diligence and policies in the UK; and b) supporting activities, constituted by training and internal accountability measures in California and performance measurement and training in the UK. While training, performance measurement and internal accountability measurement are important reporting categories, reporting on risk assessment and mitigation is arguably the core intent of these MSR laws. These reporting areas are most critical to organisations developing a solid understanding of the risk of modern slavery in their supply chains and the development of policies and

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37 Firms in California can score a total of 22 based on these items across all five relevant categories, while firms in the UK can score a total of 22 across all four relevant categories.

38 See Appendix C: Tables C1 for more details on the coding procedure and reliability analysis.
practices that will combat this risk. These procedures have therefore been weighted accordingly when calculating overall reporting quality. Category a) risk assessment is weighted at 65% of total reporting quality in both jurisdictions, while category b) supporting activities is weighted at 35%. The procedure used to weight these categories takes the raw percentage scores for each category, multiplies these by the assigned weights, combines these weighted scores together (5 in California and 4 in the UK) and divides this number by 100 to compute an overall weighted quality percentage.

4.4.2.1 Independent Variables

Independent variables are organised into two categories (primary and secondary stakeholders) aligned with the hypotheses. Their definition and data sources are described in Table 4. Data sources used to code these variables were taken from several secondary sources described below. These included company reports (annual, CSR or sustainability, SEC filings etc.) and websites, and external databases (D&B Hoovers, Statista and OSIRIS).

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39 For example: UK Firm X quality score = (score within ‘due diligence’ × .375 + score within ‘policies’ × .375 + score within ‘performance measurement’ × .125 + score within ‘training’ × .125) ÷ 1 = weighted reporting quality.
Table 4: Independent variable definitions and data sources

<table>
<thead>
<tr>
<th>Independent variables: Primary stakeholders</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listing status (investor scrutiny)</td>
<td>Identifies firms as either publicly listed (on a US or European stock exchange) or privately owned. Coding: <strong>1 = public, 0 = not</strong></td>
</tr>
<tr>
<td>Customer online engagement</td>
<td>Measured through collecting all comments on official firm Twitter pages using Octoparse web crawler from 1 January 2015 until 1 January 2016. Coding: high social media pressure defined as word count 1 SD above the mean. Coding: <strong>1 = high, 2 = low pressure</strong></td>
</tr>
<tr>
<td>Supply chain orientation</td>
<td>Based on UK <em>Standard Industrial Classification</em> (SIC) 2007 industry classifications in the case of UK firms and <em>industry standard industrial classification</em> (ISIC) in the Californian case, firms are categorised as either (a) oriented towards manufacturing (firms that produce raw materials or manufacture products for business-to-business sale); or (b) oriented towards retail (firms that bring goods to end user markets). Coding: <strong>1 = manufacturing, 0 = retail</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Independent variables: Secondary stakeholders</th>
<th>Description</th>
</tr>
</thead>
</table>
| Traditional media pressure                   | Measured through a Factiva database search for company name (specified in the disclosure document), delimited based on the following filters:  
  a) Major News and Business Sources  
  b) Region: Global  
  c) Date range: 1/1/2015 – 01/01/2016 (1 year preceding the reporting period))  
Measure: **Word count** of full-text corpus to approximate media scrutiny of that business |
<p>| Civil society collaboration                  | Distinguishes between firms that mention collaboration with NGOs working on labour in supply chains (e.g. Know the Chain, Anti-Slavery International or Oxfam) or multi-stakeholder initiatives (e.g. the Bangladesh Accord or Alliance; ETI, FLA or Better Cotton Initiative) on their website and those that do not. Coding: <strong>1 = reports collaboration with civil society, 0 = does not</strong> |</p>
<table>
<thead>
<tr>
<th>Independent variables: Primary stakeholders</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil society naming and shaming</td>
<td>Measures the level of NGO scrutiny directed towards individual firms through coding the number of negative articles published on the BHRRC website. Companies with more than 2 negative articles over the 2 years preceding the reporting period were coded as $1 = \text{name and shamed}, 0 = \text{not}$</td>
</tr>
</tbody>
</table>

**Control variables**

| High-risk industries | Code for industries at risk of being involved in modern slavery v. not. In the literature, firms are classified based on whether they are likely to have social or environmental impacts (Reverte, 2009); e.g. industries such as gambling, tobacco and alcohol have been shown to report more comprehensively given their propensity to have a social impact. Based on analyses of work on labour standards in GSCs by the OECD, the ILO and organisations such as KPMG, Know the Chain and Baptist World Aid, four industries in this sample are identified as likely to have social impacts relating to modern slavery (OECD guidelines, Know the chain benchmarking etc.): Garments and Footwear, Metals and Mining, Agriculture, Information Technology. Classification is based on UK SIC 2007 industry classifications in the case of UK firms and ISIC in the Californian case. Coding: $1 = \text{part of sensitive industry, 0 = not}$ |
| Size | Natural log of number of employees (drawn from OSIRIS, D&B Hoovers, company websites, annual reports and SEC filings) |
| CSR alignment | Data for this variable were drawn from company websites and annual reports. The variable is made up of two parts:  
1. Firms are coded according to whether they a) discuss CSR generally on their website, b) have a devoted section on their website (a web statement), or c) have a CSR report (all firms in the sample engaged with at least one of these activities). Coding: **3 dummy variables to reflect the above**  
2. Firms with a responsible sourcing policy or sourcing code of conduct relating to responsible sourcing available on their website are differentiated from firms that do not. Coding: $1 = \text{sourcing policy, 0 = no sourcing policy}$  
Firms that have either a devoted section on CSR or produce a CSR (sustainability) report AND have a sourcing policy published on their website are considered to have an **aligned CSR orientation and are coded 1, those that do not have those elements are coded 0.** |
4.4.2.2 Controls

Three control variables were included: firm size, membership of a high-risk industry and history of CSR alignment. These measures, which have been used as proxies for exposure to stakeholder pressure generally, are controlled for to isolate the influence of the specific stakeholder relationships hypothesised above. Firm size is often used as a proxy for visibility and hence stakeholder scrutiny (Fifka, 2013; Hahn & Kuhnen, 2013; Hou & Reber, 2011). Similarly, the level of risk with which an industry is associated is likely to influence scrutiny and pressure on that industry. Research on CSR and sustainability reporting has shown that membership of ‘high risk’ industries (e.g. mining or gambling) influences quality of disclosure as companies in these industries are more highly scrutinised (Brammer & Pavelin, 2008; Patten, 1991; Reverte, 2009). In addition, the literature on CSR reporting suggests companies that have previously reported CSR information can be subject to heightened stakeholder scrutiny given the tendency of interested stakeholders to track corporate CSR performance (Patten, 1991; Roberts, 1992). Figure 6 graphically depicts the study design, showing the hypothesised relationships between independent and dependent variables and the controls.
Figure 6: Determinants of reporting quality under the UKMSA and CTSCA: 
Primary and secondary stakeholder influence

4.4.2.3 Analysis and diagnostic tests

To explore the impact of stakeholder pressures created by these relationships, the UK and Californian are treated as two separate but comparable cases. An ordinary least squares (OLS) regression was conducted to examine the relationship between the independent variables and reporting quality scores. This analysis approach is adopted in comparable research on the topic and, given the structure of the data, is recommended by Flynn (2020, p. 12). Descriptive statistics and correlations for the above dependent and independent variables in both jurisdictions are detailed in Tables 5 and 6. A fully specified model containing variables 1–9 is presented in Table 7. All variables used were subjected to diagnostic procedures. No problems were evident.  

40 Multicollinearity: Average variance inflation factor (VIF) scores for Model 1 (UK) and Model 2 (California) in Table 7, are 1.207 and 1.220 respectively. No tolerances or VIF scores violated established rules of thumb.
<table>
<thead>
<tr>
<th>Variable Name</th>
<th>Mean (%)</th>
<th>SD (%)</th>
<th>Correlations</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reporting quality</td>
<td>49.55</td>
<td>21.63</td>
<td>Pearson</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Traditional media pressure</td>
<td>35.37</td>
<td>77.85</td>
<td>Pearson</td>
<td>-0.015</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supply chain orientation</td>
<td>0.54</td>
<td>0.50</td>
<td>Pearson</td>
<td>0.021</td>
<td>.195</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civil society collaboration</td>
<td>0.27</td>
<td>0.45</td>
<td>Pearson</td>
<td>.248**</td>
<td>0.094</td>
<td>0.064</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civil society naming and shaming</td>
<td>0.21</td>
<td>0.41</td>
<td>Pearson</td>
<td>.292**</td>
<td>0.066</td>
<td>0.099</td>
<td>.293**</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(control) CSR alignment</td>
<td>0.18</td>
<td>0.38</td>
<td>Pearson</td>
<td>0.147</td>
<td>.157</td>
<td>-0.041</td>
<td>.164*</td>
<td>.214**</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Listing status (investor scrutiny)</td>
<td>0.33</td>
<td>0.47</td>
<td>Pearson</td>
<td>0.004</td>
<td>0.000</td>
<td>0.860</td>
<td>0.016</td>
<td>0.001</td>
<td>0.000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customer online engagement</td>
<td>0.05</td>
<td>0.22</td>
<td>Pearson</td>
<td>0.098</td>
<td>-0.058</td>
<td>0.006</td>
<td>-0.145</td>
<td>0.071</td>
<td>-0.109</td>
<td>-0.109</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(control) High-risk industries</td>
<td>0.31</td>
<td>0.42</td>
<td>Pearson</td>
<td>-0.033</td>
<td>-0.062</td>
<td>-0.086</td>
<td>-0.114</td>
<td>-0.007</td>
<td>.158*</td>
<td>0.123</td>
<td>0.147</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>(control) Firm size</td>
<td>9.31</td>
<td>34.17</td>
<td>Pearson</td>
<td>.210**</td>
<td>0.126</td>
<td>0.012</td>
<td>0.103</td>
<td>.379**</td>
<td>0.041</td>
<td>.302**</td>
<td>0.018</td>
<td>0.025</td>
<td>1</td>
</tr>
</tbody>
</table>

**Correlation significant at the 0.01 level (2-tailed); *Correlation significant at the 0.05 level (2-tailed).
### Table 6: Descriptive statistics and correlations: California

| Variable Name                        | Mean (%) | SD (%) | Correlations | 1   | 2   | 3   | 4   | 5   | 6   | 7   | 8   | 9   | 10  |
|--------------------------------------|----------|--------|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1 Reporting quality                  | 43.37%   | 24.13% | Pearson correlation | 1   |     |     |     |     |     |     |     |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 157 |     |     |     |     |     |     |     |     |     |
| 2 Traditional media pressure         | 372.41   | 1043.13| Pearson correlation | 0.115 | 1   |     |     |     |     |     |     |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.153 |     |     |     |     |     |     |     |     |     |
| 3 Supply chain orientation           | 0.67     | 0.47   | Pearson correlation | 0.177* | -0.119 | 1   |     |     |     |     |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.026 | 0.140 |     |     |     |     |     |     |     |     |
| 4 Civil society collaboration        | 0.44     | 0.50   | Pearson correlation | 0.118 | .214** | 0.078 | 1   |     |     |     |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.143 | 0.008 | 0.333 |     |     |     |     |     |     |     |
| 5 Civil society naming and shaming   | 0.24     | 0.56   | Pearson correlation | .256** | .225** | 0.031 | .202* | 1   |     |     |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.001 | 0.005 | 0.703 | 0.011 |     |     |     |     |     |     |
| 6 (control) CSR alignment            | 0.18     | 0.39   | Pearson correlation | 0.157 | 0.144 | 0.021 | .207** | .301** | 1   |     |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.050 | 0.074 | 0.793 | 0.009 | 0.000 |     |     |     |     |     |
| 7 Listing status (investor scrutiny) | 0.43     | 0.50   | Pearson correlation | .164* | 0.066 | .197* | .196* | .167* | .386** | 1   |     |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.040 | 0.414 | 0.014 | 0.014 | 0.036 | 0.000 |     |     |     |     |
| 8 Customer online engagement         | 0.07     | 0.26   | Pearson correlation | 0.093 | .254** | -0.020 | 0.106 | 0.107 | .197* | 0.012 | 1   |     |     |
|                                      |          |        | Sig. (2-tailed) | 0.248 | 0.001 | 0.802 | 0.188 | 0.185 | 0.014 | 0.878 |     |     |     |
| 9 (control) High-risk industries     | 0.37     | 0.50   | Pearson correlation | .184* | -0.003 | 0.045 | 0.152 | 0.146 | 0.157 | .210** | 0.011 | 1   |     |
|                                      |          |        | Sig. (2-tailed) | 0.021 | 0.970 | 0.575 | 0.057 | 0.069 | 0.050 | 0.008 | 0.895 |     |     |
| 10 (control) Firm size               | 24.37    | 67.02  | Pearson correlation | 0.147 | .216** | -.209** | .227** | .320** | .229** | .224** | .279** | .213** | 1   |
|                                      |          |        | Sig. (2-tailed) | 0.067 | 0.007 | 0.009 | 0.004 | 0.000 | 0.004 | 0.005 | 0.000 | 0.007 |     |
|                                      |          |        | N             | 156 | 154 | 156 | 156 | 156 | 156 | 156 | 156 | 156 | 156 | 156 |

**Correlation significant at the 0.01 level (2-tailed); *Correlation significant at the 0.05 level (2-tailed).**
4.4.3 Poor-quality Reporting

It is notable that under both the CTSCA and the UKMSA the mean score for reporting quality is less than 50% (49.55% in the UK and 43.37% in California). This confirms conclusions of several scholars who examined the determinants of disclosure quality under MSR laws; that is, reporting on the whole is not of high quality (BHRRC, 2016; Birkey et al., 2018; Stevenson & Cole, 2018). While improvements have been documented in the UK since 2016–17 (BHRRC, 2018, 2021b), recent analyses still suggest a long road lies ahead for companies that largely produce formulaic and poor-quality reporting (Caruana et al., 2021). This poor-quality reporting further underscores why a more concerted focus is required on which stakeholders are able to promote improved reporting quality and how they do so.

4.5 Results: Ordinary Least Squares Regression

Table 7 shows that both Model 1 (UK) and 2 (California) were significant overall: F(9,171) = 4.099, \( p = .000 \), \( R^2 = 0.186 \); F(9,156) = 2.484, \( p = .011 \), \( R^2 = 0.134 \), respectively. In Model 1 (UK), Listing status (investor scrutiny) (V1) (\( t = 2.575, \ p = 0.011 \)), Customer online engagement (V2) (\( t = 2.020, \ p = .045 \)) Traditional media pressure (V4) (\( t = –02.296, \ p = 0.023 \)) and Civil society collaboration (V5) (\( t = 2.234, \ p = .027 \)) were significant predictors. In Model 2 (California), Supply chain orientation (V3) (\( t = 1.975, \ p = .043 \)), and Civil society naming and shaming (V6) (\( t = 2.076, \ p = .040 \)) were significant predictors of reporting quality. Overall, there is support for some, but not all of the hypotheses related to stakeholder relationships and the pressure they place on firms to improve reporting quality.

Table 7: Explaining reporting quality in California and the UK

<table>
<thead>
<tr>
<th>Variables</th>
<th>Model 1: United Kingdom</th>
<th>Model 2: California</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>43.324</td>
<td>29.080</td>
</tr>
<tr>
<td></td>
<td>(3.094)</td>
<td>(4.311)</td>
</tr>
<tr>
<td>Primary Stakeholder Influence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Listing status (investor scrutiny)</td>
<td>11.429**</td>
<td>2.293</td>
</tr>
<tr>
<td></td>
<td>(4.438)</td>
<td>(4.284)</td>
</tr>
<tr>
<td>Customer online engagement</td>
<td>14.486**</td>
<td>-0.012</td>
</tr>
<tr>
<td></td>
<td>(7.171)</td>
<td>(0.017)</td>
</tr>
</tbody>
</table>
### Supply chain orientation

<table>
<thead>
<tr>
<th></th>
<th>Coefficient</th>
<th>SE</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Supply chain orientation</td>
<td>1.225</td>
<td>7.963**</td>
</tr>
</tbody>
</table>

**Secondary Stakeholder Influence**

<table>
<thead>
<tr>
<th></th>
<th>Coefficient</th>
<th>SE</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traditional media pressure</td>
<td>0.058**</td>
<td>1.559</td>
<td>(0.024) (1.882)</td>
</tr>
<tr>
<td>Civil society collaboration</td>
<td>8.280**</td>
<td>0.737</td>
<td>(3.707) (3.996)</td>
</tr>
<tr>
<td>Civil society naming and shaming</td>
<td>6.633</td>
<td>7.633**</td>
<td>(4.412) (3.679)</td>
</tr>
</tbody>
</table>

**Firm Controls**

<table>
<thead>
<tr>
<th></th>
<th>Coefficient</th>
<th>SE</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-risk industry</td>
<td>-0.037</td>
<td>0.064</td>
<td>(0.030) (0.047)</td>
</tr>
<tr>
<td>Firm size</td>
<td>0.58</td>
<td>0.022</td>
<td>(0.050) (0.032)</td>
</tr>
<tr>
<td>CSR alignment</td>
<td>4.884</td>
<td>4.086</td>
<td>(4.368) (5.493)</td>
</tr>
</tbody>
</table>

R² | 0.186 | 0.134

| df | 9    | 9 |
| N  | 171  | 156 |

Standard errors reported in parentheses; p < 0.1*, p < 0.05**, p < 0.001***

### 4.5.1 UK Results

Relating the above results to the hypotheses, in the UK four out of six hypotheses were supported. Significant variables influencing firms’ reporting quality under the UKMSA support H1 relating to investor scrutiny, H3 relating to customer online engagement, H5 relating to traditional media scrutiny and H6 relating to collaboration with NGOs.

### 4.5.2 Californian Results

In California two hypotheses were supported. A closer relationship between firms and their supplier partners (‘makers’ rather than ‘buyers’), and higher levels of exposure to naming and shaming from NGOs, are associated with higher-quality disclosures. These results support H4 and H7. Comparing the results relating to listing status (H1), UK listed firms produce higher-quality disclosures. This result provides support for H2.
regarding investor reactions to these laws and how this would affect firm reporting. Explanations for these results are discussed below.

4.6 Discussion

In this discussion section I explain and discuss the significant drivers of reporting quality in the UK and California revealed in my analysis. To explain these drivers I draw on previous research covered in the literature review and use a comparative institutional perspective. As alluded to in section 4.4.1, the fact that there are no common drivers in these two jurisdictions suggests that contextual variation is probably an important factor explaining variations in stakeholder mechanisms and reporting outcomes. Thus, to begin with, I argue that there are important differences between these settings that help explain the contrasting results of my analysis. Following this, I discuss the significant drivers of reporting quality in the UK. Overall, the results in the UK show that the relationships that reporting companies have with investors, customers, the media and NGOs have a significant influence on reporting quality. In addition, I discuss mechanisms identified in the analysis through which these stakeholder relationships influence reporting quality. This discussion of mechanisms focuses on customer relationships and NGO relationships. A lack of evidence in the above analysis precludes a discussion of specific mechanisms related to investor and media pressure. Following this, I discuss significant drivers in California. The results for California suggest the relationship that reporting companies have with suppliers and NGOs has a significant influence over reporting quality. My analysis identified one mechanism through which NGOs exert pressure in this context—antagonistic pressure—which is also discussed. Comparative Institutional Perspective

4.6.1 Comparative Institutional Perspective

Researchers have long distinguished at a very macro level between types of political economy. A popular contrast drawn by scholars in the past was between liberal market economies (LMEs) and co-ordinated market economies (CMEs) (Hall & Soskice, 2001; Schmidt, 2002). In LMEs, ‘firms co-ordinate their activities primarily via hierarchies and competitive market arrangements’ (Hall & Soskice, 2001, p. 8); the shareholder value model of corporate governance prevails (Hall & Soskice, 2001); ownership structures are generally highly diversified; and the separation of management and
ownership is commonplace (Aguilera & Jackson, 2003; Aguilera et al., 2006). In addition, government regulation of the market is kept to a minimum. LMEs include countries like the US, the UK, Ireland, Canada, Australia and New Zealand.

These arrangements were often contrasted with CMEs, which are common in continental Europe. In CMEs, ‘firms depend more on non-market relationships to co-ordinate their endeavours with other actors’ (Hall & Soskice, 2001, p. 8) and hence a stakeholder orientation is more prevalent (Hall & Soskice, 2001; Jackson & Apostolakou, 2010). This leads to, on the whole, more cooperation between businesses, civil society organisations, labour and the government in a number of areas. Corporate ownership in these contexts is less diversified, and distinctions between ownership and control are less pronounced (Hall & Soskice, 2001; Jackson & Apostolakou, 2003, 2010).

When considered in light of these ideal types, the UK and US (California within that), are examples of LMEs. Firms in these contexts are shareholder oriented and adopt similar systems of corporate governance in line with the above. In addition, governments in the US and the UK share a long-standing history of limiting government intervention in the market. However, categorisation of political economic ideal types (LMEs v. CMEs) has recently been criticised for ignoring significant differences between ostensibly similar contexts (Hay, 2020; Witt and Jackson, 2016; Amable 2003). These researchers suggest that today countries combine liberal and co-ordinated elements into hybrid institutional systems (Witt and Jackson, 2016, p. 796).

In line with this push towards more nuanced comparison of political economies, I argue that there are important differences between the UK and California that help explain the results of the analysis in this chapter (Aguilera et al., 2006; Nyombi, 2018). Four dimensions of difference are discussed below that aid in this endeavour: differences in the emphasis placed on shareholder primacy across the US; contrasting levels of commitment from firms to CSR across the US; differences in regulatory traditions related to non-financial reporting regulation between California and the UK; and differences in business culture between California and the UK owing to the dominant industries in these settings and how these industries have traditionally been regulated. Before outlining these dimensions showing difference between the UK and California, it is important to acknowledge that the US is a large country comprising states with
diverse political economies. Two of the dimensions discussed, regarding shareholder primacy and commitment to CSR compare the US as a whole with the UK. These dimensions are relevant and apply in California, however I am not suggesting that California can be viewed as a proxy for dynamics at the US national level.

4.6.1.1 Differing Emphases on Shareholder Primacy

While the US and the UK share significant similarities in their systems of corporate governance, the obligations of corporate managers differ in terms of the extent to which shareholder primacy is emphasised (Aguilera et al., 2006; Gontarek & Belghitar, 2020). In the US, shareholder primacy and shareholder wealth maximisation are priorities that are more firmly inculcated into corporate governance arrangements at a federal level than they are in the UK. Under US securities law, the US Supreme Court defines material information—that is, what must be disclosed by corporations—in terms of its significance to investors, not stakeholders (Harper Ho, 2020). In the UK, under the Companies Act 2006, the ‘enlightened shareholder-value perspective’ has been integrated and includes a fiduciary duty to consider stakeholder interests. Hence, while both jurisdictions adopt a shareholder orientation, the UK is somewhat tempered in this regard and the priorities of senior management place a more significant emphasis on stakeholder concerns.

4.6.1.2 Commitment to Corporate Social Responsibility

Recognising and addressing CSR concerns is a higher priority for UK firms than for US firms (Jackson & Apostolakou, 2010, p. 388). This has been explained as the result of several factors including media exposure of CSR issues in the UK, strong awareness of risk and risk management among British managers, and a high level of concern for ethical issues among UK residents (Solomon et al., 2004). The most significant driver of this commitment to CSR among UK companies is, however, the influence of CSR-oriented institutional investors in the UK (Aguilera et al., 2006). In contrast to the US, institutional investors in the UK engage more consistently with company management and establish long-term relationships with companies in which they invest (Aguilera et al., 2006). This affords them increased influence behind the scenes and has allowed them to promote a CSR-oriented agenda (Aguilera et al., 2006). Recognition of CSR concerns is not only reflected in the behaviour of UK firms and investors but also in the
behaviour of UK consumers. This is evidenced by the demand for Fairtrade goods in the UK, which consistently outstrips other larger economies including the US (Leonard and Willer, 2016). For example, in 2016 UK demand for Fairtrade food was valued at 2193 Million Euros, more that the two second largest markets, Germany and the US combined (Fairtrade International, 2016).

4.6.1.3 Traditions of Non-Financial Reporting Regulation

A further difference between these two settings relates to the history of non-financial reporting regulation in each. Non-financial reporting regulation refers to any regulation that ‘encourages corporate transparency and where businesses formally disclose certain information not related to their finances’ (Global NAPS, 2020). In a recent review of this history in the US, Harper Ho (2020) identifies several institutional barriers that have limited the development of non-financial disclosure regulation in the country. Chief among these are a) the commitment to shareholder primacy, already described, b) a widespread scepticism of the value of regulation and a firm belief in the power of private market ordering. Non-financial reporting regulation has been met with resistance from federal law makers and businesses headquartered in California, making the CTSCA a somewhat anomalous development (Harper Ho, 2020). In contrast, regulators in the UK have readily enacted non-financial disclosure regulation in several areas. Indeed, 13 examples have been implemented to date (Department for Business, Energy & Industrial Strategy, 2020), including the UK Bribery Act 2010 and the UKMSA. As a result of this history, corporations in the UK are socialised to accept and abide by non-financial reporting regulation, unlike those in the US.

4.6.1.4 Differences in Business Culture between the United Kingdom and California

The UK and Californian economies are comparable both in size and composition. In 2015, the year preceding this investigation’s time frame, UK GDP was US$3124.1 billion, compared to California’s GDP of US$2428.2.6 billion. In 2015, the Californian economy was the largest in the US and seventh in the world, while the UK was the fifth largest economy. The UK is largely services based, with services accounting for 70.41% of GDP. The most significant industries in the UK include financial services, and professional and business services (O’Neill, 2021). In California, services also comprise the bulk of economic activity, with major industries including e-
commerce, information technology, and professional and business services (Central California, 2018).

There are however, important differences between the two economies. The UK economy is led by the finance industry. In 2019, the financial services sector contributed £132 billion to the UK economy. This comprises 6.9% of total economic output. In that same year the UK financial services sector was the ninth largest in the OECD measured as a proportion of national economic output (Shalchi et al., 2021). In contrast, the Californian economy is led by the information technologies (IT) sector. In 2017, the IT sector was responsible for an estimated 16% (US$385.8 billion) of the state economy. The state is home to some 51,356 tech business establishments (Ostrowski, 2020).

