

An aerial photograph of a mining site. A large yellow excavator is positioned on a dark, rocky surface. A conveyor belt system runs across the site, transporting material. The ground is uneven and shows signs of heavy machinery and excavation.

Businesses' Response to Modern Slavery under the Australian Modern Slavery Act

A Case Study of the
Australian Mining Sector

Uyen Ngoc Phan

Supervisor: Olga Gurova

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Abstract

Even though modern slavery is outlawed in most countries, it is still a prevalent crime due to its hidden nature. Many products are discovered to be produced using forced labour and child labour in every country. Among them are everyday items, such as garments, fruits, vegetables, electronic devices, and toys, to name a few. There have been significant efforts by governments and civil societies to tackle the issues, especially in regard to requests for corporate engagement on this topic. Business relevance to modern slavery can be through their supply chain and even their operation. Until recently, businesses have not considered modern slavery as their broad agenda item, although this is changing. Several new legislative initiatives have been enacted to hold businesses responsible for their action, and the Australian Modern Slavery Act is one of the latest legislations. It is essential to understand how businesses, especially leading companies in human rights, respond to modern slavery from the operations and supply chain perspective under the Act's requirements.

The aim of the study is to examine how leading companies respond to modern slavery under the provisions of the Australian Modern Slavery Act. This study explores what drives companies to respond to modern slavery, what their responses are, and how companies report the responses under the requirements of the legislation. Secondary data based on the modern slavery statements of three companies with high rankings in the human rights benchmark from the extractives sector are investigated under the lens of institutional theory and thematic analysis. Through this study, it is revealed that companies are having a homogenous approach towards preventing modern slavery in response to drivers identified by institutionalism: coercive pressure from the regulatory trends of legislations, investors, unions, and NGOs, normative pressure from international protocols, subject experts, and mimetic pressure from multi-stakeholder initiatives. These drivers influence companies to make changes to their structure and governance, and most importantly. Firms are found to establish or change their practices through the implementation of the risk assessment, remediation, monitoring, and review activities to ensure the effectiveness of the whole procedure. These are the initial steps businesses have taken to respond to a challenging yet necessary issue of modern slavery in their operations and supply chain while satisfying the Australian MSA's disclosure requirements.

Keywords: *Modern Slavery, Institutional Theory, Mining Sector, Thematic Analysis, Operations and Supply Chain, Australian Modern Slavery Act*

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1 Introduction

Never before has business ethics mattered as it is today. With the increasing scrutiny from media and non-governmental organisations (NGOs), business conduct relating to “modern slavery” has come to light. The past few years have witnessed an intensification of unethical business practices ranging from sub-standard working conditions for workers, human rights violations involving child labour, forced labour, and other types of exploitations. A recent, unprecedented example was the case of Shell when it was revealed that contract workers in Nigeria were alleged to have been exploited with poverty-wage earnings, anti-union activities, health and safety risks, and inadequate living conditions (Business & Human Rights Resource Centre, 2018). Through globalisation, businesses have found ways to reduce costs and cut corners to improve their profits. It is the relocation of their operations and supply chain to other developing countries where legal standards in protecting the working condition of workers are loosely enforced or do not exist. Besides, corporate buying practices such as short lead times and low price requests also contribute to the escalation of modern slavery (Stevenson & Cole, 2018). It is estimated that more than 40 million people are victims of modern slavery, in which 16 million are enslaved in private sector (International Labour Organization, 2017).

Diverse efforts have been implemented to hold businesses accountable for their conduct through activism by various NGOs, consumers, and soft law requirements from international accords. Moreover, new waves of legislation have been enacted by some governments. These different approaches have required companies to be responsible for their conduct in this regard. The current situation is undoubtedly more complex for businesses to meet the expectations of various stakeholders than what used to be seen as philanthropic activities. As a result, businesses have begun to reveal their non-financial reporting activities to keep stakeholders updated and in compliance with legal requirements.