This difference in dominant industries has important implications for the business cultures of firms within these two contexts. In the UK (and elsewhere post-GFC), the finance industry has been heavily regulated and firms have a strong incentive to avoid risk and abide by regulations (Menon, 2018). In contrast, in California, the IT sector has been less extensively regulated, to ensure the innovative and entrepreneurial strengths of the industry are not hampered (Ester, 2017). Hence, In the UK, financial services firms are more likely to be traditional law-abiding profit seekers, and a more pluralistic business culture encourages risk control (Kwarteng et al., 2012). In contrast, tech businesses in California are known to be less risk averse and therefore less inclined to adhere strictly to the letter of the law (Kwarteng et al., 2012).

The prominence of these two sectors with their different histories is likely to translate into contrasting business cultures within these settings. Research in the UK suggests that ‘many boards are becoming increasingly conservative and risk-averse in their outlook’ (Ashby et al., 2018), suggesting that risk aversion is widespread and perhaps led by conservatism in the financial sector. Evidence of the diffusion of an innovative and risk-taking business culture throughout the Californian economy is limited; however, the sheer size of the industry in terms of the state’s economy would suggest this culture is likely to pervade beyond the tech industry.

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41 There are, however, growing calls to increase regulation of Big tech and Silicon Valley (Smith & Browne, 2019)
4.6.2 Drivers of Reporting Quality under the United Kingdom *Modern Slavery Act 2015*

I now turn my attention to explaining and discussing the drivers of reporting quality under the UKMSA. In the UK, H1 relating to investor scrutiny, H3 relating to customer online engagement, H5 relating to traditional media scrutiny and H6 relating to collaboration with NGOs were supported by my analysis. Each of these results is discussed in turn below.

The results relating to listing status (investor scrutiny) show that publicly listed companies in the UK produce higher quality reporting under the UKMSA than non-listed companies. In presenting H1, I argued that this would be the case given the transparency obligations under which listed firms operate when they attain public rather than private status, and the added scrutiny this is likely to bring from shareholders. This result in the UK can be explained by research identified in the literature review and the particular way in which institutional investors engage with companies in the UK.

Cousins et al. (2020) show that UK investors had on the whole a positive reaction to the UKMSA’s implementation. Similar research on reporting quality under the CTSCA identifies a negative reaction from investors in California and suggests that this explains why large public companies in the study sample were less willing to generate high quality and extensive disclosures (Birkey et al., 2018). Cousins et al.’s research, in contrast, indicates the opposite reaction from UK investors, suggesting that in the UK case investors value the introduction of the UKMSA, or at least do not perceive it as a risk, unlike in California. While Cousins and colleagues (2020) do not make predictions regarding the effect of the investor reaction in the UK on reporting quality, in keeping with Birkey et al.’s (2018) logic, this result could explain what motivates UK public companies to produce higher-quality disclosures. Based on these results, UK investors likely perceive the UKMSA as important and worthwhile engaging in, which would prompt companies to report in kind.

The above also aligns with the nature of institutional investor–company relationships in the UK, as discussed in the previous section. Large institutional investors in the UK have been shown to be concerned with CSR issues and, in unlike those in the US, to engage significantly with company management through long term and collaborative
relationships (Aguilera et al., 2006). This affords them increased influence with those companies, which scholars have suggested they use to promote a CSR-oriented agenda (Aguilera et al., 2006). This CSR orientation and influence, combined with the more embedded commitment to CSR from UK companies (Solomon et al., 2004), helps explain the significant influence of listing status on reporting quality in the UK. UK institutional investors have better access to corporate leadership and find a more sympathetic ear in those managers who are willing to further a CSR agenda, of which the UKMSA would form a part.

As noted previously, customer influence on company reporting quality has not been tested directly under MSR laws. However, research has explored the role of brand image and how this leaves companies open to pressure from customers under the Dodd-Frank Provision (Sarfaty, 2015). The results suggest that branded firms are more likely to produce high-quality disclosures. The results of my own analysis, in line with H3, indicate that companies in the UK that more actively engage with their customers—operationalised by quantity of online dialogue with customers—are more likely to produce high-quality disclosures. This result suggests that in the UK, companies have either learnt that customers value quality disclosure through this engagement, or are preemptive and seek to ward off criticism from customers who have a public channel through which they can be reached and pressured to improve. The noted commitment from UK consumers to ethical shopping, as evidenced by the Fairtrade statistics highlighted above, suggest that consumers in the UK would likely place a premium on shopping from companies who can demonstrate their commitment to minimizing labour abuse in their supply chain. These customers are likely to use social media channels to communicate this preference with firms. In addition, customers in the UK are likely to be well informed about what constitutes quality reporting under the UKMSA. The UK government has been active in developing guidance on best and worst practice and widely promoting the UKMSA to the UK public (UK Home Office, 2015a, 2015b). Moreover, analysis of best practice reporting has been more forthcoming in the UK (BHRRC, 2015, 2016). This would help customers differentiate best and worst practice and aid them in pressuring firms through this online engagement.

42 A widespread advertising campaign was launched in 2015, immediately prior to this investigation’s observation window, in which the UK government spent £2.18 million on advertising to raise awareness about modern slavery and the UKMSA (UK Home Office 201b5, p. 4).
The research finding that companies signalling collaborations with NGOs on their websites is a strong predictor of improved reporting quality in the UK provides support for H6. This is consistent with the findings of Islam and Van Staden’s (2018) research relating to the Dodd-Frank Provision, that when companies have collaborative relationships with NGOs this will improve the quality of reporting they produce. The influence of civil society collaborations in the UK can be explained by insights from research on CSR and social movements. This research indicates that various factors influence collaborative relationships with civil society. These variables are commonly framed in terms of resource dependency theory and include a) the frequency of contact between firms and NGOs, b) the perceived strategic fit of NGOs and c) commitment to CSR from firms (den Hond et al., 2015; Hannabuss, 2010; Islam & Van Staden, 2018). Given the more tempered shareholder orientation of UK companies and high levels of CSR commitment discussed earlier, NGOs in the UK are likely to a) have increased contact with corporations and b) be of strategic importance to companies as experts in various CSR concerns.

The final significant UK result concerning traditional media scrutiny is consistent with previous research showing that traditional media attention pushes firms to be more transparent and account for their activities, to maintain legitimacy (Nikolaeva & Bicho, 2011). In contrast to findings in previous studies on MSR laws, this result highlights media pressure as a driver of quality reporting under the UKMSA (see Flynn, 2020, p. 11). Flynn (2020, p. 11), however, concludes that ‘the operationalisation of media exposure relied on in this study was too narrow and needed to include sources other than newspapers’. Flynn (2020, p. 6) based his measure on only one media source, The Financial Times. The current study considered a wider sample of media data, which may more accurately reflect the various sources of pressure in the media.

This result aligns with those of research on factors that have promoted a CSR commitment from companies in the UK, highlighting that media attention on CSR concerns in the UK has been persistent and has translated into a heightened commitment from firms to address these concerns (Solomon et al., 2004). The influence of the media over UK companies may be due to the targeted focus of investigative journalism in the UK. The Guardian in the UK has a long history of investigative reporting focused on UK concerns. Comparable US publications like The New York Times and The Washington Post have a wider scope; that is, the US and other countries. This critical
reporting tradition in the UK would likely make companies warier of and responsive to media pressure.

Overall, the results in the UK show that the relationships that reporting companies have with investors, customers, the media and NGOs have a significant influence on reporting quality. These findings point to mechanisms through which reporting quality is promoted as part of these relationships. These mechanisms include—in the case of customer relationships—engagement with customers online and collaborative relationships shared with NGOs.

4.6.3 Drivers of Reporting Quality under the California Supply Chain Transparency Act 2012

I now turn my attention to results related to the drivers of quality reporting under the CTSCA. In California, three hypotheses were supported. H4 refers to the relationship shared between firms and their suppliers, H7 to the level of naming and shaming firms are exposed to by NGOs and H2 to investor reactions to MSR laws.

The result relating to supply chain orientation in California shows that companies that are manufacturers are more likely to produce high-quality disclosures. This finding echoes Fransen and Burgoon’s (2012) research finding that involvement of ‘making’ firms (compared with ‘buying’ firms) with their supply chain leads to preferences for more stringent supply chain governance. One explanation of this result is that manufacturing companies see governance of their supply chain, and the needs of their suppliers, as a priority and hence are more willing to report in line with best practice. Buyer firms, in contrast, have been shown to be more customer focused and hence more likely to switch suppliers to remain competitive (Gereffi et al., 2005; Reinecke et al., 2019). This would in general lessen their commitment to their supplier partners, making supply chain governance less of a priority that in maker firms.

Other researchers have, however, found contrasting results when considering the distinction between retailers and manufacturers. Bartley and Child (2014, p. 11) found that US garment retailing firms were more likely to engage in stringent supply chain governance activities than were US manufacturers. However, Bartley and Child’s work focused on firms in exceptional circumstances; that is, intense long-term advocacy pressure during the anti-sweatshop movement in the 1990s. These contrasting findings
might be explained by sampling differences. The sample used in the present study is more representative of the general population—that is, cross-industry—and examines firm behaviour under average conditions. Maker status, and the closer relationship such firms share with their suppliers, may therefore be a more accurate predictor under less exceptional circumstances.

The results relating to human rights naming and shaming show the importance of NGO scrutiny in explaining firm reporting quality in California. In contrast to the results of Islam and Van Staden (2018, p. 14), this suggests that quality reporting under the CTSCA is more dependent on antagonistic exposure from NGO activism, rather than NGO collaboration. My results in this regard also contrast with those in the UK where collaboration is a significant predictor, raising questions about how the role and tactics adopted by civil society organisations differ in California. Researchers have highlighted the fact that US-based companies are less likely than their European counterparts to view their relationships with NGOs as cooperative (Ahlquist & Mosley, 2021; Sasser et al., 2006). This would ultimately make more antagonistic pressure the main recourse for NGOs when attempting to pressure companies under the CTSCA. A plausible explanation for this result could also be the more entrepreneurial and risk-taking culture in California, as discussed above. The leading industry in California is the tech industry. Companies in this industry are known to be risk takers (Patel et al., 2012; Rao, 2018), receive preferential treatment from regulators (Ester, 2017) and hence are less likely to adhere strictly to the letter of the law. As such it is likely that Californian firms would be less receptive to NGO advice on how to best respond to the CTSCA.

The non-significant result for customer engagement in California is worth consideration in light of related research on customers and how they make sense of disclosures under the CTSCA. In an experimental investigation of how customers perceive disclosures under the CTSCA, Sarfaty (2015) suggests that customer comprehension of best practice disclosures is poor, and customers are unable to differentiate best and worst practice reporting (p. 39). Based on this evidence, it is plausible that companies are not receiving feedback from customers via online engagement that promotes best practice under the CTSCA and customers are unable to differentiate high- and low-quality reporting. This would limit the extent to which online engagement would promote improved reporting quality.
Overall, the results for California suggest the relationships that reporting companies have with suppliers and NGOs have a significant influence over reporting quality. This analysis identifies antagonistic pressure as one mechanism through which NGOs exert pressure in this context.

4.7 Conclusion

Chapter 4 posed the question, RQ2: How do external stakeholder relationships influence reporting outcomes under modern slavery reporting laws? Despite the centrality of the stakeholder pressure–reporting quality nexus in the effectiveness of MSR laws, surprisingly little research has focused on the relationships between reporting companies and relevant primary and secondary stakeholders.

Research has explored the influence of NGOs (Birkey et al., 2018) and the media (Flynn, 2020) over reporting quality, but research on reporting quality and stakeholder influence generally has relied on blunt proxies to operationalise stakeholder exposure and pressure. As such the influence of several other important stakeholders, including customers, suppliers and investors has been neglected. This chapter extends the literature on the determinants of reporting quality under MSR laws through a more comprehensive assessment of stakeholder influence over reporting quality in the UK and California. The findings highlight the most influential stakeholders in each jurisdiction as well as, in some cases, mechanisms through which this influence is exerted.

The chapter’s findings include that in the UK, high-quality disclosure is associated with a wide variety of stakeholder pressures: media scrutiny, collaboration with NGOs, investor scrutiny and customer online engagement. Investor scrutiny in the UK is likely a significant predictor of improved reporting quality given that investors in the UK traditionally are afforded more access to senior management compared with companies in the US. In addition, the collaborative relationships that firms enjoy with NGOs in the UK, and online engagement with customers, were shown to be avenues of particular importance in explaining reporting outcomes. In contrast, in California, high-quality reporting is associated with fewer stakeholder relationships. NGO naming and shaming and the relationships between firms and their supply chain were identified as influential.
In addition, the findings from this analysis demonstrate that the influence of stakeholders on company compliance varies significantly between jurisdictions despite being enacted in ostensibly similar political economies (LMEs). Recently, scholars have called for a ‘meta-study’ to compare the functioning of MSR laws adopting a self-regulatory design across different settings that have enacted them (Nolan et al., 2019, p. 21). This study takes a step in this direction by comparing reporting outcomes in the UK and California. This comparative design highlights that policy makers cannot assume that laws with similar logics will operate in a similar way, even in similar settings. Differences in reporting outcomes were explained as resulting from differences in cultural and institutional arrangements within these settings. These differences help to explain the stronger and wider influence of stakeholders on the quality of company reporting in the UK, where firms are more attentive to stakeholder concerns, more committed to addressing CSR issues, more used to responding to non-financial reporting regulation and more risk averse. In light of these contrasting results, policy makers in different settings should be attentive to their most promising stakeholder leverage points for driving effectiveness under these laws. Tailoring strategies based on the findings here are discussed in Chapter 6.

This study has some limitations, discussed in Chapter 6. Principally, the cross-sectional design of this study entails predictive limitations (Bowen & Wiersema, 1999), so further research should consider conducting longitudinal investigations examining the influence of stakeholder pressure on reporting quality over time. Looking ahead, the next chapter moves beyond assessing factors that shape reporting quality under MSR laws by exploring a second, arguably more important dimension of effectiveness: policy and practice adaptation that will mitigate modern slavery in GSCs. Specifically, the chapter examines the roles of key change agents (compliance professionals within reporting companies and expert intermediaries) and how they shape the adaptation process.
Chapter 5: Policy and Practice Adaptation under the Australian Modern Slavery Act: The Influence of Regulatory Intermediaries and Compliance Professionals

5.1 Introduction

Interest in the effectiveness of MSR laws has grown in light of criticism of their design. Research on effectiveness has largely explored reporting quality as a measure of effectiveness (Birkey et al., 2018; Christ et al., 2019; Flynn, 2020; Stevenson & Cole, 2018). A parallel stream of research has started to question whether reporting outcomes are the most pertinent indicator of effectiveness under MSR laws, citing growing evidence of companies producing ‘box ticking’ reports (Monciardini et al., 2021; Sarfaty, 2020) or reporting that is ‘decoupled’ from actual policy and practice changes (Meyer & Rowan, 1977). This issue echoes findings from research on voluntary CSR reporting, where concerns over CSR reports serving as window-dressing have been a subject of research for some time (Marquis, Toffel and Zhou, 2016; Bansal and Clelland, 2004).

While the overt goal of these laws is to encourage high-quality reporting, an assumption that underpins their effectiveness is that over time they will encourage the adaptation of policy and practice that will mitigate the risk of modern slavery in GSCs. However, the threat of a developing ‘compliance culture’ underscores the need for research on whether, and how, MSR laws promote policy and practice changes (Ford & Nolan, 2020; Nolan et al., 2019, p. 19; Redmond, 2020, p. 13). This study seeks to foreground how key change agents shape firm policy and practice adaptation in response to MSR laws rather than reporting outcomes.

The chapter uses insights from recent studies that have highlighted the central role of compliance professionals charged with implementing responses to these laws within companies, and regulatory intermediaries, which firms enlist to advise them on shaping corporate responses to MSR laws. Monciardini et al. (2021, p. 47) identify compliance professionals as ‘windows to the legal environment’. They suggest such professionals can either promote or undermine substantive responses, depending on the practices they encourage within their organisation. The relationships between firms and external
regulatory intermediaries is considered particularly influential in firm responses, as they are arbiters of best practice (Monciardini et al., 2021; Sarfaty, 2020). Regulatory intermediaries are organisations that are not themselves directly rule makers or ‘rule takers’, but have taken on regulatory support and benchmarking roles on the basis of their perceived expertise and independence. The self-regulatory design of these laws encourages the involvement of regulatory intermediaries, in that these laws are purposively non-prescriptive and therefore attract expert third parties who are able to reduce ambiguity for firms through advising them on their response (Sarfaty, 2020).

Building on this focus, the research question guiding this chapter is RQ3: *How do actors internal to companies shape policy and practice change under modern slavery reporting laws?* To address this question this chapter focuses on the AMSA. Interviews with 25 Australian compliance professionals (mainly employees in the ethical sourcing department, or members of the legal or compliance team) and representatives from Australian regulatory intermediaries (e.g. consultancies, legal advisors and civil society organisations) were conducted (see Section 5.4 for more details). A conceptual framework is developed that explains firm adaptation to obligations under MSR laws, through integration of insights from Park’s (2014, p. 3) CDT and Abbott et al.’s (2017) RIT to aid in interpreting findings from this data. CDT explains the processes that generate new norms in response to reporting obligations. The theory focuses on changes in norms prompted by reporting obligations, including bridging the gap between the firm’s rational economic motivations (that encourage ceremonial engagement) and the organisation’s social goals. RIT posits the influence of regulatory intermediaries on organisations’ responses to new regulation. It is demonstrated here that compliance professionals, in their roles as implementers of a response to the AMSA, vary in the extent to which they facilitate constructive discourse and that different types of intermediaries shape company adaptation in accordance with their own agendas that either undermine or support substantive policy and practice change.

The chapter proceeds as follows. Section 5.2 reviews the literature on the effectiveness of the CTSCA, the UKMSA and the AMSA, focusing specifically on studies related to policy and practice adaptation. Section 5.3 explains the framework of firm adaptation to obligations under these laws. Section 5.4 outlines the methods used to analyse the aforementioned interviews. In Section 5.5, I report the findings of this chapter. This is
followed by a discussion of the findings with reference to the framework. Section 5.7 concludes the chapter and highlights key insights discussed in Chapter 6.

5.2 Literature Review

5.2.1 Reporting Outcomes: An Insufficient Indicator of Effectiveness?

As seen in Chapter 4, researchers interested in the effectiveness of self-regulatory modern slavery laws have focused primarily on investigating what factors shape reporting outcomes. This focus on reporting outcomes as a measure of effectiveness is, however, problematic. Legal scholars have expressed concern regarding the design of self-regulatory modern slavery laws that call into question the trustworthiness of reporting outcomes as an indicator of effectiveness (Wen, 2016). These scholars suggest that self-regulatory MSR laws amount to a discretionary approach, ‘tailored to the interests of those in possession of the greatest de facto social and economic power’ (i.e. commercial organisations) (Wen, 2016, p. 358).

As discussed in Chapter 1, self-regulatory MSR laws are both a medium for communicating standards and a venue that facilitates self-regulation. In other words, these laws create a venue for learning and mutual adjustment between actors to develop mutually acceptable new norms (Osuji, 2015; Gunningham, 2012; Teubner, 1983). However, in the absence of penalties as a ‘big stick’ to aid regulators in successfully ‘speaking softly’ (Ayers & Braithwaite, 1992, p. 19), this venue for self-regulation is likely to be influenced by powerful corporate actors whose willingness to shape compliance norms to reflect their own economic priorities is not checked by fear of punishment. These scholars equate reporting under these laws with other voluntary forms of CSR and sustainability reporting, which have been criticised as forms of ‘window dressing’ that do not reflect operational realities (Banerjee, 2008; Graafland & Smid, 2019).

5.2.2 A Turn Towards Investigating Ceremonial v. Substantive Compliance

Scholars have begun to investigate ceremonial compliance based on companies responding to the UKMSA. Monciardini et al. (2021) investigate how companies in the food and tobacco industry are constructing the meaning of compliance under the UKMSA. Adopting Edelman et al.’s (2001) endogeneity of law framework, these
scholars seek to understand how companies make sense of MSR law and what differentiates companies that engage more substantively with the UKMSA requirements from those engaging in ceremonial compliance. Monciardini et al. (2021) identify that in the case of compliance with the UKMSA, certain practices (decoupling, internalising dispute resolution, managing away legal risk and rhetorically reframing legal ideals; p. 21) lead to ‘managerialised’ or superficial responses from companies. They also conceptualise practices that counter this process (i.e. embedding, legalising dispute resolution, adhering to legal ideals and acknowledging legal responsibilities; p. 22) and lead to more substantive company compliance. They highlight the role of compliance professionals and regulatory intermediaries as change agents that shape these practices and, hence, encourage performative compliance or more substantive compliance (Monciardini et al., 2021, p. 28). Ultimately, these authors show there is a tendency under the UKMSA to ‘managerialise’ compliance, rather than pursue substantive engagement.

This emphasis on third parties in shaping compliance under the UKMSA has also recently been investigated by Sarfaty (2020). Sarfaty’s aims are to examine the role of third-party service providers in shaping how legal norms established under the UKMSA are being translated into management practice. Specifically, she examines the role played by a particular third-party service provider, the Supplier Ethical Data Exchange (SEDEX), in shaping compliance with the UKMSA (Sarfaty, 2020, p. 2). By tracking how qualitative unstructured data on modern slavery is translated through SEDEX into modern slavery reports by managers, Sarfaty demonstrates how this leads to a ‘vernacularisation’ of modern slavery risk or the production of easily digestible and comparable quantitative information that ‘obscures more than it reveals about social problems within supply chains’ (p. 19). Her main conclusions are that under the UKMSA, intermediary platforms like SEDEX are playing an influential role in making sense of modern slavery risk for businesses and, in turn, how managers adapt their practices. She suggests that SEDEX’s focus on risk metrics is imbuing a ‘technocratic rationality’ into company decisions on supply chain governance that encourages a ‘box ticking’ approach to compliance, rather than efforts to understand the problem on the ground and adapt policy and practice accordingly.

The overall, albeit preliminary, conclusion that can be drawn from these studies is that there is a significant risk of box ticking reporting under self-regulatory MSR laws.
Importantly, these studies emphasise the role of translators—either compliance professionals within regulated businesses or regulatory intermediaries (e.g. SEDEX)—in shaping corporate adaptation towards a more ceremonial form. This research underscores the need for further investigation into what policy and practice adaptation firms are engaging in as a result of MSR requirements, paying particular attention to the role of these translators and the ways in which they are shaping that adaptation.

5.3 A Model of Firm Adaptation to Modern Slavery Reporting Law Obligations: Constructive Discourse and the Role of Regulatory Intermediation

To address the research question posed earlier in this chapter, I develop a conceptual framework of firm adaptation to MSR laws. I emphasise the roles played by compliance professionals and regulatory intermediaries in shaping firm adaptation. This framework is based on insights from Park’s (2014) CDT and Abbott et al.’s (2017) RIT.

5.3.1 Constructive Discourse Theory

Park (2014) suggests that reporting obligations are more likely to lead to compliance and substantive changes in firm behaviour to the extent that they generate change through constructive discourse. This is a process that conceptualises the ways in which companies that are subject to reporting requirements use the reporting process to learn, and adapt their behaviour. As Park (2014, p. 114) explains, ‘predominant rationales for mandatory disclosure focus on the use of information by stakeholders, constructive discourse emphasises how MNEs [multinational enterprises] (regulatees) can benefit from TST [targeted social transparency requirements like the AMSA] through firm-level, internally generated change’. The theory posits that mandatory disclosure requirements work best when they facilitate communication and collaboration within firms, between firms and with stakeholders. The concept emphasises the importance of promoting change through two dimensions: an expressive dimension involving communication and collaboration with external actors; and an integrative dimension involving communication and collaboration within the organisation. Regarding the expressive dimension, Park outlines that this would include communicating or collaborating with other regulated entities, and other primary and secondary stakeholders to develop understanding of, and promote, best practice. Regarding the
second, integrative dimension, constructive discourse entails internal assessment of policies and practice, dialogue with senior management, policy and practice adaptation and the iterative pursuit of feedback to assess those changes within the firm.

Park theorises that these two processes will facilitate ‘the integration of competing values underlying firm-level profit maximization and society-level noneconomic objectives’ (Park, 2014, p. 126) and generate new policy and practice norms within regulated companies. Park suggests that this process will—through increased intra and inter-organisational collaboration and communication, within and between firms and other relevant organisations—encourage comparison and alignment of espoused values related to social standards (e.g. through codes of conduct) with prevailing policies and practices (e.g. maintaining opaque and highly fragmented supply chains); and promote standardisation of practices and understanding both within and across firms.

Park developed his CDT through analysis of two reporting obligations that have been in place in the US for several years: (i) the Dodd-Frank Provision; and (ii) disclosure requirements under the US Iran Threat Reduction and Syria Human Rights Act 2012 with respect to commercial activities associated with the Iranian government’s suppression of human rights. His theory emphasises how these reporting obligations require iterative engagement from regulated entities over time. Hence, he suggests this process will be enhanced and developed through multiple cycles of reporting and adaptation.

Although the role of compliance professionals goes unmentioned in Park’s theory, the literature highlights that a compliance professional or group is often charged with implementing company responses to obligations under MSR laws (Monciardini et al., 2021, p. 330). Hence, it is likely that the processes described above will be driven by a compliance professional or function.

In sum, the effectiveness of MSR laws in promoting policy and practice adaptation is contingent on communication and collaboration within and external to firms, and the subsequent policy and practice changes this reinforces. The extent to which companies engage in this process is largely contingent on the actions of the compliance professionals charged with implementing their response, and the resources and power afforded these professionals to pursue constructive discourse. This provides a
conceptual starting point to explore the ways in which firms are likely to adapt their policies and practices under the AMSA.

5.3.2 Regulatory Intermediation

Research on regulation and regulatory outcomes has focused primarily on two actors: regulators (rule makers) and targets (rule takers) (Kourula et al., 2019). Over the last five years, significant scholarly interest has been directed towards regulatory intermediaries, who mediate the relationship between rule makers and takers (Abbott et al., 2017; Bres et al., 2019; Fransen & LeBaron, 2019). Interest in the role of intermediaries has been spurred by Abbott et al.’s (2017) articulation of the RIT model to explore the significance of this actor role, and its consequence for regulation. In their theory, the authors claim that intermediaries operationalise, diffuse and modify rules and practices of both regulators and targets.

While research on regulatory intermediation is not new (Black, 2008; Shearing & Stenning, 1987), recent scholarship has furthered our understanding of the varied roles regulatory intermediaries can play (beyond assisting, translating and assurance; see Abbott et al., 2017) in the regulatory process (Bres et al., 2019; Kourula et al., 2019). For example, based on four organisational dimensions that characterise intermediary involvement in various types of regulatory programs (motives, resources, inter-organisational relationships and inter-organisational activities), Kourula et al. (2019, pp. 149–150) distinguish up to 12 intermediary roles in various regulatory programs. These range from bridges, who facilitate connections between organisations, to disruptors, who address issues in certain programs by creating competing programs that highlight deficiencies. Other research has explored the types of influence intermediaries exert on the regulatory process (Fransen & LeBaron, 2019; Van Der Heijden, 2017). Fransen and LeBaron (2019) recently demonstrated that professional service firms (PSFs) involved in advising firms on MSR engage in several informal and covert influencing practices. These practices promote an agenda of incrementalist, soft law labour governance in opposition to concrete performance targets, binding public regulation and inclusion of an independent watchdog role for civil society (Fransen & LeBaron, 2019).

The lack of prescription provided under self-regulatory designs provides intermediaries a substantial opportunity to intermediate (Sarfaty, 2020), as firms seek to reduce
ambiguity related to their obligations. In other words, reporting laws like the AMSA, CTSCA and UKMSA essentially expand the role played by a variety of intermediaries in the governance of conditions of production in GSCs (Fransen & LeBaron, 2019). The literature reviewed above emphasises the importance and potentially negative influence of regulatory intermediaries in shaping company responses to MSR laws (Monciardini et al., 2021; Sarfaty, 2020). Examples of relevant regulatory intermediaries in the case of the AMSA include PSFs (consultancies), law firms, civil society organisations (NGOs), institutional investors, industry associations and peak bodies.

5.3.3 Conceptual Model

Figure 7 depicts the processes and relationships described in the previous section that are likely to influence firm adaptation to MSR law obligations. These involve integrative and expressive processes that compliance professionals facilitate (Park, 2014) and the influence of regulatory intermediation (Abbott et al., 2017). Figure 7 shows that the introduction of new regulatory demands, such as the AMSA which is the focus here, prompts a target firm to nominate a compliance professional to interpret evolving standards (1). An appropriate response to those standards is then developed through internal and external collaboration and communication (2). In other words, transition from 1 to 2 is shaped by integrative and expressive dimensions of constructive discourse. As noted above, this process is cyclical and will be enhanced by several cycles of reporting and adaptation (Steps 1–2 interpreting–firm response in Figure 8). As indicated in the model, this process of iterative interpretation and response to evolving standards ultimately leads to adaptation of firm policy and practice.

Regulatory intermediaries mediate the regulatory demands of government on firms (direct exposure is also included as intermediaries are not always used), in line with Abbott et al.’s (2017) RIT framework. Intermediaries adopt various roles and exert different kinds of influence over firm responses (Kourula et al., 2019). Hence, depending on the type of intermediary firms engage, adaptation will be shaped in different ways.
Figure 7: Firm adaptation to MSR law obligations
5.4 Methods

The data collected for this study come from 25 interviews: 11 with compliance professionals and 14 with representatives of intermediary organisations. Table 8 outlines the individuals interviewed and the types of organisations they represent.

Table 8: Interviewee descriptions

<table>
<thead>
<tr>
<th>Organisation Type</th>
<th>Interviewee Role</th>
<th>Organisation type</th>
<th>Interviewee Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food retailer</td>
<td>Human rights manager (IF10WG)</td>
<td>PSF</td>
<td>Director at human rights consulting organisation (II3KG2)</td>
</tr>
<tr>
<td>Household hardware retailer</td>
<td>Ethical sourcing manager (IF2BS)</td>
<td>PSF</td>
<td>Director at human rights consulting organisation (II3KG1)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Sourcing operations manager (IF4CR)</td>
<td>PSF</td>
<td>Partner social impact consulting firm (I9PC1)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Head of sustainability (IF6KD)</td>
<td>Investment analyst</td>
<td>Head of ESG (I11AB)</td>
</tr>
<tr>
<td>Food retailer</td>
<td>Ethical sourcing manager (IFCG1)</td>
<td>PSF</td>
<td>Social change consultant (I11JS)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Project Manager: Sustainable supply chains (IF8RG)</td>
<td>Advocacy organisation</td>
<td>CEO modern slavery advisory and advocacy organisation (I5MC)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Project Manager: Sustainable supply chains (IF8RG2)</td>
<td>Advocacy organisation</td>
<td>Compliance and responsible sourcing expert (I2WF)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Sustainable supply chain manager (IF3CC)</td>
<td>Advocacy organisation</td>
<td>Cofounder modern slavery advisory and advocacy organisation (I2BSF)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Responsible sourcing manager (IF1BL)</td>
<td>Advocacy organisation</td>
<td>Responsible sourcing and slavery expert (I10SA)</td>
</tr>
<tr>
<td>Mining company</td>
<td>Ethical sourcing manager (IF9SM)</td>
<td>Advocacy organisation</td>
<td>Lead researcher (I4BW)</td>
</tr>
<tr>
<td>Clothing retailer</td>
<td>Advocacy and partnerships manager (IF7OD)</td>
<td>Advocacy organisation</td>
<td>Compliance and responsible sourcing expert (I7KD)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Law firm</td>
<td>Equity partner (not-for-profit law) (I6MO)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Law firm</td>
<td>Equity partner (I8NF)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Law firm</td>
<td>Modern slavery legal advisor (I6MC)</td>
</tr>
</tbody>
</table>
The sample of compliance professionals was recruited from within organisations deemed to have high-risk supply chains for instances of modern slavery (ILO, 2017; Lake et al., 2016; KPMG, 2019). In Australia, these include food retailing, garment retailing, mining, household goods and hardware retailing. A further criterion was that organisations needed to satisfy the revenue threshold for inclusion under the AMSA (i.e. AU$100 million revenue per annum). Interviewees were enlisted through a snowballing approach, which involved contacting gatekeeper individuals within organisations for an interview and asking them to refer the interview opportunity to appropriate additional interviewees (Brewerton & Millward, 2001, p. 124). This led to an uneven sample across these sectors. Seven interviews were conducted with garment retailers, two in food retailing, one in household goods and hardware retailing, and one in the mining industry. Compliance professionals targeted within these organisations were required to be involved in the management of the organisational response to the AMSA. They included supply chain managers, ethical sourcing managers, CSR and sustainability managers, and risk and compliance managers.

Intermediary participants were approached according to whether or not they actively engaged in advising or influencing firms regarding MSR. In preliminary interviews, three categories of intermediaries were deemed most important by managers: a) consultancies (PSFs); b) civil society organisations that engage in advocacy and provide advice to firms on this issue; and c) legal practitioners and law firms advising firms on their response to the AMSA. Approaches were made to 40 intermediary organisations drawn from these categories. Four representatives from consultancies, three legal practitioners specialising in representing large law firms, six representatives from civil society organisations and one investment analyst were interviewed. Of the above 11 firm representatives interviewed, eight indicated they had used the services of, or engaged with, intermediaries. Among the intermediaries identified by these firms, four representatives of civil society organisations were interviewed. The other 10 intermediaries interviewed claimed not to have relationships with the firms I interviewed. Interview protocols are available in Appendix D (Tables D1 & D2).

5.4.1 Data Analysis

To make sense of the interview data, an inductive qualitative coding procedure was conducted based on Gioia et al.’s (2013) methodology. Since the AMSA was
promulgated in 2018, firms have only recently begun preparing for its obligations. Consequently, firms have only experienced one cycle from step 1–2 in Figure 7. Given the early stages of firm responses to these obligations in Australia, and little investigation of these responses thus far, this exploratory approach was deemed most appropriate to develop insights from the data. A data structure (see Appendix D: Table D3), containing first-order concepts, second-order themes and aggregate dimensions was developed.

5.4.2 Justification of Methods

The focus of this study is the process through which actors internal to the firm shape changes to policy and practice under MSR laws. According to my literature review, this process has received scant attention by researchers, despite its importance to the effectiveness of MSR laws. Given the lack of extant theory and the neglect of process which I seek to rectify, Gioia’s inductive methodology is well suited to the aims of this chapter. Gioia argues that the aim of his methodology is to study “the processes by which organizing and organization unfold” (Gehman et al, 2018, p. 286) through application of a rigorous inductive coding procedure in line with the long tradition of grounded theory (Charmaz, 2006; Strauss and Corbin, 1996). Inductive research, following this tradition, is geared towards studying new phenomena, and relies on collecting data on that phenomenon through semi-structured interviews (Locke, 2001). Hence, here I have engaged in a semi-structured interview program. Analysis of this data seeks to develop new theoretical understanding of these phenomena through reconstructing interview data inductively into emergent categories, themes and eventually aggregate dimensions (Gioia et al, 2013).

Many grounded theorists promote the idea that researchers should purposefully limit their engagement with the literature to ensure that the inductive coding process is not biased by preconceived theoretical ideas. However, grounded theorists of the constructivist tradition take “advantage of knowing and using the literature, not for forcing the research into preconceived categories but as multiple possible lenses,” and argue that “there is a difference between an open mind and empty head” (Dey, 1993, p. 63; Thornberg and Charmaz, 2002, p. 2014). In line with this tradition, I have reviewed the relevant literature to identify possible lenses through which to understand the
process of policy and practice change under MSR laws. The analysis that follows did not seek to test the theory presented deductively. Instead, I approached the data with an “open mind” informed by the extant literature using Gioia’s coding methodology to make sense of the interview data collected through this grounded coding approach. The data structure which emerged is discussed in light of the literature reviewed and the process model developed in sections 5.2 and 5.3. Below I discuss the findings of this inductive coding process.

5.5 Findings

Key findings of this analysis are summarised below. The findings are divided into two sections. First, I discuss emerging themes derived from interviews with compliance professionals in relation to the AMSA (A in Figure 7). Second, I canvas intermediary involvement in advising firms on their responses (B in Figure 7). The findings reported below are based on the second-order categories and their first-order source codes presented in the data structure (see Appendix D: Table D3). Given the large size of the data structure that I have developed, it has been included in Appendix D. However my findings should be read in conjunction with the data structure. This will aide understanding of the trail of inductive logic that led to the first and second order themes.

5.5.1 Firm Adaptation Prompted by the Australian Modern Slavery Act 2018

The findings presented below detail the ways in which compliance professionals have responded to the enactment of the AMSA. Overall, these second order findings pertain to the actual policy and practice changes compliance professionals have prioritised, how the AMSA has prompted companies to adjust their internal communicative systems and how the AMSA has encouraged adjustment of their external relationships. The aggregation of these second order themes are discussed in depth in the discussion section where these findings are made sense of in the light of the policy and practice adaptation model presented in section 5.3.

5.5.1.1 A Strong Baseline of Extant Governance Arrangements (Second-order Category 1)

When asked about the policy and practice changes firms had engaged in since the promulgation of the Act, compliance professionals outlined a variety of responses.
Significantly, many compliance professionals suggested that their organisations had a strong baseline of existing governance arrangements and significant adaptation had not occurred [IF7OD; IF2BS]. This meant they were already prepared for the obligations of the AMSA. Several reasons for this baseline were discussed. First, two companies outlined that they had already been reporting under the UKMSA and therefore had in place systems that supported their reporting response [IF9SM; IF2BS]. Other reasons provided were long histories of collaborating with civil society, the development of robust auditing procedures pre-dating the Act, accreditation with labour rights organisations like the FLA, and other sustainability certifications such as B Corporation. One interviewee from the apparel industry suggested that the Rana Plaza disaster and the resultant scrutiny over the apparel supply chains had challenged them to enhance their supply chain governance, holding them in good stead to meet the requirements of the Act [IF1BL].

Planning and Policy Alignment (Second-order Categories 2 & 3)

Despite the strong baseline outlined by nine compliance professionals, interviewees did discuss some adaptations that the Act had initiated. First, several organisations claimed that the Act had prompted response planning and policy development. Examples of response planning included development of AMSA engagement plans or frameworks to embed responsible sourcing principles across the organisation [IF8RG; IF1BL]. Specifics regarding these plans were not outlined; however, their intention was to formalise a staged implementation of the Act’s requirements. In terms of policy, several compliance professionals outlined that the Act had prompted a policy alignment process. This resulted in identification of any issues with current policies on supply chain risk and clause tweaking within those policies (e.g. sourcing contracts and supplier codes of conduct) [IF10WG]. Some interviewees noted that the Act had prompted them to develop new policies related to specific issues including remediation of victims, worker voice and whistle blowers [IF8RG; IF3CC].

5.5.1.2 Practice Adaptation (Second-order Categories 4–6)

In terms of practice adaptation, some compliance professionals were prompted to improve their investigation of first tier suppliers, while others had been prompted to investigate the deeper tiers of their international supply chains [IF3CC; IF8RG]. Several informants highlighted that the Act had prompted a focus on domestic supply chains, which had not been a large part of governance programs. Interviewees suggested that
before the Act, they had concentrated mostly on their transnational supply chains, but the operational side of the business had not been an area of concern [IF10WG].

Two organisations in the apparel industry who were recognised leaders in supply chain governance reported that the Act had prompted them to look for ways to go beyond the standard approach. These organisations claimed that the contemporary auditing and certification model was ineffective and they were looking to practice radical transparency. For example, one of these organisations had recently initiated a program with ex-military investigators to identify suppliers several tiers down their main supply chains [IF7OD]. Most organisations engaged in both policy alignment and practice adaptations, except for two organisations, whose representatives outlined they were at the beginning of their journey, and at this stage were focusing on policy alignment [IF8RG; IF4CR].

5.5.1.3 Establishing a Cross-functional Modern Slavery Working Group (Second-order Categories 7 & 8)

Several compliance professionals reported that the Act had prompted the creation of a working group that spanned different functions within the business; that is, brought together legal, risk, ethical sourcing, communications and human resources [IF9SM]. These working groups were described as important venues for collaboration on responses to the Act, where compliance professionals were able to engage in internal advocacy and, ultimately, exert influence across the organisation. Establishment of a cross-functional team was one of the first changes that was recommended. As one intermediary from a large consultancy explained: ‘There is no way that one functional team could effectively manage this. To do it properly it has to be cross functional’ [II9PC]. The ability to engage functions from across the business was seen by both intermediaries and compliance professionals as essential to responding effectively.

5.5.1.4 Aligning the Procurement and Ethical Sourcing Functions and Lone Guiding Lights (Second-order Categories 9 & 10)

One particular cross-functional relationship was emphasised by compliance professionals: that between procurement and ethical sourcing (also framed as compliance, sustainability or CSR by interviewees). Compliance professionals noted that the historically adversarial relationship between these functions had hampered
effective supply chain governance. These functions have contrasting incentives: procurement is concerned with cost, quality and delivery, while ethical sourcing focuses on code compliance regarding labour standards and the environment. While the establishment of a cross-functional team to manage the company’s response to the AMSA was seen to contribute to alignment of these functions, interviewees indicated that specific efforts had been made to review procurement’s key performance indicators to include ethical sourcing objectives and break down the perception that ethical sourcing personnel are *blockers or disruptors* [IF2BS].

In most organisations this cross-functional coordination occurred at middle management level. In these cases, working groups reported on their modern slavery work to an individual member of the senior leadership team, generally the chief financial officer (CFO) or chief operating officer. One leading organisation in the mining industry reported cross-functional ownership in the executive team. Accountability was purposively shared throughout the leadership team. According to the manager:

*The overall accountability for our response sits across our board, which is how we want to govern it. And so our sustainability board committee will sign off on our statement. And so then the accountability is cross functional. So it will be us (compliance), our chief commercial officer, our chief of people, legal officer, our chief of external affairs officer. They all review it all and combine it up to that sort of shared accountability* [II9SM].

Shifts in senior management accountability across the sample of firms are discussed in more detail in the next section.

A contrasting coordination response was articulated by compliance professionals in the two organisations at the *beginning of their journey* mentioned earlier in this chapter. In these organisations, isolated individuals were appointed in roles and tasked to make sense of modern slavery requirements. These individuals had access to senior leaders but operated in relative isolation.

5.5.1.5 Increased Executive Engagement and Empowering the MS Function (Second-order Categories 11–13)

Universally, compliance professionals detailed increased empowerment of the function charged with executing work related to modern slavery (i.e. the MS function), whether
this was a modern slavery working group, ethical sourcing unit or shared services department. This was attributed to the perceived significance of the legislation, which required signing off and hence, endorsement by senior management [IF3CC]. This is despite the self-regulatory elements of the AMSA—for example, a lack of penalties—which some commentators (e.g. LeBaron & Ruhmkorf, 2017b) suggest may undermine management engagement with the law. To the contrary, compliance professionals claimed significant increases in executive engagement with the issue (Second-order Category 13). Both intermediaries and compliance professionals reported that CEOs and CFOs had become increasingly involved in conversations around modern slavery, that ethical sourcing had become an important agenda item and a strategic priority, and that boards and executives were seeking evidence that their products were sourced ethically [IF6KD; II10SA].

Two mechanisms appeared to be driving these changes; one top down, the other bottom up. Having acknowledged the salience of modern slavery as an issue arising from the Act, senior management were empowering MS functions in various ways. Examples included endowing them with new resources, giving them direct access to senior leaders to report on progress, encouraging engagement with primary stakeholders such as investors, and affording them increased veto powers over sourcing decisions (Second-order Category 12). For example, one interviewee noted that:

Two things have changed [since the Act] ... One being that my team were originally part of merchandise. So we were originally reporting into the director of global sourcing and this was a conflict of interest. And so they’ve cleaved that off and we are now reporting to the CFO ultimately, which is great and gives us more autonomy and authority [IF2BS].

The second, bottom-up mechanism, was reflected in the MS function encouraging managers to influence senior management. For example, one interviewee noted, ‘the Act has allowed me to push the issue into board level conversations’ [IF6KD]. These two mechanisms were not mutually exclusive and occurred in tandem in several organisations. Together, they were shifting the accountability dynamics relating to modern slavery risk by promoting increased senior management engagement and responsibility.
5.5.1.6 Coupling Values and Action (Second-order Category 14)

The ways in which compliance professionals were promoting the importance of adaptation to AMSA requirements featured significantly in the data. As seen above, the Act had led to shifts in coordination cross-functionally, and between the MS function and senior management, providing new avenues for promoting the importance of a response across the organisation. However, compliance professionals claimed to having engaged in values work to promote their response through these emerging avenues.

Several interviewees noted that the AMSA had given them an opportunity to leverage the existing values of their organisation to gain traction for changes they hoped to make. As one interviewee noted: ‘Our main two values, do the right thing and care deeply, have basically been written for me to, they give me leverage’ [IFKD1]. Interviewees shared the sentiment that the AMSA could be understood as a mirror that could be used to highlight the importance of values alignment internally and an opportunity to demonstrate alignment externally [IF2BS]. Compliance professionals in three of the organisations outlined that since the AMSA was enacted, they were increasingly framing sourcing decisions in terms of trade-offs between commercial priorities and values priorities; for example, ‘We will now actually not go there because of this reason (values alignment). I don’t care if they’re the cheapest. They don’t meet our program. It’s the right thing to do’ [IF10WG]. This kind of values work was, however, not universally employed. Several compliance professional interviewees suggested that values did not come into it, or that their values were aligned before the AMSA was enacted [IF2BS].

5.5.1.7 Managing Language and Understanding Internally (Second-order Category 15)

Beyond consideration and promotion of alignment between values, policy and practice, compliance professionals outlined that they were also engaged in the practical task of managing the terminology and understanding of modern slavery (i.e. how to define it) and the AMSA’s requirements of the organisation.

Two factors were undermining precise understanding and use of appropriate terminology. First, many organisations in the sample had been involved in ethical sourcing initiatives focusing on labour standards more generally for many years. Employees struggled to differentiate modern slavery as an issue from other forms of
exploitation; for example, excessive overtime and wage theft, which are not explicitly covered by the AMSA [IF6KD; IF10WG; IF4CR]. A second, undermining factor mentioned by compliance professionals in relatively progressive organisations, was an overly energised workforce. These interviewees suggested that modern slavery had captured the imagination of many employees who were engaging in modern slavery work relatively independently in ways that did not align with corporate policy. As one interviewee noted:

People who are these great, wanting to learn individuals are going off to seminars and doing things, and maybe studying their own bespoke due diligence over there, and if anything I've had to be like, 'Whoa, whoa, whoa. Stop. We have a framework that you need to plug into as opposed to creating things out over there' [IF10WG].

This factor was isolated in three of the organisations that were leaders within the area of managing exploitation in supply chains.

More broadly, sample interviewees noted that a major challenge was managing different communities of understanding and terminology. Standardised understanding of the issue and the Act was being hampered by the fact that different parts of the organisation were more exposed to the issue. Hence, among procurement, ethical sourcing and senior management, there was a common understanding and use of terminology, while in other parts of the business this was not the case. Compliance professionals identified strategies they were adopting to successfully standardise language and understanding. These included the development of a central framework or guiding policy position and associated education and training programs [IF7OD].

5.5.1.8 Managing External Relationships: Primary Stakeholders and Civil Society Organisations (Second-order Categories 16 & 17)

In discussions concerning changes in external relationships encouraged by the AMSA, interviewees referred to both primary stakeholders (investors, suppliers and customers) and secondary stakeholders (civil society organisations). Regarding the former, interviewees emphasised customers and investor impression management; for example, emphasis was placed on demonstrating a coupling between values and practices. As one interviewee noted:
I know that the CEO of KD, when he does his annual chat to shareholders, what we’re doing in this sustainability, CSR, and now modern slavery space, is something that he always brings up about who we are, our values and what we do [IFKD1].

For a majority of compliance professionals, the Act and its requirements were viewed as an addition to the long-standing problem of ethical sourcing. While organisations in the sample varied in the maturity of their responses to this issue, most claimed to have been consulting their customers and investors on this concern for several years. Hence, messaging was focused on communicating that they would continue their good work in this area.

Regarding suppliers, several interviewees identified significant changes in their relationships. For these interviewees, the Act had prompted new approaches to engage in dialogue with and education of suppliers around modern slavery as a risk and how to manage it. Most interviewees claimed that their organisation had developed specialised supplier training modules, either independently or by partnering with experts (intermediaries). For example:

*It's education, I mean, we've hosted a forum early in 2019 for our group of local suppliers. So, I think we had 50 odd suppliers, we brought in seven guest speakers, international guest speakers from Hong Kong who work in the slavery space, actually getting victims out of slavery conditions [IF2BS].*

Less significant changes to this relationship were also identified by some interviewees, which involved updating contract clauses to include consideration of modern slavery [IF8RG]. Four of the 11 firms in the sample engaged in this less significant change, while a majority developed training and engaged in more active management of this relationship.

In relation to civil society interviewees, compliance professionals suggested that the Act had prompted a new focus on constructive relationships with civil society organisations. Most organisations were seeing civil society organisations as important partners on the modern slavery issue, helping to navigate the Act’s ambiguous requirements [IF4CR; IF10WG]. I touch on these themes later in discussing the role of civil society organisations as intermediaries.
5.5.1.9 Collaboration Between Competitors: Patterns and Practice (Second-order Category 18)

Collaboration between regulated entities—an important facet of Park’s CDT—was discussed at length during interviews. Interviewees suggested that collaboration patterns and practice varied. Collaboration among regulated organisations was framed as siloed and contingent on industry characteristics. Both intermediary interviewees and compliance professionals suggested that while collaboration was occurring, this was dependent on industry risk and exposure to modern slavery in supply chains and that cross-industry collaboration was embryonic [II8NF]. According to an intermediary interviewee: ‘Collaboration between industries is contingent on risk in their industry’ [II12WF]. Interviewees noted that collaboration was occurring in industries like mining, fresh food and produce, construction, healthcare and apparel, but that inter-industry collaboration was limited. There were exceptions. For example, a compliance professional in an apparel company outlined that they were pursuing cross-industry collaboration with the fishing industry. This was because their supply chain was different to others in the apparel industry (smaller supply base) [IF3CC]. Several examples of within-industry collaboration were mentioned. Compliance professionals noted that they had joined communities of practice—industry groups that focused on the issue—and all attended similar conferences to share learnings within their industry [IF4CR; IF9SM; IF10WG].

5.5.1.10 Drivers and Barriers to Collaboration (Second-order Categories 19–20)

Given that the AMSA was enacted only two years prior to this study, it is unsurprising that collaboration across regulated entities was still isolated in certain industries. However, several interviewees outlined factors likely to foster widespread future collaboration. These included investor pressure created by the reporting required under the AMSA [II7MI], emergence of a ‘universal language’ associated with the AMSA around which competitors could meaningfully collaborate [IF9SM] and shared risks by businesses participating in the same supply chain [II6MO].

Collaboration barriers mentioned by compliance professionals included a perception by some companies that modern slavery responses were a competitive issue, from which they could gain competitive advantage. As one interviewee noted, their organisation
was quick to establish a grievance mechanism that provided workers in their supply chain an opportunity to share concerns so they could differentiate themselves [IF2BS]. An apparel company executive noted that larger businesses in their industry had been unwilling to collaborate given competition concerns [IF3CC]. Some interviewees referred to the *Australian Competition and Consumer Act 2010* and limitations placed on corporate collaboration. Despite this concern, several managers claimed to have been surprised by the amount of collaboration between firms in the same industry on this issue [IF9SM; IF2BS].

### 5.5.2 Intermediary Influence Over Firm Responses

Here, I focus on the ways in which intermediaries influence firm adaptation to AMSA requirements. As above, second-order categories are explored. The themes discussed focus on the contrasts between PSFs (i.e. legal firms and large consultancies) and civil society organisations. Overall, these findings relate to the ways in which these different kinds of intermediaries enlist companies to advise on issues related to the AMSA, the types of advice they provide and the activities they engage in to influence company responses. Following presentation of these findings, the aggregate dimensions drawn from these second order themes are discussed. These dimensions are made sense of in the light of the policy and practice adaptation model presented in section 5.3.

#### 5.5.2.1 Firm–Intermediary Engagement Patterns (Second-Order Categories 21–23)

The analysis reveals different patterns of engagement from these intermediary groups. The first pattern, outlined by several PSFs (large consultancies only), suggested that they were mostly approached by representatives from firms and primarily engaged with senior leaders in the company—that is, the CEO, CFO or heads of sustainability and procurement—once a relationship had been established [II4KG1]. While this pattern was emphasised in the data, several interviewees from consultancies suggested that engagement varied markedly based on the clients’ characteristics; that is, resources, the values of the organisation and where the organisation viewed the responsibility to rest [II4KG2].