Of the laws that have been enacted to request that businesses disclose their approach to modern slavery are the UK Modern Slavery Act (UK MSA) and the Australian Modern Slavery Act (Australian MSA), also known as the Commonwealth Modern Slavery Act. The UK MSA was first introduced in 2015 and applied to companies with a global annual threshold of £36m or more operating in the UK. Later, the Australian MSA built upon the foundation of the UK MSA was made into law in 2018 and took effect from 2019. It is applicable to a business with annual consolidated revenue of over AU\$100 million and is an Australian company or overseas company doing business

in Australia. The UK MSA has attracted academia (Stevenson, M., & Cole, R., 2018), (Flynn and Walker, 2020), Voss et al (2019), Flynn (2019) and non-academic research (Business & Human Rights Resource Centre, Ergon, Ethical Trading Initiatives, and Know the Chain) interest in the investigation of their statements on business practices and their compliance with the UK MSA (Flynn & Walker, 2020). Meanwhile, very few studies have explored how businesses respond to the Australian MSA (Christ et al, 2018). Given the novelty of the legislation, it is understandable that this topic has remained uncovered. Therefore, it is necessary to examine how companies respond to modern slavery under the provisions of the Australian MSA.

1.1 Problem Formulation

Many legislations require companies to disclose their efforts in addressing modern slavery in their operations and supply chain through reporting practice. With the rise of such pressures, a new wave of research has started investigating how companies disclose or report this information according to legislative requirements. However, as previously mentioned, most of the research has focused on how companies comply with the UK MSA. Very little research has examined companies in Australia's engagement with the Australian MSA despite the fact that this legislation imposes more reporting requirements and more explicit guidance to comply. Not enough research in this area, especially in Australia, is an issue because there will not be sufficient baseline to assess the impact of the current legislation. To the best knowledge, only the research by Christ and Burritt (2018) investigated the reporting practice by companies in Australia, but it was before the enactment of the Act (Christ & Burritt, 2018). Examining practices by companies in Australia can narrow the gap in this area. Therefore, this research sets out to explore:

How do leading companies respond to modern slavery under the provisions of the Australian Modern Slavery Act?

This research specifically focuses on the investigation of business practices in the extractives (mining extraction) sector, which has a high exposure to the risk of modern slavery due to its nature. Besides, the study aims to uncover practices by leading companies in human rights topics, which achieved high rankings in the evaluation of the Corporate Human Rights Benchmark (CHRB). The examination of their actions in response to modern slavery can shed light on the drivers of their actions, the actions they have taken and the alignment of these actions with the Australian MSA.

In order to answer this research question in a systematic manner, this study will explore the following sub-questions:

1. Taking institutionalism as a framework for analysis, what are the drivers that influence companies' responses to modern slavery?
2. What are their responses to modern slavery?
3. How do they report the responses in compliance with modern slavery legislation?

1.2 International and Intercultural Dimensions

The topic of modern slavery reporting practice is international. It requires companies, primarily multinational companies (due to their capacity to meet the required threshold), to comply with the reporting requirements. These are companies with global operations and supply chains. Therefore, even though the businesses and legislation are Australian based, their effects can directly or indirectly influence companies' other branches and their supply chain. Intercultural influence is another essential aspect. Organisational culture can motivate companies to develop and report on modern slavery strategy (Flynn, 2019). Different companies with different cultures also influence their commitment to comply with the legislation. Therefore, this thesis has both international and intercultural dimensions.

2 Literature Review

The following part of this research describes in greater detail studies on modern slavery to better understand definitions of modern slavery and how it has become a challenge for business.