The second pattern was outlined by representatives of law firms and civil society organisations. These intermediaries sought to identify *change champions* within companies. These energised individuals were not necessarily from the MS function,
although this was common. They could be leaders in the organisation or anyone passionate about engaging in modern slavery work within their organisation. Civil society intermediaries suggested that since promulgation of the Act, the ways in which they engaged these champions had changed. Prior to the AMSA, civil society groups sought out these individuals in an attempt to promote organisational change, offering networking events and free training in an attempt to identify change agents. However, as one civil society interviewee noted, the Act’s promulgation had meant firms had been more actively seeking out civil society organisations for their subject matter expertise [II2BSF]. Interviewees nevertheless suggested that the engagement of a change champion was important, as without one there was the risk of, ‘ending up with an innocuous and automated response’ [II6MO]. This pattern of pursuing a change champion in the case of law firms was explained as a function of the types of client they advised (interviewees were from law firms that advised the largest Australian listed companies). One interviewee suggested that direct access to board level was complicated by the fact that modern slavery was just one of several issues on the agenda of large public companies, and that these corporations were reticent to grant access to the board given the laundry list of issues they had to deal with [II6MO]. Hence, they sought out individuals within these organisations to help them encourage change.

### 5.5.2.2 Enlisting Activities (Second-order Categories 23–25)

Engagement with firms was supported by intermediaries engaging in activities aimed at enlisting companies. A majority of PSF clients who sought advice on their modern slavery response were either existing clients or were referred to the service [II9PC]. However, some PSFs were engaging in activities to attract more clients. For example, an interviewee from one large commercial law firm outlined that they had begun promoting cost-effective product offerings to attract new clients [II8NF]. In this case, the firm had developed a ‘basics package’, geared towards development of a compliant modern slavery statement and furnishing firms with tools to further their response to modern slavery independently. In addition, the firm had created a risk mapping and data collection tool that could be licenced to companies to engage in initial risk assessments. One large human rights consultancy’s director explained that she had recently been on a company director speaking tour where this company’s advisory services had been showcased [II4KG1]. Civil society intermediaries relied on enlisting companies through a greater variety of activities when compared to PSFs. Examples included organising
free networking and information events, ‘where they get companies in a room to talk about MS issues’ [IIBSF1]; offering free one-on-one consultation with companies [IIMC1]; and organising online webinars on modern slavery in supply chains [IISA1].

5.5.2.3 Advice Provided by Intermediaries (Second-order Categories 26–29)

Themes related to the advice provided by intermediaries once again suggest a split between advice provided by professional service and law firms and that provided by civil society organisations. Advice provided by the former is client oriented and focuses on reporting outcomes. These intermediaries provide bespoke advice tailored to both the individual circumstance of the organisation and, importantly, to the organisation’s emerging objectives regarding MS:

You’ve got choices in terms of how far do you want to go in terms of doing your risk assessment? And in terms of how far you want to go in terms of your due diligence procedures, et cetera. So we always start there to help them understand what the requirement is. You know, let's sort of explore the level of aspiration that they have [II9PC].

As shown in Second-order Category 26, these intermediaries took into account various client characteristics when providing advice. These included aspirations (as seen above), the maturity of the organisation’s response to modern slavery (i.e. its knowledge and experience), organisational values and resources. Their typical form of advice centred on satisfying the basic requirements of the Act; that is, developing a compliant and honest modern slavery report. An interviewee from a large professional service firm put it this way: ‘In the end the Act is about developing a report that contains a, b and c that is approved by the board’ [II3KG1]. As shown by Second-order Category 27, PSFs and legal firms emphasised the importance of reporting as the core requirement of the Act [II6MO].

In contrast to this approach, civil society advice was informed by values that strongly opposed MS. Their advice favoured encouraging best practice. As one interviewee reported:

So we're looking at a couple of key pillars that are essential. We advise firms on them across the board. So, key areas are governance, risk mapping, traceability, monitoring,
and then what systems do you have in place to actually address issues and risks as they appear [III1SJ].

Other illustrative examples are presented in Second-order Category 28, in which civil society organisations promote going beyond policy reviews and standard auditing processes, and focus on key areas like improving worker voice and victim remediation. Although many firms were not ready for this more radical change, civil society organisations encouraged firms to develop a plan to reach these goals. This approach contrasted with the more bespoke and client-centred focus of commercial intermediaries focused on compliant reporting (Second-order Category 26).

5.5.2.4 Sources of Intermediary Influence (Second-order Categories 30–34)

In this section, I consider the influence of the two kinds of intermediaries referred to above. The perspectives of intermediaries and compliance professionals are considered in turn. Intermediaries stated that the source of their influence was issue-specific expertise. However, this expertise and the influence it created, manifested differently for organisations that were commercially motivated (PSFs) and civil society organisations.

Influence for civil society organisations was articulated as stemming from a number of sources. These included their expertise on the AMSA, but also the trust these organisations had developed among the business community. Other sources of influence included the networks they had developed, through which some NGOs were able to broker connections between organisations to help solve problems and encourage collaboration on the issues [II2BSF]. However, the major source of influence was on-the-ground expertise (Second-order Category 34). Civil society organisations viewed themselves as experts who understood modern slavery, rather than the managerial problem it posed. They saw their cultural understanding, and knowledge about traffickers and perpetrators of modern slavery on the ground as their main source of influence. Civil society groups differentiated themselves from other intermediaries who had strong business acumen and a good understanding of the Act but limited on-the-ground knowledge of the issue: ‘What the big consultancies are not doing is getting people together to talk. They are just advising companies on the practicalities of the legislation, so their conversations don’t have much impact on the actual instances of MS' [II2WF].
Several approaches used by civil society organisations to enhance their influence were also highlighted. These included leveraging their relationships with investors to increase pressure on firms, naming and shaming firms through campaigning or research, and making normative appeals through ‘humanising the issue’. Presenting stories of exploitation to companies was a common strategy in this regard (Second-order Category 31). One civil society interviewee claimed that exerting influence had changed after the Act’s promulgation, from company ‘naming and shaming’ to ‘naming and faming’. This was seen as consistent with the Act’s collaborative intent [II2BSF].

In contrast, commercially motivated intermediaries articulated client-oriented sources of influence. These organisations claimed to have strong technical expertise, comprehensive knowledge of the market (i.e. what peer organisations or organisations in other sectors were doing) and a superior understanding of the processes needed to successfully respond to the Act. Clients valued these characteristics and afforded them influence (Second-order Category 32). A further source of influence occurred through facilitating capacity building, or providing clients with baseline advice and options, but allowing them to make their own decisions and progress their response independently.

5.5.2.5 Intermediary Influence from a Firm Perspective (Second-order Categories 35–38)

The compliance professionals interviewed for this study also provided insights into the influence of these intermediaries. Once again, we see a clear distinction between the value and influence of civil society intermediaries and commercially oriented consultancies.

As shown in Second-order Category 34, NGOs provided grounded actionable advice. This theme regarding the influence of civil society intermediaries was confirmed by company representatives. These representatives outlined that civil society organisations had actionable on-the-ground knowledge that better equipped them to implement their plans. For example, as one interviewee outlined: ‘The on-the-ground specialists like the Mekong Club and CARE Australia are helpful (provide remediation tools); the big financial institutions like KPMG are less so (focus on report writing support)’ [IF3CC]. Interviewees representing firms suggested that this on-the-ground knowledge meant civil society organisations were well equipped to facilitate a translation between policy
and practice on the ground [IF70D]. They also differentiated NGOs from consultancies that largely focused on report writing that did not lead to any ‘real transformational change’ [IF70D; IF3CC; IF5IS].

It is important to note that this perspective on the influence of civil society intermediaries was expressed only by advanced firms, which had a history of leadership in their supply chain governance. Several firm representatives also suggested that commercially oriented intermediaries had valuable and influential roles to play in directing corporate responses. Two key themes emerged from the data. First, commercially oriented intermediaries (consultancies and legal firms) were critical in providing assurance regarding organisational responses (specifically for senior leadership) and clarifying what modern slavery is and why it is an important risk to account for through administering training. Importantly, larger commercially oriented intermediaries like ELEVATE (a labour standards specialist consultancy) and the Big 4 auditors were considered valuable given their sophisticated data analysis tools and their cross-industry experience, which corroborates the views on commercial intermediaries presented above (Second-order Categories 35 & 36).

Overall, a divide in the data emerged that painted commercial intermediaries as important compliance professionals who help with program design, report writing and data collection, but do not provide significant benefits to organisations who want to translate their policies into practice. As one manager suggested:

> At the moment there is an immediate need for support writing statements, but consultants are valuable when they support business to deepen their engagement with their ESG mandate and help businesses position themselves to go to the next level of human-rights due diligence. Hopefully the statement writing stuff will taper off [IF9SM].

Hence, commercial intermediaries (PSFs) were viewed by firms as important for organisations starting out on their journey but not for those that had implemented a response to the AMSA and wanted to extend it [IF3CC].
5.6 Discussion

Following reporting of the second-order categories from this analysis, this discussion further abstracts these into third-order categories. These are interpreted in relation to *firm adaptations to MSR law obligations* (see Figure 7), leveraging CDT and RIT to make sense of the ways in which compliance professionals shape policy and practice adaptation, and the influence of regulatory intermediaries in this process.

5.6.1 Firm Adaptation and the Role of Compliance Professionals

Research on compliance professionals and their role in shaping company adaptation to MSR law requirements has been limited. As suggested in the literature review, only one article has examined this subject (Monciardini et al., 2021). In this discussion section, I explore the role of this important change agent through applying insights from Park’s CDT theory, drawing on the third order categories that emerged from my analysis. To begin with, I introduce the third order categories that emerged. Following this, I illustrate how these third order categories align with the process outlined by Park and highlight the critical role of compliance professionals in driving this process. In addition, I highlight how this analysis revealed a possible elaboration of CDT. Overall, this analysis and discussion confirms the important role of compliance professionals in shaping corporate adaptation under the AMSA. It also reveals CDT to be an accurate reflection of the process through which compliance professionals shape adaptation and, hence, provides much needed insight into how compliance professionals shape responses to MSR laws.

Four third-order categories were developed in relation to the changes that firms have initiated in response to the AMSA, which help to illustrate the ways in which constructive discourse has unfolded in this case (third-order categories are available Appendix D (Table D3)). The first of these is labelled *policy and practice adaptation* and includes the following second-order categories; *a strong baseline, response planning, policy alignment, practice adaptation* and *pushing the envelope*. This category captures the actual changes companies have initiated. The second is labelled *creating a response infrastructure (internally)* and includes second-order codes that relate to shifts in internal coordination both cross-functionally within organisations and between senior management and MS functions i.e. *establishing a cross-functional*
working group, aligning procurement and ethical sourcing functions, lone guiding lights, executive empowering MS functions, the Act empowering MS functions and the Act increasing executive engagement.

The third is labelled translating and promoting response (internally and externally). This third order category captures whether and how compliance professionals are embedding their response to the AMSA internally and communicating that response externally. It includes coupling values and action, managing terminology and understanding internally, managing messaging to primary stakeholders and establishing a dialogue and networks with civil society organisations. The fourth, labelled collaboration dynamics with other firms, relates to changes in relationships with other organisations regulated under the AMSA. It contains themes related to changing collaborative patterns and drivers and limiters of collaboration.

Park’s (2014) CDT suggests that increased intra and inter-organisational collaboration and communication will, over time, support policy and practice adaptation under reporting obligations. This process, which involves an integrative and expressive dimension, encourages comparison and alignment of espoused values related to social standards (e.g. through codes of conduct) and prevailing policies and practices; and promotes standardisation of practices and understanding both within and across firms. Given that this analysis is a cross-sectional account of initial responses to AMSA, conclusions cannot be drawn in relation to the extent to which significant adaptation will occur over time. In fact, evidence from this analysis suggests that policy and practice adaptation has been minimal in this initial response. The findings related to policy and practice adaptation show that, in many cases, firms believe they already have suitable policies and practices in place. This is despite the finding that even the most advanced industries rely on an ineffective auditing model for their supply chain governance (Ford & Nolan, 2020). Despite this, my findings suggest there have been shifts in internal and external collaborative and communicative patterns that may support further adaptation into the future. They show that the integrative and expressive dimensions of this process are occurring, largely driven by compliance professionals, in the case of the AMSA.

Findings related to creating a response infrastructure suggest that intra-organisational collaboration and communication is evolving in response to the introduction of the
AMSA. In several organisations, an MS function (consisting of a compliance professional or group thereof) has been empowered to coordinate a response through a cross-functional modern slavery working group with direct access to the senior leadership of the firm. In a minority of organisations, less extensive collaborative and communication shifts are occurring. In these organisations, isolated compliance professionals are charged with coordinating a response.

Results related to translating and promoting a response also suggest that values work to align espoused values and practices is being engaged in by some MS functions. These functions view the legislation as an opportunity to assess the coupling of their espoused values and practices, and to promote their plans for change internally, leveraging existing organisational values. In addition, results related to translating and promoting a response suggest efforts are being made by MS functions to standardise understanding of the issue of modern slavery and why it is relevant, both within their organisation and with external stakeholders. Firms are developing internal education and training programs, training high-risk suppliers and engaging investors, customers and civil society on the issue of modern slavery in supply chains. Changes in external collaboration are being initiated as a priority, but these are still evolving.

Results relating to collaboration dynamics with competitors show that the Act has prompted companies to pursue some collaborative and communication opportunities with other organisations, in an effort to learn from one another and adapt policy and practice accordingly. This demonstrates a level of inter-firm collaboration and communication, which is emphasised under CDT. As noted above, this remains siloed within industries that are heavily exposed to modern slavery risk and is, in some cases, undermined by large businesses that are reticent to collaborate, either because of competition regulations or because they see the Act as an opportunity to pursue competitive advantage. This demonstrates that external collaboration and communication with competitors is occurring as a result of the AMSA’s emergence, but that this collaboration is not yet widespread, and will likely continue to be stymied by firms who do not see supply chain governance as non-competitive.

These results emphasise the critical role of compliance professionals (as part of an MS function) in facilitating the constructive discourse process through adjusting communication and collaborative patterns, both internal to the firm and externally.
Identifying these changes in line with CDT theory extends extant research on how compliance professionals shape firm adaptation to MSR obligations. Researchers that have explored the role of compliance professionals under MSR laws have shown that compliance professionals can be viewed as ‘legal activists’ that help to translate these legal obligations into the operations of companies. However, how this translation occurs is not well known (Monciardini et al., 2021, p. 330). These findings support previous research identifying compliance professionals as critical change agents, but also show that compliance professionals shape adaptation through processes that align with CDT. As will be discussed below, the capacity for compliance professionals to drive this process varied across the sample. My analysis identified a critical enabling precondition that supports compliance professionals to successfully drive the CDT process.

5.6.1.1 Elaborating Constructive Discourse: Consideration of Preconditions

Considering how these themes, and the processes they reflect, interact reveals a possible elaboration of Park’s CDT. Creating a response infrastructure is revealed to be a critically important process that supports change and facilitates firm engagement in translation and promotion of their response. As seen above, creating a response infrastructure involves changes to organisational structures that afford the appropriate MS function sufficient authority and autonomy to coordinate across other functions, with senior leadership and externally, regarding the organisations developed response. Translating and promoting that response is dependent on these changes in that it is driven by this empowered MS function. Empowered MS functions are better able to engage in a) values work to promote the importance of alignment between practice, values and external messaging; b) establishing new collaborative networks and dialogues externally; and c) ensuring standardised language and understanding of the issue and response internally.

Based on the above, organisations within the sample can be placed into two main categories, beginners and enhancers. Beginners have not yet established the infrastructure required for compliance professionals in their MS function to engage with the constructive discourse process meaningfully. They have appointed relatively isolated individuals to make sense of AMSA requirements and develop a response. Beginners have not established a cross-functional modern slavery working group and do not engage in significant inter-organisational collaboration. This limits their ability to
effectively translate and promote their response internally and externally. In contrast, *enhancers* are organisations that have in place an empowered MS function and constructive dialogue with senior leaders, and have established a cross-functional modern slavery working group. This response infrastructure allows the empowered MS function within an organisation to effectively translate and promote their response through the varied mechanisms described above, in line with Park’s CDT.

These results suggest that when considering firm responses to the AMSA, constructive discourse processes are, in large part, dependent on creating this response infrastructure and empowering compliance professionals, upon which the effectiveness of collaboration and communication internally and externally relies. Park’s CDT places emphasis on changing patterns of communication and collaboration, but does not adequately account for preconditions that support these processes and allow compliance professionals to actively promote and translate their response. Park’s CDT, in this context, could therefore be usefully elaborated by taking into account the importance of a response infrastructure that empowers compliance professionals and, hence, facilitates the processes it emphasises.

Researchers focused on the ways compliance professionals shape responses under MSR laws have called for further research into ‘the ambiguities, challenges, and idiosyncrasies’ that these change agents face in doing so (Monciardini et al., 2021, p. 330). The above findings highlight a critical challenge that these change agents face in responding to the AMSA, and which is likely to emerge under similar MSR laws. This being the challenge of creating a response infrastructure which allows compliance professionals to meaningful collaborate and communicate across functions in their organisation, with senior leaders and externally to the firm.

In sum, this analysis and discussion has revealed the importance of compliance professionals in shaping organisational adaptation to AMSA obligations and explained this through application of CDT theory. Importantly, this analysis has highlighted certain preconditions that influence the ability of these compliance professionals to shape policy and practice adaptation, adding to our understanding of how the role of these change agents can vary and the challenges they face in shaping organisational responses.
5.6.2 Intermediary Roles and Influence

Extant research has highlighted the influence of intermediaries over the adaptation process, focusing on the negative influence PSFs and third party data exchanges can have on company responses to MSR law obligations (Fransen & Lebaron, 2019; Sarfaty, 2020). However, no research has explored the contrasting approaches to intermediation adopted by PSFs and civil society intermediaries. These are the two most commonly enlisted intermediaries under the AMSA. Given the significant influence intermediaries have over corporate adaptation under MSR laws, such research is needed and goes some way to explaining varied responses from companies subject to these obligations, based on their choice of third-party advisor.

Findings related to intermediary involvement in this case suggest that relationships between firms and intermediaries vary significantly. A clear contrast has emerged between the role and influence of PSFs, and civil society intermediaries. These groups have different motivations for engaging in intermediation, establish relationships with firms in different ways and engage in different activities with firms. Their approach to advice and how they bring to bear their influence over firm responses is, accordingly, different. The second-order categories on which these conclusions are based were grouped into further third-order categories: intermediary-firm relationships, intermediary advice and intermediary influence (See Appendix D: Table D3). These themes are discussed below to illustrate how these different kinds of intermediaries are likely to shape firm adaptation to obligations under the AMSA.

Varying intermediary relationships can be interpreted in light of recent contributions to the RIT literature; Kourula et al.’s (2019) theory of intermediary roles. Kourula et al. suggest intermediary roles are a function of a) motivation; b) the resources intermediaries have at their disposal; c) the type of relationship established with a regulatory target (appropriated or enlisted by the firm); and d) the activities in which intermediaries engage. In line with this role theory, large PSFs adopt an expert/translator role. They are approached—that is, enlisted—to provide advice because of their compliance acumen, and they generally establish a working relationship with key decision makers at all levels of the firm (i.e. across the modern slavery working group and with the executive team). In terms of activities, they engage in in-depth consultation with firm representatives to learn about their individual contexts, and
develop and administer tailored training related to modern slavery within those firms. The data suggests these intermediaries are motivated by dual interests; that is, commercial interests and the social impact generated by their work.

In contrast, civil society organisations adopt a dual role as critic and expert/convener. When adopting their expert/convener role they often, but not always, appropriate this role through engaging with energised individuals in that firm. However, this has shifted since promulgation of the Act, which has seen them become more sought after as advisors and be increasingly approached for advice. In this role, they engage in activities that include organising networking events and one-on-one consultations with firms to advise them on their current and planned response to the AMSA. In their role as critic, which is also appropriated, civil society intermediaries engage in campaigning to promote best practice firm responses. The approach to this campaigning has shifted in recent years from a ‘naming and shaming’ to a ‘naming and faming’ approach. Civil society organisations are universally motivated by normative ends rather than commercial interests.

These varying roles are reflected in the advice intermediary groups provide and the types of influence they exert. While both types of intermediary are of the view that their influence is drawn from their issue-specific expertise (i.e. compliance acumen for commercial intermediaries and issue-specific acumen for civil society intermediaries), they differ on how they bring this influence to bear in their advice. Civil society intermediaries frame their advice around best practice and pushing firms to ‘lead’ on their modern slavery response, which is reflected in their motives and activities, and the types of relationships they foster with firms. In contrast, commercial intermediaries generally tailor their advice and, hence, their influence over firm responses, to the client’s expressed ambition. This is in keeping with their commercial motivation for engaging with intermediation work.

Research exploring the role of large PSFs in directing firm responses to modern slavery disclosure legislation has highlighted the potential ‘dark side’ of this tailored approach, which is likely to lead to ‘tick and flick’ compliance response (Fransen & LeBaron, 2019; Monciardini et al., 2021). Findings in this chapter seem to reinforce these concerns, as PSFs in the sample consistently communicated their commitment to providing advice tailored to the ambition of firms, which supports the production of
compliant reporting rather than enhancing the practices that such reporting reflects. The finding that compliance professionals saw a clear distinction between the advisory work of PSFs and civil society intermediaries lends further credence to this concern. Compliance professionals universally suggested that civil society intermediaries were valuable given that they provided practice advice that would lead to changes on the ground; whereas PSFs focused on report writing and compliant statements (Second-order Category 37).

In addition, compliance professional interviewees suggested the major value of relationships with PSFs, relative to those with civil society organisations, was the access to sophisticated data analysis tools they provided. This access helped to facilitate risk assessments for reporting. This finding can be problematised when considering the recent work of Sarfaty (2020). Sarfaty considers the role of the third-party intermediary SEDEX and its data tools, and concludes that SEDEX’s focus on risk metrics is imbuing a ‘technocratic rationality’ into company decisions on supply chain governance, which encourages a ‘box ticking’ approach to compliance, rather than efforts to understand the problem on the ground and adapt policy and practice accordingly. These findings cast new light on the influence of PSFs through their data tools, and raises further questions regarding the extent to which intermediation from PSFs is likely to lead to compliance with the AMSA that moves beyond the ceremonial. While these themes are problematic for the role and influence of PSFs, there are also implications related to adopting the more prescribed approach of civil society intermediaries. Differing contextual considerations—that is, levels of risk in a company’s supply chain and resource availability—are not sufficiently addressed in a ‘one-size fits all’ approach, yet are important determinants of an effective and sustainable response to these new requirements.

This discussion has identified the varying roles that intermediaries adopt in advising firms on their responses to the AMSA. It details how these roles and their various facets shape the kinds of advice and, hence, influence these intermediaries exert in shaping firm responses. The findings from this analysis suggest that civil society organisations and PSFs are likely to promote two different adaptation trajectories. Types of compliance are, therefore, likely to be contingent on the types of intermediaries with whom firms engage. Organisations employing PSFs are more likely to be encouraged to pursue a compliance-oriented response. In contrast, companies working with civil
society intermediaries will be pushed to focus on a *mitigation-oriented response*. Further research on how varying approaches to intermediation shape firm adaptation is required. In light of the above, such research would be well served to explore the factors that determine which intermediaries firms choose to engage.

### 5.7 Conclusion

Research on policy and practice adaptation under MSR laws has been limited. This chapter sought to foreground how regulatory intermediaries and compliance professionals influence policy and practice adaptation to MSR laws, focusing on the AMSA as an empirical case. Compliance professionals and intermediary involvement in the adaptation process under the AMSA were explored in light of Park’s (2014) CDT and insights from RIT (Abbot et al, 2017), specifically Kourula et al.’s (2019) intermediary role theory. This analysis sought to answer the question: RQ3: *How do actors internal to companies shape policy and practice change under modern slavery reporting laws?*

This analysis identifies that under the AMSA organisations, largely as a result of the activities of compliance professionals, vary in the extent to which they have adapted in terms of two processes that relate to CDT. The first is the development of a *response infrastructure* that supports compliance professionals in executing the second, *translation and promotion of their response (internally and externally)*. The former process is underemphasised in Park’s (2014) CDT, while the latter largely aligns with the processes Park describes. Moving forward, knowledge of these elements and how they interact will be important for understanding company responses to MSR obligations. My analysis suggests that companies that have established a response infrastructure, supporting the activities of compliance professionals, are likely to be better placed to make meaningful changes to their policies and practices. Establishing this infrastructure empowers compliance professionals to translate and promote a company’s response both internally and externally. Further research on adaptation to the AMSA and other MSR laws over time, to assess the importance of this precondition to the changes that firms initiate, could provide the basis for heuristics that guide firm adaptation into the future.
The analysis also highlights the varying roles adopted and influence exerted by regulatory intermediaries. This analysis confirms the findings of previous research regarding the ways in which PSFs promote a compliance orientation rather than a practice orientation (Fransen & LeBaron, 2019). It also illustrates that civil society organisations, in contrast, promote a more practice-oriented approach that is more likely to promote substantive policy and practice adaptation. Additional research identifying the long-term effects of varied intermediaries’ influence on firm adaptation could provide a basis for selective involvement with certain intermediary groups that promote more substantive and practice-oriented adaptation. Further research exploring the interface between regulatory intermediaries and compliance professionals, and how this interface will influence company adaptation, is required. Possible research opportunities related to this interface are discussed in Chapter 6. In addition, I consider the limitations of this chapter in the conclusion that follows.
Chapter 6: Discussion and Conclusion

This thesis takes, as its point of departure, the fact that modern slavery in GSCs is a pervasive and consequential problem, requiring significantly more effective regulation by companies and States (Gold et al., 2015; New, 2015; Stringer & Michailova, 2018). Over the last decade, the risk of modern slavery in GSCs has prompted concerted advocacy for such reform, encouraging the emergence of MSR laws in the UK, California, and Australia (Landau, 2019). MSR laws are, in theory, a promising new regulatory tool, consistent with the reform agenda established under the UNGPs for States and businesses to defend and uphold human rights in the global economy (Redmond, 2020). However, evidence suggests MSR laws have been ineffective in meeting their aims, leading some commentators to criticise their design (LeBaron & Ruhmkorf, 2017b; Mehra & Shay, 2016). Recently, criticism of these laws has intensified as HRDD laws, employing arguably more robust designs, have been enacted or are being considered in continental Europe (Landau & Marshall, 2018). Despite this, MSR laws continue to diffuse internationally (Nicolson et al., 2020), which has prompted calls for investigating the pressures that promote the emergence and adoption of MSR laws (cf. HRDD regulation) and continued analysis of their relative effectiveness (Caruana et al., 2021; Nolan et al., 2019). I have argued that furthering understanding regarding, first, these design outcomes and, second, the effectiveness of MSR laws, requires a focus on process. I posed the following overarching research question: How do policy-making process dynamics shape the design of modern slavery reporting laws, and how do external stakeholder pressure and actors internal to firms influence their effectiveness? This question reflects an interest in three processes, how policy process dynamics explain the emergence and adoption of MSR laws with seemingly deficient designs; the process of influence by external stakeholders over reporting outcomes; and finally, the processes through which internal actors shape corporate policy and practice change in line with MSR law intentions. Investigation of these processes is valuable for two reasons. First, it goes some way to explaining why this apparently deficient response to modern slavery in GSCs is preferred in particular institutional settings. Second, it builds on our largely theoretical understanding of the processes driving outcomes under these laws and points to ways in which they could be adapted to ensure their future effectiveness.
6.1 Summary of Central Insights

I address this general research question at the outset of the thesis by applying Ayers and Braithwaite’s (1992) responsive regulation theory. This framework provides the necessary concepts to understand and critique the design of MSR laws (LeBaron & Ruhmkorf, 2017b; Mehra & Shay, 2016). My framework identifies three key regulatory design dimensions: regulatee autonomy, severity of sanctions and stakeholder participation. Applying this continuum to MSR laws (the CTSCA, the UKMSA and the AMSA) and a contrasting HRDD law (the French Law), demonstrated that MSR laws are examples of enforced self-regulation, that closely approximate a self-regulatory design based on State facilitation of regulatee autonomy and minimisation of sanction severity. This design relies on the initiation of two processes to be effective. First, stakeholders pressuring companies to produce high-quality reporting, and second, organisations learning about ‘best practice’ and adjusting their policy and practice. While HRDD laws also elicit stakeholder scrutiny and learning effects, by reducing the autonomy afforded companies and employing more severe sanctions to promote compliance, these laws rely more on statutory sanctions to achieve their aims. As I argued in Chapters 1 and 2, these insights into the design of MSR laws provide a springboard to study the process of policy emergence and design using process oriented theoretical tools.

In light of international design variations, specifically HRDD laws and the perceived deficiencies of MSR laws, understanding why MSR laws continue to diffuse is both important and requires urgent attention. To this end, Howlett et al.’s (2017) policy process theory was used to interpret and explain how dynamics of the policy-making process have shaped the design of the AMSA according to the dimensions identified above. Concentrating on three phases of the policy-making process—agenda setting, policy formulation and decision making—analysis of the AMSA case reveals the following. First, it shows how increased focus on the issue of modern slavery in GSCs, coupled with both international and domestic labour exploitation scandals, defined the policy problem and highlighted a need for reform. Second, it demonstrates how this defined policy problem became tightly coupled with the UKMSA as a policy reference point. This narrowed the design specifications that were considered appropriate by policy makers for the proposed AMSA, and limited consideration of command-and-
control like features. Finally, the analysis reveals how stakeholder coalitions emerged to challenge this proposal, and the strategies employed by these coalitions to influence the decisions of policy makers defending it. This analysis showed how the Australian government at the time was able to employ ideological and deliberative strategies to promote a self-regulatory design and fend off challenges from NGOs and more liberal business.

Regarding effectiveness, Chapter 4 investigated how stakeholder pressure influences reporting quality across institutional settings. Research evidence points to poor reporting outcomes under these laws (Bayer & Hudson, 2017; BHHRC, 2018, 2021; Stevenson & Cole, 2018). However, little is known about how stakeholder pressure promotes reporting quality under MSR laws (see Birkey et al., 2018; Flynn, 2020 and Rogerson et al., 2020 for exceptions). Chapter 4 bridges this gap by identifying which, and in some cases how, primary and secondary stakeholders influence reporting quality under the CTSCA and the UKMSA. In addition, the influence of stakeholders is shown to vary between these similar institutional settings. Given the centrality of stakeholder pressure in promoting reporting quality under MSR laws, surprisingly few studies have investigated the influence of different stakeholder groups in this process. I show that stakeholder pressure functions differently in different contexts, and that particular stakeholder leverage points are likely to be more successful in promoting the effectiveness of MSR laws.

Chapter 5 builds on emerging research into how change agents, within the firm, shape the policy and practice adaptations that firms implement under MSR laws (Monciardini et al., 2021; Sarfaty, 2020). Currently, the influence of these change agents on outcomes under MSR laws is not well understood. To fill this gap, I created a novel analytical framework that combined CDT and insights from RIT (Abbott et al., 2017; Kourula et al., 2019; Park, 2014). Findings confirm that these change agents were influential in shaping firm responses to the AMSA. However, I found that actual policy change under the AMSA varied. Some compliance professionals had implemented minimal changes while others had initiated significant coordination and collaborative change that are likely to encourage more substantial future adaptations to the law as part of CDT processes. In addition, the chapter identifies how different types of regulatory intermediaries’ shape company responses to the AMSA. The motivations of these intermediaries varied, and they were shown to have different foci. PSFs promote a
compliance-oriented response, which is likely to reinforce a tick and flick approach to the AMSA, while civil society intermediaries promote a mitigation-oriented response that is more likely to promote substantive policy and practice changes, in line with the intentions of the AMSA.

Combining these findings, it is possible to address the question guiding this thesis. With regard to the first part of this question: How do policy making process dynamics shape the design of modern slavery reporting laws? The emergence and design of self-regulatory MSR laws can be explained using a policy change theory lens (Howlett et al., 2017). Applied to the AMSA, the theory draws attention to domestic and international contextual pressures, highlighting the need for policy reform. In response, a reform agenda was established in line with similar initiatives in other contexts (i.e. the UKMSA). This agenda was subsequently challenged by coalitions of stakeholders, based on their motivations and design preferences. Overall, my analysis shows the design of the AMSA was shaped by the mobilisation and use of power in various forms—associational, ideological and deliberative. It suggests that ultimately the deficient design of the AMSA can be attributed to the way the Turnbull Government at the time framed the policy agenda based on the UKMSA to match their ideological leanings, and government mobilization of deliberative and ideological power to ward off challenges to this self-regulatory proposal.

With regard to the second part of the question: how do external stakeholder pressure and actors internal to firms influence their effectiveness? My investigation into how stakeholder pressure and change agents influence effectiveness (i.e. reporting quality, and policy and practice adaptation) reveals that reporting quality is influenced by different stakeholder groups in different settings, and identified some mechanisms through which different stakeholders promote reporting quality. These include NGOs establishing collaborative relationships with reporting companies, NGOs naming and shaming companies who performed poorly in managing BHR concerns and customers pressuring businesses through online channels. Moreover, company adaptation of policy and practice is shown to be contingent on, first, the extent to which organisations empower internal compliance professionals to promote and enact change; and second, the influence of intermediaries over the focus of adaptation (either compliance or mitigation oriented).
6.2 Implications and Core Theoretical Contributions

The main purpose of this thesis is to contribute to, and further inform, the debate on MSR laws, focusing particularly on the themes of design and effectiveness. Taking a multi-disciplinary approach, I draw on theories in the disciplines of regulatory studies, policy change and organisation studies to contribute to this debate. Building on the above summary of central findings, here I identify and discuss the contributions of this investigation. Four key contributions are discussed. These are: first, the development of a novel analytical framework to understand regulatory design; second, application of policy process theory to understand the factors shaping the design of MSR laws; third, refining theory regarding how stakeholder pressure and change agents influence the effectiveness of MSR laws; and fourth, identification of the role of institutional variation at the State level in shaping MSR law effectiveness.

6.2.1 An Analytical Framework for Understanding Modern Slavery Reporting Law Design and effectiveness

Analyses and criticism of MSR law designs have largely been descriptive and lacked strong grounding in relevant theory. Scholars have relied on inferences developed through comparative empirical analysis of the attributes of these laws rather than providing a theoretical explanation. Landau (2019, p. 239-240) has recently called for application of insights from regulatory studies to analyse regulatory developments in the area of BHR. She notes the value of existing regulatory theory for exploring the prospects and deficiencies of these developments, including MSR laws. To that end, I have reconceptualised responsive regulation theory to develop the responsive regulation continuum. This continuum enables identification of key regulatory design dimensions enabling the design features of emerging MSR and HRDD laws to be better understood.

The continuum, in this context, has been used as a snapshot to identify contrasts in the designs of MSR laws and more robust but analogous HRDD law in Europe. However, the framework could also be used to frame analyses of possible future mixes or hybridity in these legislative designs. Currently, policy makers western liberal democracies favour self-regulatory designs, while command-and-control HRDD laws are being popularised in continental Europe (Landau & Marshall, 2018). Findings from this thesis demonstrate that hybrid forms of MSR laws are likely to proliferate. MSR
law design trajectories thus far (being progression from the CTSCA to the UKMSA, and then to the AMSA) already demonstrate a slight rightward shift along the continuum towards more command-and-control laws, as evidence emerges to suggest that self-regulatory MSR laws are ineffective in achieving their aims. To illustrate, the analysis in Chapter 3 shows that the AMSA was designed to emulate the UKMSA, and that this choice of reference point served, on the one hand, to preclude consideration of more command-and-control like design elements. However, on the other hand, it also acted as a leverage point for a coalition of actors hoping to increase the stringency of the proposed Act. This coalition was able to use emerging analyses of the ineffectiveness of the UKMSA to successfully promote some command-and-control-like design changes in the AMSA (i.e. mandatory reporting requirements).

These findings suggest that we are likely to see a pattern of MSR law diffusion that increasingly ratchets up command-and-control features in various ways. The weight of evidence currently suggests MSR laws are in need of adaptation, and this will likely mean further development of hybrid regulatory forms that employ some elements closer to the command-and-control pole. For example, regulators might choose to decrease the autonomy of firms through more prescription in reporting requirements, without increasing sanction severity (as the above example suggests), or regulators could choose to install more clear punitive sanctions while still affording firms autonomy in their response. The responsive regulation continuum provides a conceptual tool to identify these design changes and, hence, a springboard to test their effectiveness in practice moving forward.

The continuum could also conceivably be adapted to account for changes in the designs of MSR laws through the addition of new dimensions of variation. The continuum, in its current form, integrates three dimensions. However, it is likely that as legislation in this area evolves, the importance of additional dimensions and further nuancing of existing dimensions may become necessary. For example, recent work by Nolan & Harris (2021) discusses possible changes in sanctions for non-compliance under MSR laws, drawing on a new model for the regulation of bribery (p. 31). These sanctions foster greater interaction between regulated companies that are non-compliant and regulators, rather than simply punishing recalcitrant companies financially or legally. If design of these and other similar laws were to evolve in this direction, the framework could be adapted to include a dimension of regulator–regulatee interaction or contact.
Importantly, the continuum in its current form applies to national legislation only. However, it could be elaborated to include international regulation in which case, the theory would be multi-level and more complex (see Abbott and Snidal, 2016 for discussion of international responsive regulation). The international soft law norms, discussed in Chapter 1 and 2, are forms of regulation that encourage adoption of norms and behaviour through persuasion and, hence, sit at the self-regulation end of the continuum but at an international level. Efforts to develop a *Binding Treaty on Business and Human Rights* (BHRRC, 2021a) constitute an adaptation of this form of regulation to more closely approximate regulation at the command-and control-pole. Given this investigation is focussed on nationally bounded laws, the model was limited to theorising design variation across domestic MSR and HRDD laws. However, these laws are intended to enhance the international reform agenda established under the UNGPs, raising questions about complementarity and interactions (Amengual & Chirot, 2016). Research on the interaction of these regulatory initiatives at different levels (discussed further in section 6.4.2) could, therefore, build on the continuum developed here to make sense of how international regulatory developments of different designs alter, enhance or displace national level regulation using the dimensions of variation that have been identified in the continuum.

### 6.2.2 A Model of Policy Change in the Context of Modern Slavery Regulation

As noted in Chapter 3, criticisms of the self-regulatory design of MSR laws have encouraged some research on the factors shaping these designs (Broad & Turnbull, 2018; Craig, 2017; Lebaron & Rhumkorf, 2017b). However, little research has examined these factors, and none has explored their interaction. To address this gap, I applied Howlett et al.’s (2017) policy change process theory to interpret and explain how factors affect design outcomes along the responsive regulation continuum, using the AMSA as a case study. In doing so, I extend current understanding of how the designs of MSR laws are shaped, through application of a processual lens to identify additional factors not considered in the literature and show how they interact to shape design outcomes.

The responsive regulation continuum, which echoes Ayers and Braithwaite’s (1992) responsive regulation theory, suggests a relatively rational and simplistic reason for regulatory design choice and adjustment: effectiveness assessment. My investigation of
the policy change process, focusing on the AMSA, reveals a far less rational process with a complex interplay of factors influencing the design of this legislation. These factors include, in general terms, the relationships between States who share political and regulatory traditions, the motivations of policy makers in power, and negotiations among stakeholder coalitions. The ever-present nature of these factors in the policy-making process mean that they must be considered when exploring policy outcomes along the continuum. Identification of these factors, and their influence on policy provides insight into the complex reality of the design process and revealed which factors were critical in promoting a seemingly deficient regulatory design in the case of the AMSA. My research invites comparison with the policy process and power dynamics that have led to MSR laws in other contexts, such as California and the UK. This would improve our understanding of why this seemingly deficient design continues to proliferate. This task remained outside the confines of my thesis.

In addition, Chapter 3’s investigation required the development of a novel methodology based on Howlett et al.’s (2017) policy change framework to explore the functioning of the design process. A combination of coded content analysis techniques (Hseih & Shannon, 2005) and thematic analysis of interviews, which served to triangulate the data, was used to reconstruct a systematic narrative of the policy change process. This methodology could be usefully applied to explore the functioning of this process in other States.

While the analysis presented in Chapter 3 is a more comprehensive accounting of the factors influencing the design of MSR laws than in previous research, it is worthwhile considering what additional factors might be important. My analysis identified the importance of a political entrepreneur in galvanising political support around modern slavery reform (MP Chris Crewther) but unearthed little regarding the internal government processes that this entrepreneur had to navigate to promote reform. Future analysis should focus on negotiations within various government departments, Minister’s offices and policy committees across the agenda setting, formulation and decision-making stages. Howlett et al. (2017) in their change theory emphasise the importance of this behind-the-scenes State bureaucracy (69-70). However, reliance on formal documentation in this study, and difficulties in accessing political decision makers for interviews, limited exploration of the influence of this factor. In addition, my research revealed little about the influence of public sentiment on policy change.
Modern slavery is an emotionally charged issue and one that is likely to attract significant public attention. Further research should consider how public pressure influences and shapes policy decision making in this and similar cases. A useful starting point for assessing this as a factor would be research on climate policy, which is a similarly charged policy concern, where scholars have looked to explore how public sentiment has promoted climate action from policy makers (Jacobsen, 2004; Budgen, 2020)

6.2.3 The Effectiveness of Modern Slavery Reporting Laws: Stakeholder Pressure and Change Agents Matter

The findings of this thesis confirm the importance of stakeholder pressure and the influence of key change agents in shaping the effectiveness of MSR laws. However, to date, these processes remain imprecisely theorised in the literature. Stakeholder pressure has largely been operationalised through blunt proxies (See Chapter 4: 4.2.2) and very little research has explored the role and influence of key change agents (See Chapter 5: 5.2.2). To address this gap with regard to stakeholder pressure, I adopt a stakeholder theory perspective to specify which, and in some cases how, primary and secondary stakeholders influence corporate reporting quality under MSR laws. In addition, I specify the role of compliance professionals in driving the CD process and explain how different intermediaries promote different forms of adaptation through application of insights from the RIT literature. I discuss each in turn below.

Extant research has explored the influence of NGOs (Birkey et al., 2018) and the media (Flynn, 2020) over reporting quality under MSR and analogous laws, but paid little attention to other stakeholder relationships. Chapter 4 extends this literature through identifying the influence of various primary and secondary stakeholder groups in both the UK and California. My research shows that a wide variety of stakeholder groups promote reporting quality in the UK (shareholders, customers, media and NGOs), and that suppliers and NGOs promote improved reporting quality in California. In addition, the chapter identifies some mechanisms through which these stakeholders influence reporting quality across the different settings. Examples include naming and shaming strategies from NGOs, which are effective in California, and the establishment of collaborative relationships between companies and NGOs in the UK. This research serves as a starting point for further exploration of the different influencing practices
these stakeholders engage in under MSR laws, and what stakeholder pressures are most successful in promoting regulatory effectiveness. Such research is urgent and requires further attention, as the effectiveness of self-regulatory MSR laws hinge on stakeholder participation (Redmond, 2020; Rogerson et al, 2020). Practical implications stemming from these results are discussed in Section 6.3, as they suggest promising stakeholder leverage points for driving effectiveness under these laws.

In Chapter 5, my exploratory research serves to identify how compliance professionals implement change under MSR laws and the contrasting influencing practices used by different types of intermediaries. Regarding the former, I have shown how compliance professionals are instrumental in shaping corporate adaptation under MSR laws in that they are drivers of the CD process i.e. changing collaborative and communicative patterns within and between companies that promote adaptation of policy and practice (Park, 2014). Regarding regulatory intermediaries, my work points to the importance of understanding the motivations and foci of different intermediary types, and invites further comparative research exploring how different intermediaries could shape regulatory outcomes under self-regulatory MSR laws. Such research should concentrate on the interface between compliance professionals working within companies and regulatory intermediaries advising companies. Exploring interactions between these change agents in Chapter 5 was limited by the lack of overlap between my intermediary and compliance professional interviewee samples. It is, however, highly likely that intermediary advice is a key determinant of how compliance professionals approach their response to MSR laws, therefore making improved understanding of this relationship critical to understanding policy and practice adaptation.

6.2.4 Design and Effectiveness of Modern Slavery Reporting Laws: Institutional Context Matters

Findings from this thesis show that variation in State institutional characteristics influence the functioning of MSR laws in ways that have not yet been explored. Research on MSR laws has, to date, been devoid of meaningful engagement with institutional context (See Flynn, 2020 and Christ & Burritt, 2019 for notable exceptions). This is likely owing to disciplinary specialisation. Regulation and legal scholars who have been most active in investigating MSR laws, are unlikely to be knowledgeable in macro-organisational research. However, my findings in Chapter 4
underscores the value of integrating comparative institutional theory into the study of MSR law effectiveness.

The findings from Chapter 4 demonstrate that the influence of stakeholders on company compliance varies significantly between jurisdictions despite being enacted in ostensibly similar political economies (LMEs). Differences in reporting outcomes were explained as resulting from nuanced differences in cultural and institutional arrangements within these settings. Dimensions of difference considered included: differing emphases on shareholder primacy; commitment to CSR; traditions of non-financial reporting regulation and variations in business culture. These differences help to explain the stronger and wider influence of stakeholders on the quality of company reporting in the UK, where firms are more attentive to stakeholder concerns, more committed to addressing CSR issues, more used to responding to non-financial reporting regulation and more risk averse.

Recently, scholars have called for a ‘meta-study’ to compare the functioning of MSR laws adopting a self-regulatory design across different settings that have enacted them (Nolan et al., 2019, p. 21). My work takes a step in this direction by comparing reporting outcomes in the UK and California and explaining differences through a comparative institutional lens. This comparative design highlights that policy makers cannot assume that laws with similar logics will operate in a similar way, even in similar settings. In addition, these findings further underscore that regulators who choose to enact self-regulatory MSR laws need to identify and be attentive to their most promising stakeholder leverage points for promoting corporate compliance (as discussed above in section 6.2.3).

6.3 Practical Implications

What does my research reveal about improving the effectiveness of the AMSA, CTSCA and UKMSA? It cannot be assumed that more command-and-control like designs, such as those employed under the French Law, will prove more effective without further research. However, current evidence and research findings in Chapters 4 and 5 do suggest self-regulatory models employed under the CTSCA, the UKMSA and the AMSA are likely to be ineffective without adjustment. It is, therefore, worthwhile considering what this research reveals about enhancing the effectiveness of this design.
Research on the effectiveness of these laws, both in terms of reporting outcomes, and policy and practice adaptation (Chapters 4 and 5), points to ways in which the effectiveness of self-regulatory modern slavery legislation can be enhanced by regulators and companies themselves.

Findings presented in Chapter 4 include that reporting outcomes are contingent on varying stakeholder relationships in these two contexts. These results suggest particularly promising stakeholder leverage points for regulators to promote effectiveness under these laws. Self-regulatory designs employed by MSR laws invite ‘orchestration’ by regulators, or the process through which regulators marshal engagement from stakeholder groups to promote compliant behaviour amongst regulatees (Harris & Nolan, 2021, p. 27). Identification of which stakeholders are most influential in promoting high quality reporting, and through which mechanisms, provides some insights into practical ways regulators could orchestrate effectiveness under the CTSCA and the UKMSA by fostering certain kinds of stakeholder participation.

In California, quality reporting is associated with firms that are the subject of civil society ‘naming and shaming’ and manufacturers that have close relationships with their suppliers. Therefore, orchestration of stakeholder participation should focus on empowering civil society organisations, specifically in their capacity as ‘namers and shamers’. A possible avenue to do so is through the development of a reporting register, as recently established under the AMSA and which is being considered under the UKMSA. This may further empower these organisations through access to information on how firms are reporting. Civil society organisations may, in turn, pursue strategies that target firms through ‘naming and shaming’. In addition, regulators might look to increase the influence of suppliers and invest in strategies to open more dialogue between firms and suppliers, to enhance their positive influence on reporting outcomes.

In the UK, quality reporting is associated with a wider variety of stakeholder pressure—including media and investor scrutiny, collaboration with NGOs and online customer engagement—indicating the need for alternative orchestration strategies. Collaborative relationships between firms and NGOs promote increased compliance, suggesting that governments should provide resources to support existing collaborative initiatives and establish new avenues for co-operation. In Australia, following the enactment of the
AMSA, one specific modern slavery focused NGO was provided government funding to establish a ‘business association’ through which they would help train and guide companies on their response to modern slavery (Be Slavery Free, 2021). Similar strategies would likely be beneficial in the UK. Additionally, regulators in the UK, supported by civil society organisations, might seek to enhance education on modern slavery risks and corporate performance under MSR legislation, to arm investors and customers with the knowledge required to engage companies on their modern slavery response. The UK government has already invested in significant advertising campaigns to educate the public on modern slavery risk in GSCs (UK Home Office 201b5, p. 4), and through this promoted the importance of the UKMSA to customers. In Australia, the Responsible Investment Association of Australasia (RIAA) and Australian Council of Superannuation Investors (ACSI) have been active in advocating for quality comparable modern slavery reporting and providing guidance to Australian investors on promoting this (RIAA & ACSI, 2019). UK regulators could look to promoting similar advocacy and guidance from the relevant sustainable investment association i.e. The UK Sustainable Investment and Finance Association (UKSIF) to enhance the influence of UK investors and promote reporting quality under the UKMSA (UKSIF, 2021).

Findings from Chapter 5 confirm the significant influence that regulatory intermediaries and compliance professionals have had in shaping the response of organisations under the AMSA. The literature highlights concern over the ways in which PSFs and third-party data exchanges are promoting a compliance culture or ‘tick and flick’ responses from companies (Fransen & LeBaron, 2019; Monciardini et al., 2021; Sarfaty, 2020). Findings reported in Chapter 5 highlight an opportunity for regulators, through supporting civil society intermediation, to enhance the influence of their practice-based advice. My analysis confirms the findings of previous research regarding the ways in which PSFs promote a compliance orientation rather than a practice orientation among regulated companies (Fransen & LeBaron, 2019). It also illustrates that civil society organisations, in contrast, promote a more practice-oriented approach that is more likely to promote substantive policy and practice adaptation that combats modern slavery on the ground. Given that the ultimate goal of the AMSA is to promote mitigation of modern slavery in supply chains, further support for civil society intermediation is a potentially promising avenue for enhancing this goal. As noted above, the Australian government has provided funding to a modern slavery focused NGO, to promote
increased collaboration between companies and the non-profits with expertise on combating modern slavery. The results from Chapter 5 reinforce the importance of this investment and suggest widespread engagement with PSFs is less likely to lead to corporate compliance in line with the spirit of the AMSA.

Findings in Chapter 5 related to the role of compliance professionals reveal a possible elaboration of Park’s (2014) CDT that has practical implications for companies responding to MSR laws. Park’s theory suggests that reporting obligations are more likely to lead to substantive changes in firm policy and practice to the extent that they generate change through CD. However, the preconditions for engaging meaningfully in this process are not well specified. I argue that creating a response infrastructure is an important precondition worthy of further investigation. This involves changes to organisational structures that afford compliance professionals sufficient authority and autonomy to coordinate across other functions, with senior leadership and externally. As argued in Chapter 5, establishing this infrastructure is likely to be a critical antecedent to adaptation of policy and practice under MSR laws, as it facilitates successful translation and promotion of a company’s response. Hence, compliance professionals and company managers would be well served by assessing the extent to which they furnish those responsible for responding to MSR obligations with authority and autonomy to do so in a meaningful way that will drive substantive policy and practice change.

6.4 Limitations and Additional Opportunities for Future Research

The empirical results reported in Chapters 3, 4 and 5 need to be considered in light of the limitations outlined in this section. Further, this section addresses additional opportunities for future research not addressed above. These arise both from consideration of the limitations and the outcomes of this investigation. I proceed by considering the limitations of the research discussed in Chapters 3, 4 and 5 respectively, including limitations of the thesis as a whole.

A key limitation of Chapter 3’s investigation of MSR law design is its analysis of a single case, the AMSA. While the processes of design may be similar in comparable countries, such as California and the UK, enabling potential extrapolation to similar
contexts, the particulars of this study reflect the Australian context. Further confirmatory research exploring these same dynamics for similar laws is required. Such research should seek to replicate and improve the methodological approach adopted in Chapter 3. Current limitations of the methods adopted include the reliance on secondary data, in the form of formal documents submitted to public enquiries and media articles. This has the potential to introduce information bias, in that formal documents may not accurately reflect the complex behind-the-scenes dynamics and interactions, which this analysis sought to identify and explore. Further, the use of media articles introduces a risk of biased reporting, depending on the intended audience and motivations of the author or media source. To try and counteract this bias, six qualitative interviews were conducted with key actors involved in the AMSA’s design. As discussed in section 3.3.4, interview data emerged as invaluable in digging deeper into the behind-the-scenes dynamics that shaped the design of the AMSA. Further research with similar aims to Chapter 3, would be well served by collecting more primary data through interviews with political decision makers and actors involved in the policy change process. Negotiating access with political decision makers proved difficult in this study. This is reflected in the fact that only one politician was willing to speak with me, despite approaching 13 different politicians involved in enacting the AMSA at various stages of the policy process.

The cross-sectional design of the research reported in Chapter 4 is a limitation of this study. The aims of this thesis, particularly the comparison of reporting quality under the CTSCA and UKMSA—and data limitations, specifically the lack of annual reporting requirements under the CTSCA—meant that a cross-sectional study was most feasible. However, cross-sectional studies entail predictive limitations (Bowen & Wiersema, 1999). Future research should seek to examine the influence that stakeholder relationships have on reporting quality over time, as longitudinal research is able to overcome some of these predictive limitations. Opportunities for further comparative research that adopts a longitudinal approach should consider comparison of reporting under the UKMSA and the AMSA, as both require annual reporting. Reporting outcomes, driven by stakeholder pressure could be tested over several reporting occasions in both the UK and Australia from 2020 (the first year of AMSA reports) to generate more robust insight into the relationships explored here. Comparison of the
CTSCA and UKMSA was necessary in the current study as reporting under the AMSA had not yet commenced.

In addition to the need for further comparative work in line with that conducted in Chapter 4, several additional factors that impact on reporting quality also require investigation. First, this chapter does not take into account the internal organisation of firms e.g. board composition or the staff or line status of sustainability and compliance specialists. These factors have been shown to predict reporting outcomes under CSR reporting regimes and so merit investigation under MSR laws (Deegan et al, 2002; Deegan, 2002; Hahn and Kuhnen, 2013). Second, further investigation of the structure of business supply chains and how this affects reporting quality is required. GVC scholarship suggests that the governance arrangements employed by large TNCs have an impact on labour standards in supply chains (Gereffi et al, 2004), and are therefore likely to impact the reporting behaviour of companies subject to MSR law obligations. Finally, as the results and discussion in Chapter 4 revealed, contextual factors have a significant bearing on which stakeholders are able to influence companies subject to MSR laws. Research focusing on the relationship between institutional arrangements and stakeholder influence would promote a deeper understanding of MSR effectiveness.

In Chapter 5, although sampling criteria (including identification of high-risk industries regarding modern slavery in supply chains) were developed to guide interviewee selection, an uneven sample of compliance professionals was eventually recruited. Garment industry firms predominated, with relatively few interviewees in food retailing, household goods and hardware retailing, and the mining industry, largely because of a lack of engagement by firms in these industries. The widespread impact of the COVID-19 pandemic, which was at its height during the data collection phase of my study, probably contributed to this interviewee recruitment problem. Future research should aim for a wider, more representative sample of relevant firms for investigating policy and practice adaptation under MSR laws, such as the AMSA. Further research should also look to recruit more than one manager within each firm to avoid single source bias (Podsakoff & Organ, 1986). In particular, researchers might interview managers outside of ethical sourcing or compliance functions, in senior leadership or strategic roles. This would provide a different perspective on corporate adaptation under MSR laws, one that would enrich insights into how this process unfolds highlighting the role of compliance professionals in encouraging support for the law. Additionally, only
three intermediary groups (identified from initial interviews with companies as important actors) were targeted in this study. This is a further limitation. Consideration of a wider sample including industry associations, institutional investors and social standard setting organisations would allow for further insight into firms’ adaptation to the AMSA and similar legislation.

Additional limitations concern the thesis as a whole. While I seek to explore the design and function of MSR laws more broadly, data collected for this investigation were largely related to the AMSA. The need for primary data to explore the themes of this investigation, particularly those in Chapters 3 and 5, meant a focus on the AMSA was the most feasible option given time and resource constraints. Comparative research focusing on the processes and insights developed here based on the AMSA would be desirable. Specifically, replication of research using an adaptation of Howlett’s theory of policy-making processes and focusing on the UKMSA and CTSCA would be useful. This could include an exploration of the role of change agents under these laws.

6.4.1 Additional Opportunities for Future Research

This investigation points to several additional areas for further research. Regarding factors that may shape the effectiveness of MSR laws, several other areas of emphasis would usefully complement this investigation.

6.4.1.1 Empirical Opportunities

As noted in Chapter 3, the AMSA includes public procurement as subject to reporting obligations. Researchers have begun to explore the impact that inclusion of public procurement may have on reporting outcomes under these laws (Ortega & O’Brien, 2017; Rogerson et al., 2020). The main argument for inclusion of public procurement is that it will mean regulators can show businesses the way forward, both in terms of reporting quality and policy and practice change. Further research could explore the extent to which this guiding role shapes corporate responses and, hence, promotes the effectiveness of these laws.

Additionally, the role of technology in supporting the aims of MSR legislation requires further investigation. Scholars (e.g Sarfaty, 2020 in Chapter 5) have suggested that the current use of technology can have adverse effects on corporate compliance. However,
given the complexity of managing modern slavery in GSCs, technology is likely to play an increasingly important role in shaping corporate responses to these laws. For example, researchers have begun to explore how block-chain technology is, and can be, employed to generate an improved understanding of the scope and nature of abuses workers face in GSCs, to better inform corporate adaptation of policy and practice to address those abuses (Christ & Helliar, 2021).

A particularly important theme for future research may be interactions between the MSR laws investigated here and other regulatory initiatives (Amengual, 2010; Amengual & Chirot, 2016; Locke, Rising & Pal, 2013; Frenkel & Schuessler, 2021). As discussed earlier in this chapter (Section 6.2.1), the responsive regulation continuum may aid in exploring these interactions. The emergence of more binding international regulations, such as the proposed UN *Binding Treaty on Business and Human Rights* (BHRRC, 2021a), will likely have implications for the design of national initiatives. The enactment of such regulation internationally is likely to promote more command-and-control design formulations to reflect the emergence of binding international norms. At a national level, future research may explore the impact of complementary legislation on the design and functioning of these laws. For example, in Australia, policy makers are currently considering more targeted command-and-control legislation focusing on forced labour specifically in China, to address the abuse of Uyghur Muslims (Human Rights Watch, 221). Trends towards more targeted legislation may complement the intent of self-regulatory modern slavery legislation by focusing attention on regions or industries of particular concern.

6.4.1.2 *Theoretical Opportunities*

In this thesis I applied several frameworks to address particular research aims associated with MSR laws. These frameworks enabled MSR laws to be analysed in detail and facilitated investigation of relevant processes shaping design and effectiveness. Ayres and Braithwaite’s responsive regulation theory was shown to be helpful in understanding MSR laws while three models illuminated institutional processes. These included a policy change process model (appropriately adapted from the work of Howlett McConnel and Perl (2016; 2017)); a model of stakeholder influence over reporting outcomes (inductively developed through a review of relevant literature) and a model of firm policy and practice adaptation under MSR laws (which integrates
constructive discourse theory (Park, 2014) and regulatory intermediary theory (Abbott et al., 2017)). While this cross-disciplinary approach has proved useful, there are opportunities for integrating these frameworks. For example, there is a need to better explain how external and internal actors interact to shape the effectiveness of MSR laws. Chapters 4 and 5 treated these processes as independent. Future research could look to integrating the stakeholder model developed in Chapter 4 and the internal adaptation model developed in Chapter 5, testing how these processes interact to shape the effectiveness of MSR laws.

6.5 Concluding Remarks

As noted at the outset of this thesis, the COVID-19 pandemic has revealed vulnerabilities in GSCs. Some businesses have found global sourcing more difficult or they have encountered challenges in exporting goods. Supply chains have been re-evaluated. While some TNCs have responded to these challenges by supporting businesses and workers in their supply chains, others have cancelled or postponed the delivery of orders from overseas suppliers, placing workers under extreme pressure (Anner, 2019). As many economies remain in lockdown, other employment opportunities remain limited. Hence, workers in supply chains are at heightened risk of more intense exploitation and, in effect, becoming victims of modern slavery (Crane, 2013). This unprecedented ‘stress test’ has thrown into sharp relief the need for robust and effective regulation of modern slavery in GSCs (Voss, 2020).

Progress towards more effective regulation of modern slavery in GSCs has been slow over recent decades. The pandemic draws attention to the need for more rapid strengthening of existing regulatory safeguards to protect workers, and should act as a focusing event through laying bear current inadequacies (Frenkel & Scheussler, 2021). The emergence of MSR laws over the last decade is a development that could offer significant future advantages and play a part in addressing the above concerns (Redmond, 2020). As many proponents of these laws suggest, they have the potential to minimise modern slavery concerns in GSCs by instigating a race to the top among large lead firms in terms of their private regulation of GSCs (Hess, 2019; Parliament of Australia, 2018). However, weaknesses in the designs of these laws have undermined the extent to which they have achieved their regulatory goals (both in the production of high quality and comparable reporting, and the institutionalisation of anti-slavery
norms). Recent anticipatory assessments of these laws suggest a need for their adaptation to ensure their efficacy moving forward (Landau, 2019; Redmond, 2020).

This analysis has explored how these deficient designs have emerged, and the behind-the-scenes processes that influence their effectiveness. Analysis of these processes underscores concerns regarding the designs of existing MSR laws, by highlighting the contingent effects of stakeholder pressure on reporting quality and the inconsistent ways in which key change agents shape learning and adaptation of policy and practice under these laws. These results suggest that achieving the aims of MSR laws are far from guaranteed, but also point to some practical ways in which regulators and companies can promote effective outcomes under these laws.

A possible solution that presents itself is adjustment of the designs of these regulatory tools along the continuum to more closely approximate command-and-control regulation and the HRDD designs employed in Europe (e.g. The French Law and the Dutch Child Labour Due Diligence Law 2019). These stricter and more onerous solutions have, however, been met with staunch resistance from business groups, particularly in western neo-liberal economies, making the likelihood of this form of adaptation questionable (Evans, 2020). Further research is required into the effectiveness of HRDD laws to make a strong case for adaptation of MSR laws. Currently, not enough is known about the effectiveness of more stringent HRDD laws. Legal scholars and advocates continue to promote HRDD laws as an important advance in regulating human rights concerns in supply chains that is superior to MSR laws (Marshall & Landau, 2018; Nolan & Bott, 2018; Nolan & Frishling, 2019; Redmond, 2020). However, little empirical research on actual reporting outcomes or changes to corporate policy and practice has shown these laws to be more effective.

In sum, the road to effective regulation of modern slavery in GSCs will likely remain a long one, but the need for change is unquestionable. More research and attention to available regulatory tools and how they can be enhanced is necessary if abuses are to be minimised and if possible, eliminated. This will require continuing design, process and effectiveness evaluation, for which this thesis serves as a starting point.
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2015-and-the-australian-modern-slavery-act-2018-a-comparison#:--text=Whereas%20the%20UK%20legislation%20in,clearly%20more%20mandatory%20reporting%20criteria


Appendices

Appendix A Chapter 2

Table A1: Modern slavery components as defined in important venues

<table>
<thead>
<tr>
<th>Condition and protection in international law</th>
<th>International Regulators</th>
<th>National Legislation</th>
<th>Scholarship on Modern Slavery</th>
<th>Advocacy Organisations</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Collective terms included in modern slavery</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Slavery (defined under <em>The UN Slavery Convention of 1926</em>—’the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’)</td>
<td>Slavery</td>
<td>Slavery</td>
</tr>
<tr>
<td>2. Servitude (defined under the <em>UN Slavery Convention of 1926</em> and the <em>Supplementary Convention of 1956</em>—’by the use of the word “servitude” it was intended to cover certain forms of slavery, such as that imposed on prisoners of war by the Nazis, and the traffic in women and children. The status or condition of servitude does not involve ownership and differs from slavery on that count’) (OUNHCHR, 2002, p. 7)</td>
<td>Servitude</td>
<td>Servitude</td>
</tr>
<tr>
<td>3. Institutions and practices similar to slavery (defined under the <em>UN Supplementary Convention of 1956</em>—’Debt’</td>
<td>Institutions and practices similar to slavery</td>
<td>Institutions and practices similar to slavery</td>
</tr>
</tbody>
</table>
### Condition and protection in international law

<table>
<thead>
<tr>
<th>International Regulators</th>
<th>National Legislation</th>
<th>Scholarship on Modern Slavery</th>
<th>Advocacy Organisations</th>
</tr>
</thead>
</table>

Individual practices included in modern slavery

4. **Forced labour** (defined under the ILO Convention Concerning Forced or Compulsory Labour, 1930 [No. 29]—‘All work or service that is conducted under menace of penalty and for which the person has not offered themselves voluntarily’)

   - Forced labour
   - Forced labour
   - Forced labour
   - Forced labour

5. **Human trafficking** (defined under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children—‘the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability’)

   - Trafficking
   - Trafficking in persons
   - Human trafficking
   - Human trafficking

6. **Forced marriage** (defined under the UN Supplementary Slavery Convention of 1956, which identifies three types of institutions or practices akin to slavery to which women can be subjected in the context of marriage: ‘Any institution or practice whereby:

   (i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or

   (Included as part of institutions and practices similar to slavery)

   - Forced marriage
   - Forced marriage
   - Forced marriage
   - Forced or early marriage
## Condition and protection in international law

<table>
<thead>
<tr>
<th>International Regulators</th>
<th>National Legislation</th>
<th>Scholarship on Modern Slavery</th>
<th>Advocacy Organisations</th>
</tr>
</thead>
</table>

(ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or

(iii) A woman on the death of her husband is liable to be inherited by another person’

7. **Debt bondage** (defined and prohibited in the *UN Supplementary Slavery Convention of 1956*—‘the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined’)

(Included as part of institutions and practices similar to slavery) | (Included as part of institutions and practices similar to slavery) | Bonded labour | Debt bondage and bonded labour

8. **Serfdom** (Defined under the *UN Supplementary Slavery Convention*—‘the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status’)

(Included as part of institutions and practices similar to slavery) | (Included as part of institutions and practices similar to slavery) | | |

9. **Sexual exploitation** (subject of various ILO and UN conventions)

Prostitution and sexual slavery | | Sexual exploitation |

10. **Child exploitation** (the *ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour [Worst Forms of Child Labour Convention]*, 1999 [No. 182], adopted in June)

(Included as part of institutions and practices similar to slavery) | The worst forms of child labour | Child slavery | Slavery of children
<table>
<thead>
<tr>
<th>Condition and protection in international law</th>
<th>International Regulators</th>
<th>National Legislation</th>
<th>Scholarship on Modern Slavery</th>
<th>Advocacy Organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Domestic servitude (subject of various ILO and UN conventions and related conventions)</td>
<td>1999 together with Recommendation No. 190 on the same subject.</td>
<td>practices similar to slavery</td>
<td>Domestic servitude</td>
<td>Domestic servitude</td>
</tr>
<tr>
<td>12. Migrant exploitation (the <em>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</em> was adopted by the UN in 1990 and entered into force in 2003; the ILO has also adopted a series of conventions to address the employment of migrant workers)</td>
<td>Migrant exploitation</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table B1: Summary table of agenda setting analysis—References to policy, problem and political streams (2011–17)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Policy</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domestic policy solutions (potential and current)</td>
<td>9</td>
<td>0</td>
<td>11</td>
<td>23</td>
<td>27</td>
</tr>
<tr>
<td>International policy (potential and current)</td>
<td>14</td>
<td>12</td>
<td>28</td>
<td>30</td>
<td>28</td>
</tr>
<tr>
<td>UKMSA</td>
<td>2</td>
<td>2</td>
<td>10</td>
<td>14</td>
<td>19</td>
</tr>
<tr>
<td><strong>Political</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domestic advocacy campaigns</td>
<td>7</td>
<td>12</td>
<td>9</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>International advocacy campaigns</td>
<td>15</td>
<td>32</td>
<td>24</td>
<td>28</td>
<td>29</td>
</tr>
<tr>
<td>Political reactions</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>11</td>
<td>19</td>
</tr>
<tr>
<td><strong>Problem</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Critical scandals discussed</td>
<td>8</td>
<td>6</td>
<td>5</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Indicators</td>
<td>40</td>
<td>38</td>
<td>43</td>
<td>42</td>
<td>28</td>
</tr>
<tr>
<td>Feedback</td>
<td>7</td>
<td>5</td>
<td>5</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td><strong>Policy Entrepreneurship</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prominent individuals</td>
<td>24</td>
<td>19</td>
<td>23</td>
<td>32</td>
<td>30</td>
</tr>
</tbody>
</table>

*Notes:* Documents coded $N = 433$; figures indicate the number of references of a particular code during that time period. *Source:* Factiva Media Archive (2018).
Table B2: Actor support for varied parameters of AMSA design—Compliance mechanisms, reporting requirements, scope (threshold) and supply chain definition

<table>
<thead>
<tr>
<th>Codes</th>
<th>Compliance (Mech)</th>
<th>Reporting Requirements</th>
<th>Scope (Threshold)</th>
<th>Supply Chain Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Punitive</td>
<td>Market Pressure</td>
<td>Appropriate</td>
<td>Flexible</td>
</tr>
<tr>
<td>Advocacy actors</td>
<td>22 (96%)</td>
<td>1 (4%)</td>
<td>4 (15%)</td>
<td>0</td>
</tr>
<tr>
<td>Business actors</td>
<td>4 (27%)</td>
<td>11 (73%)</td>
<td>6 (20%)</td>
<td>16 (54%)</td>
</tr>
<tr>
<td>Academia</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Legal orgs</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Consulting</td>
<td>1</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>N/A</td>
<td>35</td>
<td>8</td>
<td>24</td>
<td>24</td>
</tr>
</tbody>
</table>

Notes: Documents coded $N = 125$, related to $N = 83$ policy actors; codes of N/A indicate missing values for specific parameter. Source: Australian Department of Home Affairs: Submissions (2017) and Parliament of Australia: Submissions (2017).
### Table B3: Agenda setting analysis—Predetermined coding structure example quotations

<table>
<thead>
<tr>
<th>Policy Stream</th>
<th>Coding definition: Code any reference to policy solutions addressing modern slavery domestically (potential, proposed or current solutions)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Domestic policy solutions</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Definition</strong></td>
<td>Describes the finite but complex collection of ideas and possibilities; Policy ideas exist in a primeval soup</td>
</tr>
<tr>
<td><strong>Coding definition</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Examples</strong></td>
<td></td>
</tr>
<tr>
<td>Australian whole-government strategy for combatting modern slavery: ‘A “whole of government” approach has been implemented to coordinate across multiple agencies in response to this serious abuse of human rights. At the community level, a network of non-government service providers, including The Salvation Army, have also responded by providing policy advocacy, services, training and a voice for victims. These efforts are combined through a National Roundtable on People Trafficking convened by the Minister for Justice and Home Affairs’.</td>
<td></td>
</tr>
<tr>
<td>Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012: ‘Australia on Wednesday announced plans to make forced marriage and “slavery-like” practices prevalent in the sex industry illegal. Minister for the Status of Women Kate Ellis said the draft legislation was part of the country’s response to combat people-trafficking and modern slavery’.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>International policy</strong></th>
<th>Coding definition: Code any reference to policy solutions addressing modern slavery internationally (potential, proposed or current solutions)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
<td></td>
</tr>
<tr>
<td>Samoa Crimes Act (2013): ‘American Samoa’s anti-human trafficking law will take effect in June, after the acting governor, Lemanu Peleti Mauga, signed into law last Friday legislation that criminalizes human trafficking and involuntary servitude’.</td>
<td></td>
</tr>
<tr>
<td>UN Resolution (2015): ‘The United Nations Human Rights Council adopted a resolution today calling for an end to child, early and forced marriage, and recognising child marriage as a violation of human rights. The resolution recognised the need for national action plans to end child marriage and female genital mutilation, which affect about 15 million girls every year. Earlier this year, an African Union goodwill ambassador said the practice should be seen as a form of modern slavery that was tantamount to sanctioning child rape’.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>UKMSA</th>
<th>Code definition: Code any references to the UK Modern Slavery Act (Pre and post enactment)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
<td></td>
</tr>
<tr>
<td>UKMSA Amendments (2015): ‘Modern Slavery Bill strengthened to provide better protection for victims. The landmark legislation, which will become an Act of Parliament before the General Election, is currently being scrutinised in the House of Lords. The new changes to the Modern Slavery Bill help make sure victims of modern slavery receive the best possible support and protection by: '</td>
<td></td>
</tr>
</tbody>
</table>
* Ensuring child victims find it easier to access the statutory defence for victims;
* Providing child trafficking advocates with clearer powers to help them look after the wellbeing of child victims;
* Enabling support for victims of trafficking to be placed in statute through regulations; And
* Giving the Independent Anti-Slavery Commissioner greater powers to safeguard his independence and making clear that he can look at support and assistance for victims’.

UKMSA assessment (2016): ‘As regulatory measures go, the UK transparency rule is very light touch. Companies are required to produce a Slavery and Human Trafficking Statement for each financial year. This statement must be approved by the board of directors and signed by a director’.

**Political Stream**

**Definition:** Refers to the institutional and cultural context of the agenda or output of concern (advocacy coalitions and advocacy pressure being an important part)

<table>
<thead>
<tr>
<th>Domestic advocacy campaigns</th>
<th>Coding definition: Code any reference to Australian advocacy raising awareness of or promoting solutions to modern slavery</th>
</tr>
</thead>
</table>
|                             | Examples: Fundraising: ‘An army of supporters laced up their sneakers for the annual local Salvation Army Aged Care Plus Walkathon, raising awareness and vital funds for The Freedom Partnership, The Salvation Army’s national initiative to end modern day slavery’.
|                             | Campaign launch: ‘Launching the Australian Freedom Network at Parliament House in Canberra, Mr Forrest and leaders from the Hillsong church through to a Shia mosque in Sydney will commit to taking “measurable actions” towards ending slavery until at least 2020’.

<table>
<thead>
<tr>
<th>International advocacy campaigns</th>
<th>Coding definition: Code any reference to Australian advocacy raising awareness of or promoting solutions to modern slavery</th>
</tr>
</thead>
</table>
|                                 | Examples: Walk Free Foundation: ‘In his effort to promote liberty in Africa and all over the world, former Nigerian President, Dr. Goodluck Jonathan, on Wednesday met with Mr. Andrew Forrest, founder of The Walk Free Foundation, the world’s preeminent anti Modern slavery body, which also publishes the annual Global Slavery Index. The Global Slavery Index is published to increase awareness of the problem of modern slavery and the Walk Free Foundation, which founded the Freedom Fund, is active in helping many thousands of people caught up in modern slavery achieve their freedom.’
|                                 | ‘The Walk Free Foundation is working on several fronts. In 2014, it facilitated a Joint Declaration of Religious Leaders Against Modern Slavery, an agreement among leaders of major world faiths, to publicly reject the practice.’ |
### Problem Stream

**Definition:** Process of defining the condition that is perceived as problematic (i.e., modern slavery) (Jones et al., 2016)

<table>
<thead>
<tr>
<th>Focusing event discussed</th>
<th>Coding definition: Code any reference to jarring or sudden events that attach themselves to a problem and provide a powerful impetus for action and change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Examples:</td>
</tr>
<tr>
<td></td>
<td>Rana Plaza (2013): ‘Last year’s deadly garment-factory collapse in Savar, Bangladesh, which killed 1129 workers and injured 2515, triggered widespread discussions about corporate social responsibility across global supply chains. It also brought home the extent to which we consumers in the wealthy West are complicit in modern slavery’.</td>
</tr>
<tr>
<td></td>
<td>Four Corners Farming Exploitation (2015): ‘A RECENT Four Corners investigation revealed that serious labour exploitation is taking place on our farms. People on working holiday visas are being underpaid, overworked and sometimes even physically abused and forced to live in squalid conditions’.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Coding definition: Code any reference to means through which actors identify and monitor potential problems (i.e., metrics that measure relative severity)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Example:</td>
</tr>
<tr>
<td></td>
<td>ILO estimates: ‘The International Labour Organisation estimates that there are 20.9 million people in forced labour around the world, 11.7 million of these persons located in the Asia-Pacific region. These practices generate $US150 billion annually, $US32 billion from human trafficking alone. The Asia-Pacific region also has the largest number of child labourers in the world, almost 78 million individuals. Considering that seven countries in the Asia-Pacific region comprise Australia’s top 10 import sources, labour exploitation is a significant problem for Australian authorities, companies, investors and consumers. Recent examples are the Vietnamese, Chinese and Thai fishing industries’.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Feedback</th>
<th>Coding definition: Code any reference to assessments of analogous programs related to the problem of interest (i.e., modern slavery)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>457 Visa Program: ‘The Salvation Army to the Senate Inquiry into Australia’s temporary work visa programs says their current state is “far from adequate”. It suggests that workers who are caught should be given bridging visas, and interviewed, so they can help catch the real criminals. “We believe that in order to effectively address trafficking and all forms of modern slavery in Australia you have to have a protective framework in place for migrant workers”, Ms Moore said’.</td>
</tr>
</tbody>
</table>
Table B4: Policy formulation analysis—Directed coding structure drawn example quotations

### Core Policy Belief

**Definition:** ‘Basic priorities, goals and values related to a particular issue’ (i.e., that exploitation and modern slavery in supply chains require a regulatory response) (Heikkila et al., 2014)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Definition</th>
</tr>
</thead>
</table>
| Support for enactment of a supply chain reporting protocol | Coding definition: Code whether an organisation: (a) supports or (b) does not support the establishment of a supply chain regulation  
Examples:  
(a) Support  
Anti-Slavery Australia: ‘Anti-Slavery International is heartened by Australia’s national initiative in the international struggle against forced labour and slavery. Below we set out our thoughts on the specific questions posed in the government’s latest consultation on this issue, relating to reporting requirements for businesses regarding their supply chains’.  
Australian Council of Superannuation Investors: ‘The Council supports option three—‘Targeted regulatory action through a Modern Slavery in Supply Chains Reporting Requirement’—with further details set out in answer to the consultation questions listed below’.  
Australian Food and Grocery Council (AFGC): ‘Although the AFGC supports the introduction of Modern Slavery Reporting legislation, it is important to recognise that legislation alone will not drive change’.  
(b) Does not support  
AI Group: AI Group supports Option 2 (Non-regulatory Action) in the Public Consultation Paper. Option 3 (Disclosure legislation) would only be appropriate if Option 2 is implemented and found to be inadequate. |
Australian Human Rights Council: ‘That the proposed four mandatory criteria for reporting be introduced in Australian modern slavery legislation along with a requirement for modern statements to be approved by the board of directors or equivalent’.

<table>
<thead>
<tr>
<th>Penalties</th>
<th>Coding definition: Code whether an organisation (a) supports or (b) does not support the introduction of penalties as a compliance mechanism.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examples:</td>
<td>(a) Support</td>
</tr>
<tr>
<td></td>
<td>ACRATH: ‘We believe that there should be reasonable penalties for failure to disclose efforts to uncover slavery and/or for failure to investigate slavery in supply chains’.</td>
</tr>
<tr>
<td></td>
<td>Responsible Investment Association Australia: ‘The absence of penalties is a key contribution to the small reporting rate experienced in the UK over the last two years; and the Government should be prepared to consider revisiting this question after the initial three-year period’.</td>
</tr>
<tr>
<td></td>
<td>Qantas: ‘We consider that the proposed reporting requirement will effect greater change if organisations with a less recognised brand than the Group are equally incentivised to take meaningful action. We note that the Group is not supportive of penalties based on an evaluation of the content nor the impact of reporting. Penalties for non-compliance must relate to a failure to produce any statement’.</td>
</tr>
<tr>
<td></td>
<td>(b) Do not support</td>
</tr>
<tr>
<td></td>
<td>Australian Industry Group: ‘The UK model importantly contains no punitive penalties for non-compliance with reporting but relies on public scrutiny to hold companies to account. A similar approach should be adopted in Australia under any reporting regime’.</td>
</tr>
<tr>
<td></td>
<td>Australian Council of Superannuation Investors (do not support penalties): ‘ACSI is not recommending penalties for non-disclosure’.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Establishment of independent oversight body (modern slavery commissioner)</th>
<th>Coding definition: Code whether an organisation (a) supports or (b) does not support the introduction of an independent oversight body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examples:</td>
<td>(a) Support</td>
</tr>
<tr>
<td></td>
<td>Acrath: ‘We recommend that an independent Anti-Slavery Commissioner be appointed. In this recommendation we have heeded the advice of the Independent UK Anti-Slavery Commissioner who, during his visit to Australia in 2017, reinforced for us the need for a Commissioner who is independent’.</td>
</tr>
<tr>
<td></td>
<td>Business Council of Australia: ‘The Business Council is open to oversight as per the UK Anti-Slavery Commissioner model,</td>
</tr>
</tbody>
</table>
provided that the focus is on working with business to build capacity and lift performance in fighting modern slavery’.

Ernst and Young: ‘The establishment of an independent “commissioner” would allow not only oversight of the reporting requirement and its effectiveness, but also industry coordination of modern slavery responses, such as developing remedy mechanisms, and broader advocacy’.

(b) Does not support

Australian Chamber of Commerce: ‘Properly understood Modern Slavery reporting in Australia is an exercise in transparency, and transparency encouraging diligence and communication. It is difficult to see what role oversight can or should play in such a system’.

BHP: ‘BHP does not think the current proposal justifies such a mechanism. This contrasts with the UK Independent Anti-Slavery Commissioner whose role combines law enforcement and criminal justice with private sector engagement to encourage transparency reporting, reflecting inclusion of both the criminal offences and the reporting regime under a single piece of legislation (the UK Modern Slavery Act)’.

<table>
<thead>
<tr>
<th>Establishment of compliance register (list of firms required to adhere) and central repository for transparency statements</th>
<th>Coding definition: Whether an organisation (a) supports or (b) does not support the introduction of a compliance register and central repository for all statements produced, which would detail whether organisations have complied with their obligations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examples:</td>
<td></td>
</tr>
</tbody>
</table>
| (a) Support | Amnesty International: ‘A list of the companies that are compliant, partially compliant and non-compliant should be published to incentivise reporting compliance’.

Associate Professor Justine Nolan: ‘A central repository should be established and maintained by the Government that should be free and publicly accessible. A government operated repository would establish the repository as a legitimate and official source of information on supply chain reporting. To be useful, the repository should also include a list of the entities required to report under the legislation. In this way, compliance can be monitored by third parties’.

Financial Services Council: ‘Publishing the names of companies who have not complied via a suitably accessible central public repository as proposed’.

Fortescue Metals Group: ‘The Register should also identify companies that have not submitted statements within the nominated period’.
|
Content of reporting requirements

Coding definition: What is the organisation’s position on the reporting requirements that should be established as part of the supply chain protocol? Statements are coded as either (a) proposed reporting requirements are appropriate, (b) reporting requirements should be made more flexible or (c) reporting requirements should be made more prescriptive.

Examples:

(a) Appropriate—ACRATH: ‘We support the four areas listed in the Government Discussion Paper. They are specific but open-ended and will lead hopefully to substantive analysis of company action. For the legislation to be effective, content for company statements needs to be mandated as outlined in the four criteria’.

(a) Flexible—Australian Institute of Company Directors: ‘The regime should prioritise flexibility for organisations to report on the most relevant criteria and issues most relevant to their organisations, and avoid excessive prescription’.

(b) More prescription—Australian Council of Trade Unions (ACTU): ‘The ACTU supports the four criteria but would like to add the following, as outlined in the UN Guiding Principles on Business and Human Rights:
- information about how an entity identifies, addresses and mitigates the modern slavery risks present in its operations and supply chains and how effective the entity has been in this;
- details of how an entity tracks and monitors the effectiveness of its response to modern slavery;
- information on effectiveness that demonstrates how the entity is assessing its actions to improve performance in addressing modern slavery, rather than reporting on key performance indicators or similar’.

Supply chain definition for purposes of reporting

Coding definition: What is the organisation’s position on the definition of ‘supply chain’ for reporting purposes? Statements are coded as either (a) supply chain definitions should be broad, (b) supply chain definitions should be prescriptive or (c) supply chain definitions should be flexible.

Examples:

(a) Broad—Australian Lawyers for Human Rights: ‘An entity’s “supply chains” should be: a) defined broadly and go beyond the first tier of the supply chain; b) not be limited to core suppliers; and c) include overseas suppliers’.

Australian Lawyers for Human Rights: ‘The Government should encourage entities to report on the entirety of each supply chain. Tools for end-to-end supply chain mapping are available and numerous companies, particularly in the apparel industry, have made public the details of their entire supply chain. However, it cannot be assumed that an industry will have immediate and full visibility of its entire supply chain. The formulation of the definitions of “supply chain” and “operations” should also take into account the definitions of “business activities”, “business relationships” and “value chain” in the United Nations Guiding Principles on Business and Human Rights (UNGPs)”.

(b) Prescriptive—Australian Centre for Corporate Social Responsibility: ‘Company’s supply chain should be defined as any materials, goods and/or services which contribute to the provision of the good or service by the entity. That is all activities which
are connected with producing, selling and transporting products. An entity should be responsible for addressing human trafficking, slavery and slavery like practices in its direct supply chain and in its business relationships. This includes business partners in its value chain linked to their operations, goods, services and transportation’.

(c) Flexible—Australian Industry Group: ‘A supply chain is not simply a linear structure of different companies engaging with each other for the production of a particular product or service. Business to business arrangements are vast and multi-faceted. Reporting requirements will have varying levels of impact on different industries and businesses based on what products and services a business provides, its method of operation, and the industry in which it operates. It is essential that flexibility be provided for businesses to determine for themselves the risk of modern slavery and what steps should be taken to eliminate it’.

### Appropriate threshold

<table>
<thead>
<tr>
<th>Coding definition: What is the organisation’s position on the reporting threshold of $100 million and over? Statements are coded as either (a) the threshold should be lower, (b) the threshold is appropriate or (c) the threshold should be higher.</th>
<th>Examples:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Lower—Assent Compliance: ‘A revenue threshold of $100 million total annual revenue is much weaker than existing legislation on modern slavery, particularly the UK Modern Slavery Act, which calls on companies with a gross global turnover of £36 million (approximately $60 million). It is recommended that the Australian Government adopt a lower threshold for the following reason’.</td>
<td></td>
</tr>
<tr>
<td>(b) Appropriate—Australian Retailers Association (ARA): ‘The ARA supports the proposal to introduce mandatory Modern Slavery reporting for all organisations in Australia with turnover exceeding $100 million, and voluntary reporting for all other businesses operating under this threshold’.</td>
<td></td>
</tr>
</tbody>
</table>
Table B5: Emergence and design interview protocol

<table>
<thead>
<tr>
<th>Items</th>
<th>Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum expected duration:</strong> 60 minutes</td>
<td></td>
</tr>
</tbody>
</table>

**I. Introduction and participation consent**

- Required procedures/warm-up introduction.
  - Go through the Participant Information Statement and Consent Form provided to the interviewee prior to the interview.
  - Restate that both participation and consent are voluntary, while reminding them that they can terminate their participation at any time.
  - Request permission to record the interview.*
  - Allow the interviewee some time to complete and sign a hard copy of the Consent Form. (*If the interviewee consents to audio recording, the audio recorder will be set to record at this point.)

**Warm-up questions**

Q1. Tell me a little about the organisation you work for.
Q2. What role do you have within your organisation?
Q3. How long have you been in this role?

**II. Agenda setting—pre-Inquiry (2014–2017)**

**History:**

Please tell me about the history of the [Australian] MSA’s emergence as a policy option? What events led up to this? Who was involved?

**Problem stream:**

How would you explain the central aim of the MSA? (Prompt: a solution to what problem)

How well does the proposed MSA address this issue(s) [mentioned above]?

(Prompt discuss definition of the issue—targeted nature of modern slavery and how is this situated within a larger suite of issues relating human rights, labour standards and decent work more generally)

**Political stream:**

Were there any significant political events that influenced the emergence of the MSA as a policy option? What impact did this have? (Strong vs weak, narrow vs wide, long vs short term)

(Probe: From MSF literature—sustained pressure group campaigns, political events [i.e., party politics or scandals], international events [e.g., Australian UNHRC tenure])

**Policy stream:**

What role did the advent of other similar initiatives internationally play in the emergence of the MSA? (UK MSA, EU Directive, etc.) What impact did this have? (Strong vs weak, narrow vs wide, long vs short term)

What alternatives to the MSA were considered, if any?

Have they been abandoned or set aside? Why? (NAP vs MSA) I.e., what differentiatated the MSA from other policy options available?

**Policy entrepreneurs and coalitions:**
In your view, which individuals or organisations were most influential/instrumental in establishing the MSA as a preferred policy option?

Who were the central actors that participated in advocating for the MSA? Who was for and who was against?

Was the emergence of the MSA largely a collaborative or conflictual process? Please provide some examples of how organisations collaborated or were in conflict leading up to the Inquiry? [from when?]

**If there were conflicts:**

(A) Who were they between regarding organisations/personalities? (B) How were these conflicts resolved? (C) In whose favour?

Which persons or organisations were most strongly advocating for alternative options? (A) What were these options? (B) What was their rationale?

---

**Position and beliefs:**

What is your organisation’s position on the MSA? What would you like to see change in this last period of negotiation?

(Probe: ACF focus framing—beliefs and interests relating to the issue and the suitability of the policy instrument)

Has your organisation changed its policy or approach to the MSA since the 2017 inquiry? If it has changed, please explain how it has changed and the reasons for this??

(Probe: Did you strengthen or soften their position on the MSA? Did you align with different organisations or take a more polarised positions on what they would like to see in the MSA?)

**Conflict or collaboration:**

Since the 2017 Inquiry, in your attempts to influence the MSA’s key components:

Which organisations did you or your organisation share a collaborative relationship with specifically? (share information with, etc.)

Which organisations did you or your organisation share a conflictive relationship with specifically? (struggle to get in touch with/share information with)

Have negotiations about the specific content in the MSA largely been collaborative or conflictual? Please provide some examples of organisations you have collaborated with or were in conflict with during the policy negotiations [since the release of the inquiry recommendations].

If there were conflicts:

(A) Who were they between regarding organisations/personalities? (B) How were these conflicts resolved? (C) In whose favour?

Since the Inquiry, which actors were most active in trying to influence the specific formulation of the MSA?

Since the Inquiry, do you believe any actor or coalition of actors was more successful in their attempts to influence the content of the Act?

---


**IV. General interest**

How do you believe the State legislation will interact with the impending federal MSA?

What do you see as the central aspect of the proposed MSA, which the Inquiry and subsequent investigations have sought to understand and clarify?
How has this understanding informed the content of the proposed Act? The Inquiry report notes the wide variety of issues that the MSA seeks to cover; why do you think the reporting protocol has become such a central focus?

Are there other aspects of the Act you believe deserve more attention?

Q14. Well, that brings us to the end of the interview. Please let me know if you consider there might be anything else that you would like to share, elaborate on or add.

  a. Thank interviewee for participating and sharing their valuable insights.
  b. Stop the recording device.
  c. Collect the forms.
  d. Final salutation (be sure to give the interview a personal business card).
Appendix C Chapter 4

DV Coding Tool and Categories: California

1. **Auditing:** The extent to which the firm engages in supplier audits to evaluate compliance with company standards:
   a) Disclose if audits independent □
   b) Disclose if audits unannounced □
   c) Description of audit methodology □
   d) Description of selection process □
   e) Provide audit statistics (timeline, frequency, number) □

2. **Verification:** The extent to which the firm engages in verifying product supply chains to evaluate and address risks of human trafficking and slavery:
   a) Disclose if verifications are by a third party □
   b) Description of methodology □
   c) Provide verification statistics (timeline, frequency) □
   d) Description of management procedures after verification □
   e) Description of risk management related to third-party recruiters (specifically) □

3. **Certification:** The extent to which the firm requires certification by direct suppliers that materials incorporated into company products comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business:
   a) Description of certification requirement □
   b) Description of consequences for violation □
   c) Provide certification statistics (timeline, frequency) □

4. **Internal accountability:** The extent to which the firm maintains internal accountability standards and procedures for employees or contractors that fail to meet company standards on slavery and trafficking:
   a) Describe company standards regarding modern slavery and trafficking □
   b) Describe internal procedures for ensuring employees and contractors are compliant □
   c) Disclose who is responsible for monitoring compliance □
   d) Provide link to code of conduct related to workplace standards □
   e) Describe mechanisms in place to help workers understand fair labour requirements □
f) Describe protections for workers who lodge grievances or report violations ☐

5. **Training:** The extent to which the firm engages in training relevant company employees and management on human trafficking and slavery, particularly concerning the mitigation of risk within supply chains:
   a) Identify level or category/type of employees being trained ☐
   b) Describe nature of relevant training (topics) ☐
   c) Disclose the duration and frequency of training ☐

**DV Coding Tool and Categories: UK**

1. **Due diligence**
   a) Describes actions taken to understand businesses’ operating context ☐
   b) Details about risk monitoring procedures ☐
   c) Details about risk evaluation procedures ☐
   d) Details about risk management procedures (plans to address the risk of/actual modern slavery) ☐
   e) Describe stakeholder consultation procedures ☐

2. **Performance measurement and effectiveness**
   a) Describe measures taken to combat modern slavery ☐
   b) Describe performance indicators in place ☐
   c) Describe visibility and oversight of suppliers ☐
   d) Describe leverage over supply chain ☐

3. **Policies**
   a) Describe the policy development process ☐
   b) Describe policies related to suppliers and procurement—supplier code of conduct ☐
   c) Describe recruitment policies ☐
   d) Describe employee code of conduct ☐
   e) Describe policies related to remedy, compensation and justice for victims ☐
   f) Describe training and awareness policies ☐
   g) Describe incentives for combatting MS in these policies ☐

4. **Risk management and mitigation**
   a) Details about risk monitoring procedures ☐
b) Details about risk evaluation procedures ☐

c) Details about risk management procedures (plans to address the risk of/actual modern slavery) ☐

5. Training

a) Identify level or category/type of employees being trained ☐
b) Describe nature of relevant training (topics) ☐
c) Disclose the duration and frequency of training ☐

Table C1: Quality disclosure coding and reliability analysis—California

<table>
<thead>
<tr>
<th>Categories</th>
<th>Items (All Score 0 or 1)</th>
<th>Cronbach’s Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Auditing</strong></td>
<td>(The extent to which the firm engages in supplier audits to evaluate compliance with company standards)</td>
<td>$\alpha = .818$</td>
</tr>
<tr>
<td></td>
<td>1. Firm reports within the category (any mention of auditing)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Firm discloses if audits unannounced or announced</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm discloses if audits independent or not</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm provides a description of audit methodology</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Firm provides a description of the auditing selection process</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Firm provides a description of management procedures after audit (in case of issues)</td>
<td></td>
</tr>
<tr>
<td><strong>Verification</strong></td>
<td>(The extent to which the firm engages in verifying product supply chains to evaluate and address risks of human trafficking and slavery)</td>
<td>$\alpha = .710$</td>
</tr>
<tr>
<td></td>
<td>1. Firm reports within the category (any mention of verification)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Firm discloses if verifications are by a third party</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm provides a description of the verification methodology</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm provides verification statistics (timeline, frequency)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Firm provides a description of management procedures after verification (in case of issues)</td>
<td></td>
</tr>
<tr>
<td><strong>Certification</strong></td>
<td>(The extent to which the firm requires certification by direct suppliers that materials incorporated into company products comply with the laws regarding slavery and human)</td>
<td>$\alpha = .604$</td>
</tr>
<tr>
<td></td>
<td>1. Firm reports within the category (any mention of certification)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Firm provides a description of certification requirements</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm provides a description of consequences for violation of requirements</td>
<td></td>
</tr>
<tr>
<td>Categories</td>
<td>Items (All Score 0 or 1)</td>
<td>Cronbach’s Alpha</td>
</tr>
<tr>
<td>------------</td>
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<td>------------------</td>
</tr>
<tr>
<td>trafficking of the country or countries in which they are doing business</td>
<td>1. Firm reports within the category (any mention of internal accountability)</td>
<td>$\alpha = .736$</td>
</tr>
<tr>
<td>Internal accountability</td>
<td>2. Firm describes internal company standards regarding modern slavery and trafficking</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm describes internal procedures of ensuring employees and contractors are compliant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm provides a description of consequences for violation of requirements</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Firm discloses who is responsible for monitoring compliance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Firm provides a link to code of conduct related to workplace standards</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7. Firm describes mechanisms in place to help workers understand fair labour requirements</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8. Firm describes avenues for workers to lodge grievances or report violations</td>
<td></td>
</tr>
<tr>
<td>Training</td>
<td>1. Firm reports within the category (any mention of training)</td>
<td>$\alpha = .760$</td>
</tr>
<tr>
<td></td>
<td>2. Firm identifies level or category/type of employees being trained</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm describe nature of relevant training (topics)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm discloses the duration and frequency of training</td>
<td></td>
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</tbody>
</table>

Entire quality coding scale $\alpha = .859$

Table C2: Quality disclosure coding and reliability analysis—UK

<table>
<thead>
<tr>
<th>Categories</th>
<th>Items (All Score 0 or 1)</th>
<th>Cronbach’s Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Due diligence</td>
<td>1. Firm reports within the category (any mention of due diligence)</td>
<td>$\alpha = .820$</td>
</tr>
<tr>
<td></td>
<td>2. Firm describes actions taken to understand businesses operating context</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm provides details about risk monitoring procedures (e.g., auditing procedure, etc.)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm provides details about risk evaluation procedures (e.g., materiality assessment)</td>
<td></td>
</tr>
<tr>
<td>Categories</td>
<td>Items (All Score 0 or 1)</td>
<td>Cronbach’s Alpha</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>5. Firm provides details about</td>
<td>5. Firm provides details about risk management procedures (e.g., plans to address the risk of/actual modern slavery found)</td>
<td></td>
</tr>
<tr>
<td>Performance measurement</td>
<td>1. Firm reports within the category (any mention of performance measurement and effectiveness)</td>
<td>$\alpha = .767$</td>
</tr>
<tr>
<td>and effectiveness</td>
<td>2. Firm describe performances indicators in place</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm describes overall effectiveness of approach</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm describes visibility and oversight of suppliers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Firm explains plan for continuous improvement</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policies</td>
<td>1. Firm reports within the category (any mention of certification)</td>
<td>$\alpha = .604$</td>
</tr>
<tr>
<td></td>
<td>2. Firm describes the policy development process</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm describes recruitment policies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm describes business code of conduct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Firm describes policies related to modern slavery (e.g., 1. prevention detection, etc.; 2. remedy, compensation and justice for victims)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Firm describes policies related to suppliers and procurement (e.g., supplier code of conduct)</td>
<td></td>
</tr>
<tr>
<td>Training</td>
<td>1. Firm reports within the category (any mention of training)</td>
<td>$\alpha = .791$</td>
</tr>
<tr>
<td></td>
<td>2. Firm identifies level or category/type of employees being trained</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Firm describe nature of relevant training (topics)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Firm discloses the duration and frequency of training</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entire quality coding scale</td>
<td>$\alpha = .855$</td>
<td></td>
</tr>
</tbody>
</table>
# Appendix D Chapter 5

## Table D1: Compliance professional interview protocol

<table>
<thead>
<tr>
<th>Items</th>
<th>Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum expected duration</strong>: 60 minutes</td>
<td>AMSA = Australian Modern Slavery Act (2018)</td>
</tr>
<tr>
<td><strong>I. Introduction and participation consent</strong></td>
<td>Required procedures/warm-up introduction</td>
</tr>
<tr>
<td></td>
<td>e. Go through the Participant Information Statement and Consent Form provided to the interviewee prior to the interview.</td>
</tr>
<tr>
<td></td>
<td>f. Restate that both participation and consent are voluntary, while reminding them that they can terminate their participation at any time.</td>
</tr>
<tr>
<td></td>
<td>g. Request permission to record the interview.*</td>
</tr>
<tr>
<td></td>
<td>h. Allow the interviewee some time to complete and sign a hard copy of the Consent Form. (*If the interviewee consents to audio recording, the audio recorder will be set to record at this point).</td>
</tr>
</tbody>
</table>

Q1. Do you have any questions, or do you require any further details before we commence?

Q2. (A) Please tell me about your role within your organisation. What are your key tasks and to whom do you report? (B) What is the nature of your involvement in ethical sourcing and modern slavery in supply chains?

**II. General view on the MSA**

Q7. How important is the AMSA (Australian Modern Slavery Act)? Why do you say that? (Do you think it will be a successful intervention)

**III. Responsibility, policies, practices and understanding**

Q3. Who has ultimate responsibility for modern slavery in your organisation? (Probe—Procurement? CSR? Legal?)

Q4. (A) Please describe your company’s response in anticipation of and since enactment of the AMSA. (Probe—any substantial practice changes and policy changes? Reviewed and strengthened existing policies?) (B) When were these actions taken?

Q5. How have these activities affected understanding of modern slavery across your organisation? (Probe—Increasing consensus among members of the organisation? Or not. Isolated in certain groups or widespread?)

Q6. Have these actions led to more standardised language within your organisation related to modern slavery in supply chains? (Can you provide an example?)

**V. Collaboration**

Q7. Have the requirements of the AMSA led to any increased collaboration between divisions/departments/units within the organisation? (Probe: both internationally and domestically) (Please provide an example.)

Q8. Has engaging AMSA reporting enhanced communication and collaboration with any peer organisations (i.e., competitors and similar organisations to your own)? (Please provide an example.)

Q9. (A) Has the AMSA led to increased collaboration with external stakeholders? (e.g., civil society [NGOs], regulators, shareholders, etc.) (Please provide an example.)
Notes:

<table>
<thead>
<tr>
<th>Items</th>
<th>Maximum expected duration: 60 minutes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Items</strong></td>
<td><strong>Notes:</strong></td>
</tr>
<tr>
<td><strong>VI. Motivations and values</strong></td>
<td></td>
</tr>
<tr>
<td>Q10. Describe the values of your organisation.</td>
<td>AMSA = Australian Modern Slavery Act (2018)</td>
</tr>
<tr>
<td>Q11. How well do the values underlying the AMSA align with those values?</td>
<td></td>
</tr>
<tr>
<td>Q12. Have the requirements of the AMSA highlighted differences between your corporate values and practices? (e.g., gaps between the standards employed to manage labour standards and behaviour related to procurement)</td>
<td></td>
</tr>
<tr>
<td>Q13. How important is engaging with the requirements of the AMSA to your organisation’s culture and values?</td>
<td></td>
</tr>
<tr>
<td><strong>VII. Costs and benefits</strong></td>
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<tr>
<td>Q14. What are the costs and benefits of engaging in AMSA disclosure? (Probe—barriers and enablers to compliance)</td>
<td></td>
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<tr>
<td>Q15. How important is engaging in disclosure practices under the AMSA to your competitive advantage? (Do you feel not engaging with the AMSA would impact your competitive position?)</td>
<td></td>
</tr>
<tr>
<td>Q16. How important is disclosure under the AMSA to your risk management strategy? Why?</td>
<td></td>
</tr>
<tr>
<td><strong>VIII. Intermediary relationships</strong></td>
<td></td>
</tr>
<tr>
<td>(A) Has your organisation engaged any external consultancies to advise you on your approach to modern slavery?</td>
<td></td>
</tr>
<tr>
<td>(B) If you can say, which consultancies or advisory organisations?</td>
<td></td>
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<tr>
<td>(C) If yes to (A), is this an ongoing relationship? Or one-off advice?</td>
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<tr>
<td>(D) How influential/valuable has this relationship been? (Why do you say that?)</td>
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<tr>
<td>(E) What motivated your company to engage an external party?</td>
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<tr>
<td>(F) Who at your organisation was the primary contact for this intermediary (i.e., what role)?</td>
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<tr>
<td>(G) Which functions within the business did the intermediary primarily work with?</td>
<td></td>
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<tr>
<td><strong>Final interview wrap-up</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Concluding the interview and thanking the interviewee</strong></td>
<td>Well, that brings us to the end of the interview. Please let me know if you consider there might be anything else that you would like to share, elaborate on or add.</td>
</tr>
</tbody>
</table>
### Table D2: Intermediary interview protocol

<table>
<thead>
<tr>
<th>Items</th>
<th>Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum expected duration: 60 minutes</td>
<td>AMSA = Australian Modern Slavery Act (2018)</td>
</tr>
</tbody>
</table>

#### I. Introduction and participation consent

- Required procedures/warm-up introduction
  - i. Go through the Participant Information Statement and Consent Form provided to the interviewee prior to the interview.
  - j. Restate that both participation and consent are voluntary, while reminding them that they can terminate their participation at any time.
  - k. Request permission to record the interview.*
  - l. Allow the interviewee some time to complete and sign a hard copy of the Consent Form.

(*If the interviewee consents to audio recording, the audio recorder will be set to record at this point).

- Q1. Do you have any questions or do you require any further details before we commence?
- Q2. (A) Please tell me a bit about your role within your organisation. (B) What is the nature of your involvement in ethical sourcing and modern slavery in supply chains specifically?

#### II. General view on the MSA

- Q3. Do you believe the MSA will be a successful intervention? (i.e., Will it encourage improvements in policies and practices related to ethical sourcing and human rights protection?)
  - a) Why or why not?
  - b) What are the major benefits of the AMSA?
  - c) What are the major problems with it?

#### III. Policies, practices and understanding

- Q4. Please describe the advice you have given companies regarding their response to modern slavery reporting requirements. (Probe—any substantial practice changes and policy changes? Review and strengthen existing policies and practices?)
- Q5. How have firms responded to this advice? (Probe—are firms amenable and open or resistant?)
- Q6. Do firms have a good understanding of what constitutes modern slavery? Why/Why not? (Probe—consensus among members of the organisation? Isolated in certain groups or widespread?) (Probe—Language, i.e., comparable terminology used in reference, or still some confusion?)

#### IV. Collaboration

- Q7. In your experience, have the requirements of the AMSA led to any increased collaboration within companies subject to the law (divisions, business units, etc.)? Why/why not? Please provide an example.
- Q8. Has engaging AMSA reporting enhanced communication and collaboration amongst peer organisations (i.e., competitors or organisations that are similar)? Please provide an example.
- Q9. Has the AMSA process led to increased collaboration with external stakeholders? (e.g., civil society [NGOs], regulators, shareholders, etc.)
  - a) If yes, provide an example. If not, why not?
| Items | Notes: **Maximum expected duration**: 60 minutes  
**AMSA** = Australian Modern Slavery Act (2018) |
|---|---|
| **V. Motivations and values** | Q10. In your experience, what are the major motivating factors to engage in modern slavery reporting (given that there are no punitive sanctions)?
   b) Competitive advantage? (Do you feel not engaging with the AMSA would impact your competitive position?)
   c) Risk and reputation management?
   d) Ethical motivations?
| | Q11. In your view, what are the costs and benefits of engaging in high-quality AMSA reporting? (Probe—barriers and enablers to compliance)
| | Q12. In your experience, have the requirements of the AMSA been successful in highlighting differences between company values and practices related to ethical sourcing and supply chain transparency? (e.g., gaps between the standards employed to manage labour standards and behaviour related to procurement)
| **VI. Bird’s-eye view experiences** | Q13. If you can, could you please share a story of a company/industry that has successfully adapted to the requirements of the AMSA and one where they have not?
   a) What are the critical differentiating factors between these? (Probe—What policy and practice changes support the success story? What do you think explains the unsuccessful example?)
| **VII. Final interview wrap-up** | Q14. Well, that brings us to the end of the interview. Please let me know if you consider there might be anything else that you would like to share, elaborate on or add.
   e. Thank interviewee for participating and sharing their valuable insights.
   f. Stop the recording device.
   g. Collect the forms.
   h. Final salutation (be sure to give the interview a personal business card).
<table>
<thead>
<tr>
<th>First-order Codes</th>
<th>Second-order Categories</th>
<th>Third-order Categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>IF70D—We have a strong baseline because of our business model (Benefit corporation)</td>
<td>1. A strong baseline of extant governance arrangements</td>
<td></td>
</tr>
<tr>
<td>IF3CC—We have a strong base-line because of our pre-AMSA commitment to our suppliers</td>
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<tr>
<td>IF4CR—Our robust audition program gives us a strong baseline</td>
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<tr>
<td>IF1BL—Rana Plaza has led to a strong baseline</td>
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<tr>
<td>IF2BS—We have a long history of collaboration with NGOs</td>
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<td>IF6KD—Strong baseline because of our FLA accreditation</td>
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<tr>
<td>IF9SM—We have a strong baseline because we reported under the UKMSA</td>
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<tr>
<td>IF2BS—We have a strong baseline because we reported under the UKMSA, which strengthened our supplier relationships</td>
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<tr>
<td>IF1BL—Having a small supplier base has given us a strong baseline</td>
<td></td>
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</tr>
<tr>
<td>IF8RG—Creating a five-step engagement plan</td>
<td>2. Response planning</td>
<td>Policy and practice adaptation</td>
</tr>
<tr>
<td>IF10WG—Creating a robust and flexible framework for our response</td>
<td></td>
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<tr>
<td>IF4CR—Conducted a general policy update</td>
<td></td>
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<tr>
<td>IF10WG—Implemented trading clause updates</td>
<td></td>
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<tr>
<td>IF8RG—General policy update focusing on risk</td>
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<td>IF3CC—Developing a remediation policy</td>
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<tr>
<td>IF4CR—Developed whistle blower policy</td>
<td></td>
<td></td>
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<tr>
<td>IF3CC—Worker voice policies</td>
<td></td>
<td></td>
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<tr>
<td>IF2BS—Kicking over rocks in the supply chain</td>
<td>3. Policy alignment</td>
<td></td>
</tr>
<tr>
<td>IF1BL—New audit procedures</td>
<td></td>
<td></td>
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<tr>
<td>IF3CC—Increased engagement with our visible supply chain</td>
<td></td>
<td></td>
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<tr>
<td>IF8RG—Increased our engagement with Tier 1 suppliers</td>
<td></td>
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<tr>
<td>IF8RG—Investigating deeper tiers of the supply chain</td>
<td></td>
<td></td>
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<tr>
<td>IF9SM— Initiated deeper investigations of the supply chain</td>
<td>4. Practice adaptation: Increased supply chain investigation</td>
<td></td>
</tr>
<tr>
<td>IF9SM—Mapping our supply chain</td>
<td></td>
<td></td>
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<tr>
<td>IF7OD—Radical transparency plan for mapping the supply chain</td>
<td></td>
<td></td>
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<tr>
<td>IF2BS—New focus on domestic operations, starting from scratch</td>
<td>5. Practice adaptation: Domestic supply chain investigation</td>
<td></td>
</tr>
<tr>
<td>IF8RG—New focus on domestic and international operations</td>
<td></td>
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<tr>
<td>IF9SM—Initiated deeper investigations of the supply chain</td>
<td></td>
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<tr>
<td>First-order Codes</td>
<td>Second-order Categories</td>
<td>Third-order Categories</td>
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<tr>
<td>IF10WG</td>
<td>Prompted a look at the operational side of our operations</td>
<td>6. Pushing the envelope</td>
</tr>
<tr>
<td>IF3CC</td>
<td>Looking for ways to go beyond auditing</td>
<td>7. Establishing a cross-functional MS working group</td>
</tr>
<tr>
<td>IF7OD</td>
<td>Looking for ways to go beyond the standard approach</td>
<td>8. Intermediary promotion cross-functional collaboration as a priority</td>
</tr>
<tr>
<td>IF4CR</td>
<td>A cross-functional team has been established</td>
<td>Creating a response infrastructure (internally)</td>
</tr>
<tr>
<td>IF9SM</td>
<td>Collaboration on modern slavery (MS) is cross-functional but led by the sustainability committee</td>
<td>9. Aligning procurement and ethical sourcing functions</td>
</tr>
<tr>
<td>IF3IS</td>
<td>Ethical sourcing committee has been expanded cross-functionally</td>
<td></td>
</tr>
<tr>
<td>IF9SM</td>
<td>A sustainability board committee has been established</td>
<td></td>
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<tr>
<td>IF10WG</td>
<td>We have finished our policy review, and have established a supply chain working group</td>
<td></td>
</tr>
<tr>
<td>II8NF</td>
<td>We kick off our engagement by demonstrating who the issue is; cross-functional</td>
<td></td>
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<tr>
<td>II4KG2</td>
<td>We work with a cross-functional working group</td>
<td></td>
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<tr>
<td>II9PC</td>
<td>We suggest the creation of a cross-functional working group</td>
<td></td>
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<tr>
<td>II11SJ</td>
<td>An effective response requires a cross-functional working group</td>
<td></td>
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<tr>
<td>II9PC</td>
<td>Half of our clients have set up an MS steering committee</td>
<td></td>
</tr>
<tr>
<td>II11SJ</td>
<td>Leadership sign-off has led to cross-functional collaboration</td>
<td></td>
</tr>
<tr>
<td>II9PC</td>
<td>No way one team could effectively manage this</td>
<td></td>
</tr>
<tr>
<td>IF3CC</td>
<td>The AMSA function has been given more voice</td>
<td></td>
</tr>
<tr>
<td>IF4CR</td>
<td>A new function that includes CSR and procurement has been established</td>
<td></td>
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<tr>
<td>II11SJ</td>
<td>Integration between procurement and ethical sourcing is key</td>
<td></td>
</tr>
<tr>
<td>IF8RG</td>
<td>Aligning procurement incentives with the intent of the AMSA</td>
<td></td>
</tr>
<tr>
<td>IF4CR</td>
<td>Aligning procurement incentives with the intent of the AMSA</td>
<td></td>
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<tr>
<td>IF10WG</td>
<td>Aligning procurement incentives with the intent of the AMSA on the operational side</td>
<td></td>
</tr>
<tr>
<td>IF6KD</td>
<td>Collaboration between MS function and customer-facing staff has increased</td>
<td>10. Lone guiding lights</td>
</tr>
<tr>
<td>IF1BL</td>
<td>Chief financial officer (CFO) coordinating across functions</td>
<td></td>
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<td>First-order Codes</td>
<td>Second-order Categories</td>
<td>Third-order Categories</td>
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<tr>
<td>IF4CR—The ethical sourcing team is driving collaboration</td>
<td></td>
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</tr>
<tr>
<td>IF9SM—The ethical sourcing team is driving collaboration</td>
<td></td>
<td></td>
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<tr>
<td>IF2BS—Senior management has given us the power to veto orders</td>
<td></td>
<td>11. Executives empowering the MS function</td>
</tr>
<tr>
<td>IF3CC—Senior management has empowered us to speak with investors and customers</td>
<td></td>
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<tr>
<td>IF6KD—Buy-in from leadership gives us permission to effect change</td>
<td></td>
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<tr>
<td>IF4CR—Board is supporting roll-out across all business units</td>
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<tr>
<td>IF1BL—Board member is coordinating response</td>
<td></td>
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<tr>
<td>IF1BL—Board engagement frees up resources for us</td>
<td></td>
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<tr>
<td>II11SJ—We suddenly have budget now that leaders have bought in</td>
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<tr>
<td>IF2BS—We have been given a direct report to the CFO</td>
<td></td>
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<tr>
<td>IF2BS—Act has given us leverage to make the changes we need to</td>
<td></td>
<td>12. Act empowering the MS function</td>
</tr>
<tr>
<td>IF3CC—Act makes conversations with the board non-negotiable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IF4CR—AMSA has given us more access to executives</td>
<td></td>
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<tr>
<td>IF6KD—AMSA gives us leverage to engage with executives</td>
<td></td>
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<tr>
<td>IF10WG—AMSA gives us a lot of leverage and traction</td>
<td></td>
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<tr>
<td>IF2BS—The Act gives us credibility to engage with senior leadership</td>
<td></td>
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<tr>
<td>IF6KD—The Act allows us to push this issue to board level</td>
<td></td>
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<tr>
<td>IF2BS—The board sign of requirements gives this issue visibility</td>
<td></td>
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<tr>
<td>IF6KD—The Act gives us a direct line to executives and makes MS a priority</td>
<td></td>
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<tr>
<td>IF10WG—The Act is a trump card that gives me far more power</td>
<td></td>
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<tr>
<td>IF4CR—The AMSA has engaged the executive team, they want evidence of ethical sourcing</td>
<td></td>
<td>13. Act has increased executive engagement</td>
</tr>
<tr>
<td>IF6KD—Our CEO prioritises this issue</td>
<td></td>
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<tr>
<td>IF6KD—The AMSA has accelerated knowledge uptake from executives</td>
<td></td>
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<tr>
<td>IF8RG—Our CFO and CEO are becoming more and more involved</td>
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<tr>
<td>IF1BL—This has become more important to the board and they have assigned a legal counsel</td>
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<tr>
<td>IF8RG—This has become a more important agenda item for the board</td>
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<tr>
<td>II10SA—The Act has really engaged leaders</td>
<td></td>
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<tr>
<td>IF10WG—Invoking values has been helpful in shaping decisions around trade-offs</td>
<td></td>
<td>14. Coupling values and action</td>
</tr>
<tr>
<td>IF2BS—The Act is an opportunity to demonstrate our practices reflect our values</td>
<td></td>
<td>Translating and promoting the response (internally and externally)</td>
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<tr>
<td>First-order Codes</td>
<td>Second-order Categories</td>
<td>Third-order Categories</td>
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<tr>
<td>IF2BS—Values already drive a lot of our sourcing decisions</td>
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<tr>
<td>IF10WG—Our values me leverage</td>
<td></td>
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<tr>
<td>IF3CC—Values are being used for internal advocacy</td>
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<tr>
<td>IF3CC—Values give me a platform to discuss MS</td>
<td></td>
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<tr>
<td>IF70D—Aligning brand values and action</td>
<td></td>
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<tr>
<td>IF4CR—Nuanced understanding of MS across the organisation requires education</td>
<td></td>
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<tr>
<td>IF6KD—Managing diffusion of issue and response understanding</td>
<td></td>
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<tr>
<td>IF9SM—Correcting misconceptions of MS as a form of exploitation</td>
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<tr>
<td>IF7OD—Standardised training / education</td>
<td></td>
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<tr>
<td>IF6KD—Embedding centralised framework to shape responses</td>
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<tr>
<td>IF6KD—Senior leadership discussing MS with investors</td>
<td></td>
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<tr>
<td>IF6KD—Investor roadshows promoting MS plan to investors</td>
<td></td>
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<tr>
<td>IF9SM—Training high-risk suppliers on ethical approach and MS within that</td>
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<tr>
<td>IF4CR—Educating local suppliers and establishing networks to discuss slavery</td>
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<tr>
<td>IF10WG—Emphasising the importance of messaging around MS and brand perception from customers</td>
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<tr>
<td>IF7OD—Managing customer perceptions has become more important since the Act</td>
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<tr>
<td>IF6KD—Resources have become increasingly available to partner with civil society</td>
<td></td>
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<tr>
<td>IF10WG—Civil society collaboration on MS is high on the to do list</td>
<td></td>
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<tr>
<td>IF4CR—Civil society organisations are creating a non-competitive space for discussing the Act and its requirements</td>
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<tr>
<td>II2BSF—Collaboration contingent on risk exposure</td>
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<tr>
<td>II12WF—Collaboration contingent on risk exposure</td>
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<tr>
<td>II2BSF—Collaboration contingent on risk exposure</td>
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<tr>
<td>II5MC—Industry-specific collaboration</td>
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<tr>
<td>II5MO—Information sharing within industries</td>
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<tr>
<td>II2BSF—Collaboration in certain industries</td>
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<tr>
<td>II8NF—Collaboration is embryonic but happening in some industries</td>
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<tr>
<td>IF3CC—Here has been some cross-industry collaboration, but apparel is siloed</td>
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<td>15. Managing terminology and understanding internally</td>
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<td>16. Managing messaging to primary stakeholders</td>
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<tr>
<td></td>
<td>17. Establishing a dialogue and networks with civil society organisations</td>
<td></td>
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<td></td>
<td>18. Collaboration between competitors: Patterns and practices</td>
<td></td>
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<tr>
<td></td>
<td>Collaboration dynamics with competitors</td>
<td></td>
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<tr>
<td>First-order Codes</td>
<td>Second-order Categories</td>
<td>Third-order Categories</td>
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<tr>
<td><strong>IF3CC</strong>—We have a different supply chain model so need to look for cross-industry collaborative partners</td>
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<tr>
<td><strong>IF3CC</strong>—We have adopted practices form the Thai fishing industry</td>
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<tr>
<td><strong>IF4CR</strong>—This is a non-competitive issue; we are part of a cross-industry group</td>
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<tr>
<td><strong>IF4CR</strong>—We sit on a MS community of practice committee, where we share our learnings</td>
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<tr>
<td><strong>IF9SM</strong>—We are part of an industry group that focuses on this and other sustainability issues</td>
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<tr>
<td><strong>IF10WG</strong>—Conferences are emerging across the industry (food)</td>
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<tr>
<td><strong>II10SA</strong>—Only industry-specific collaboration is occurring</td>
<td></td>
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<tr>
<td><strong>II7MI</strong>—Importance of the Act (creates leverage points for stakeholders)</td>
<td></td>
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<tr>
<td><strong>II9PC</strong>—Collaboration is happening because of a realisation the issue is too big for them</td>
<td></td>
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<tr>
<td><strong>II9SM</strong>—The Act has created a universal language that is allowing for collaboration across competitors</td>
<td>19. Drivers of competitor collaboration</td>
<td></td>
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<tr>
<td><strong>II6MO</strong>—Collaboration is occurring despite concerns about competition regulation: viewed as pre-competitive</td>
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<td><strong>II6MO</strong>—Businesses share risk in their supply chains</td>
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<td><strong>IF2BS</strong>—MS work is seen as competitive</td>
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<td><strong>IF8NF</strong>—Big businesses want to use their responses as a differentiator</td>
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<td><strong>IF3CC</strong>—We are making changes to get competitive advantage</td>
<td>20. Limiters of competitor collaboration</td>
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<td><strong>IF3CC</strong>—Bigger brands have been less willing to cooperate to protect their competitive advantage</td>
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<td><strong>IF3CC</strong>—Collaboration among brands is still limited, but increased with NGOs</td>
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<td><strong>IF3CC</strong>—The ratings that companies are subjected to has stymied collaboration</td>
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<td><strong>IF9SM</strong>—We are sharing and collaborating despite strict competition protocols, but this is limiting</td>
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<td><strong>IF4CR</strong>—Despite concerns about the competition act, collaboration is occurring</td>
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<td><strong>II9PC</strong>—It’s important to do things properly because we don’t want to look stupid in front of the board</td>
<td>21. Intermediary engagement with senior management</td>
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<tr>
<td><strong>II1AB</strong>—When we engage it is usually through management or at board level</td>
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<tr>
<td><strong>II4KG2</strong>—We deal with senior management</td>
<td>Intermediary–firm relationships</td>
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<td>First-order Codes</td>
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<tr>
<td>II6MO—Access to senior management is difficult, as MS is just one of many issues</td>
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<tr>
<td>II6MO—Big companies are reticent to give us board access because of the laundry list of issues they deal with</td>
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<tr>
<td>II8NF—We ensure we work with a change champion to push things along</td>
<td>22. Engagement with a change champion (usually MS function)</td>
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<tr>
<td>II6MO—To do this well you need a change champion</td>
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<td>II2BSF—We don’t work with a specific function we look for a change champion</td>
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<td>II2BSF—Firm engagement activities (referrals)</td>
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<td>II4KG2—Relationship with firm is contingent on structural factors; i.e. resources and where they view responsibility should rest</td>
<td>23. Engagement varies</td>
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<tr>
<td>II10SA—Engagement varies considerably (ESG team, procurement or CEOs)</td>
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<tr>
<td>II9PC—All of our engagements are very bespoke</td>
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<tr>
<td>II8NF—PSF engagement activities include cost-effective product offerings</td>
<td>24. Enlisting activities (PSFs)</td>
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<tr>
<td>II2KG1—PSF engagement activities include director speaking tours</td>
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<td>II2BSF—We have shifted towards one-on-one dialogue with firms</td>
<td>25. NGO-enlisting activities</td>
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<tr>
<td>II2BSF—We organise events that get businesses into a room to talk about solutions</td>
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<tr>
<td>II2BSF—We engage executives through field trips where we expose them to the realities of MS</td>
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<tr>
<td>II2BSF—We go on speaking tours to mosques and churches where we get a lot of engagement from companies</td>
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<td>II5MC—We offer one-on-one conversations to understand company concerns</td>
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<tr>
<td>II5MC—We have used webinars during COVID to attract companies</td>
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<tr>
<td>II9PC—We try and tailor our advice so the clients can control their approach</td>
<td>26. Advice focuses on client ownership (PSFs)</td>
<td>Intermediary advice</td>
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<tr>
<td>II8NF—We draft advice but the final product needs to be client led</td>
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<tr>
<td>II9PC—Based on aspiration of our clients</td>
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<tr>
<td>II9PC—We tailor our advice to our clients’ needs</td>
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<td>II9PC—Everything flows from assessing the aspiration of our clients</td>
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<td>II3KG1—Advice is based on the client’s maturity and ambitions: more mature clients are pushed; less mature are put through a socialisation process</td>
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<td>II3KG1—Our advice is different for more or less mature clients</td>
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<tr>
<td>II9PC—Tailored to our clients’ values and their stakeholder requirements</td>
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<td>II9PC—Advice is based on our clients’ needs and resources</td>
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<td>First-order Codes</td>
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<td>II8NF—Our advice focuses on honest disclosure</td>
<td>27. Advice focuses on honest and compliant reporting (PSFs)</td>
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<tr>
<td>II3KGI—Advice focused on a compliant statement</td>
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<td>II6MO—Advice on aligning actions with statement</td>
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<td>II11SJ—Advice focus is on monitoring but beyond audit a standard audit</td>
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<td>II10SA—Advice focus is on improving worker voice</td>
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<td>II12WF—Advice focus is on remediation plans</td>
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<td>II11SJ—Advice focused on going beyond policy reviews and encouraging deeper engagement</td>
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<tr>
<td>II11SJ—Advice focuses on two key things: governance and supplier engagement</td>
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<td>II5MC—We advise firms to create a sustainable plan for the future</td>
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<td>II2BSF—Reporting won’t solve this; we advise companies that they need a sustainable plan</td>
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<td>II2BSF—Advice focuses on a flexible plan that adapts to the realities of MS</td>
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<tr>
<td>II2BSF—Provide advice on different levels of response and how to ratchet up</td>
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<tr>
<td>II8NF—We are content experts and have developed trust</td>
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<td>II2BSF—We do a lot of brokering between experts</td>
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<td>II2BSF—We have strong cultural expertise and on the ground knowledge</td>
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<td>II2BSF—Consultancies know a lot about the practicalities of the legislation. Their advice does not have much impact on the ground</td>
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<td>II2WF—Businesses like the fact that we know what’s happening on the ground</td>
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<td>II12WF—Exerting influence through investor relationships</td>
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<td>II12WF—Influence through research (holding to account) and collaboration naming and shaming</td>
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<td>II2BSF—Campaigning but with consultation (with businesses that campaigns target)</td>
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<td>II2BSF—We engage in collaborative campaigning (work with the companies we campaign about)</td>
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<td>II2BSF—We are transitioning to a name and fame approach</td>
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<td>II10SA—We try to humanise the issue through telling stories of MS and trafficking</td>
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<td>II6Mo—Influential through firm capacity building</td>
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<td>II9PC—We are influential when we give the clients the ability to make their our decisions</td>
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<td>II9PC—We help clients make their own decisions; i.e. what is right for them</td>
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<td>Intermediary influence</td>
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<td>31. Civil society influencing activities</td>
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<td>32. Sources of influence (PSFs)</td>
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<td>First-order Codes</td>
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<tr>
<td>II4KG2—We understand the socialisation process businesses need to go through</td>
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<td>II4KG2—We are able to shift conversations, as advocates and consultants</td>
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<td>II9PC—Influential because of our technical expertise and knowledge about what</td>
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<td>is going on in the market</td>
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<td>II8NF—Our influence varies based on the type of company: e.g. public companies</td>
<td>33. Influence is contingent on the client’s characteristics</td>
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<td>want to do it right, some family businesses want to, but many want to tick the box</td>
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<td>II6MO—Influence is high but varies based on client resources</td>
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<td>II4KG2—Influence varies based on the values of the organisation</td>
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<td>II3CC—NGOs provide on-the-ground expertise</td>
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<td>II3CC—NGOs that provide on-the-ground expertise are valuable, report writing is</td>
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<td>less so</td>
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<td>II3CC—NGOs who provide remediation tools and on-the-ground expertise are</td>
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<td>more valuable than report writers</td>
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<td>IF70D—NGOs have on-the-ground advice, which we need; consultancies are still</td>
<td>34. NGOs provide on-the-ground actionable experience</td>
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<td>providing basic information</td>
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<td>IF70D—NGOs provide on-the-ground expertise</td>
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<td>IF70D—NGOs facilitate translation of policy into practice; i.e. what will work on</td>
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<td>the ground</td>
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<td>IF70D—NGOs provide implementable advice rather than just report writing</td>
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<td>IF70D—NGOs facilitate real transformational change through on-the-ground</td>
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<td>knowledge</td>
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<td>IF5IS—Civil society organisations support on-the-ground changes</td>
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<td>IF1BL—Legal intermediary provides assurance and clarification</td>
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<td>IF1BL—Legal intermediary provides clarity</td>
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<td>IF3CC—Professional service firms provide assurance</td>
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<td>IF6KD—Intermediaries (both NGOs and PSFs) provide clarification on what MS is</td>
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<td>IF2BS—Consultancies provide assurance to senior leadership</td>
<td>35. Compliance professional perspectives: Assurance and clarification (PSFs)</td>
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<tr>
<td>IF6KD—PSFs provide best practice advice on auditing and compliance; I rely on</td>
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<td>my own experience mostly</td>
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<td>IF5IS—PSFs are influential because we rely on their data to assess risk</td>
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<tr>
<td>IF2BS—Consultancies have cross-industry experience we can leverage</td>
<td>36. Compliance professional perspectives: PSFs have sophisticated data analysis tools</td>
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<td>First-order Codes</td>
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<tr>
<td>IF10WG—PSFs that shape program design are more valuable than statement writers</td>
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<tr>
<td>IF3CC—PSF data analysis and collection is extremely helpful</td>
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<td>IF3CC—PSFs largely focus on report writing not program design</td>
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<td>IF3CC—Report writing basics are valuable for emerging industries, not for textiles and footwear</td>
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<td>IF3CC—Report writing is valuable for businesses new on the journey, but we need help actually doing something</td>
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<td>37. Compliance professional perspectives: Report writing v. ‘doing something’</td>
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<tr>
<td>IF9SM—Many PSFs are offering template-based report writing services, which are compliant but not in the Act's spirit</td>
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<td>IF9SM—Currently it’s about report writing form PSFs, but value from PSFs will emerge when it leads to deeper engagement with human rights issues (through due diligence)</td>
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<td>IF3CC—PSFs oversimplify things and are not engaged on the ground</td>
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<td>IF8RG—Intermediaries may become important in future</td>
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<td>38. Compliance professional perspectives: Not valuable yet</td>
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<tr>
<td>IF8RG—Keeping things internal to own the solution for now</td>
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