2.1 Modern Slavery

A precise definition of modern slavery has proven elusive, as mentioned in one study: “More than 300 international slavery treaties have been signed since 1815, but they rarely used the same definition” (Bales, 2004). According to the *1926 Slavery Convention of the League of Nations*, slavery is considered as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” In 1930, International Labour Organisation (ILO) introduced Forced Labour Convention, in which forced or compulsory labour is coined as “work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (International Labour Organization, 1930). The types of slavery were further expanded to include debt bondage, serfdom, forced marriage, and the exploitation of children in *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* published by the UN in 1956 (Mende, 2019). In 2000, trafficking was acknowledged as another form of modern slavery in *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (United Nations Office of the High Commissioner for Human Rights, 2000). Scholars and practitioners in The Bellagio-Harvard Guidelines developed a new normative guideline to offer a more comprehensive definition of slavery (Allain, 2012). According to the Guidelines, slavery is defined as “... *in such a way as to significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, purchase, sale, profit, transfer, or disposal of that person.*”

Meanwhile, critics question the necessity of a clear definition. According to them, slavery should not be distinguished from other types of exploitation and indecent working conditions (Mende, 2019). Though modern slavery is seen as a serious form of exploitation, other forms of exploitation should also be addressed. These kinds of exploitations, unfreedom, and coercion, such as inadequate and unsafe workplace, underpayment of wage, working excessive hours, are not included in these definitions (Davidson, 2006). Moreover, slavery can undertake different forms in different periods, locations, and cultures, “reflecting local customs and practices, but also changing over time.” (Bales,

2004). Therefore, slavery is a complex issue that should be examined under a broader spectrum of exploitation and context-dependent lens.

While there is no agreed definition on what constitutes modern slavery (Quirk, 2006; Voss et al., 2019) and the criticizing of such definition (Mende, 2019), this research takes the stance that the combination approach, connecting between the definition of slavery and the outlook for different types of exploitation, is necessary to have a better understanding of modern slavery. One reason is that employing a framework of definition allows accounting for culturally diverse facets of slavery and serves as the foundation for research, assessment, and policy (Moravcsik, 1998). Moreover, definitions are dependent upon (international) laws to determine whether slavery exists (Mende, 2019). Therefore, by considering other types of exploitations, this research can close the gap and blind spots limited by the scope of the definitions, which develops a more holistic approach towards addressing modern slavery.

Nevertheless, despite the challenge to define modern slavery and thus, the approach to evaluate modern slavery, the term “modern slavery” has grown its popularity in policy, legislative and civil societies spheres. It is being used to cover a wide range of exploitations, including but not limited to forced labour, human trafficking, servitude, debt bondage, forced marriage, child labour, and the removal of organs. Christ and Burritt (2018) summarised different forms of modern slavery (Table 1) (Christ & Burritt, 2018).

Table 1. Forms of modern slavery. From “Current perceptions on the problem of modern slavery in business,” by K. L. Christ and R. L. Burritt, 2018, *Business Strategy Development*, 1, p. 105. Copyright 2018 by John Wiley & Sons, Ltd. and ERP Environment.

<i>Practice</i>	<i>Definition</i>
<i>Forced labour</i>	<p>"All work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (ILO, 2017a, online).</p> <p>Can involve threats of harm, restriction of movement and/or confinement, debt bondage, withholding or reduction of wages and other payments, retention of personal documents such as passports, and, where the worker is engaged in violation of migration policies, the threat of exposure (New, 2015).</p>
<i>Bonded labour or debt bondage</i>	<p>A form of slavery in which individuals "pledge themselves against loans for an undefined length of time but their labour does not diminish the debt due to extortionate interest rates or false accounting" (Gold et al., 2015, p. 487). The worker is committed to paying off the loan, which often increases beyond the amount earned and is not paid for his or her services.</p>
<i>Child labour</i>	<p>All "work that deprives children of their childhood, their potential, and their dignity, and that is harmful to physical and mental development" (ILO, 2017b, online)</p> <p>Note: Not all labour involving children constitutes slavery-related practice.</p>
<i>Sex trafficking</i>	<p>A form of labour trafficking in which individuals are forced against their will to engage in sexually related activities. Although often involving prostitution, sex trafficking victims can also be forced to engage in other activities such as working in strip clubs and engaging in the production of pornographic material (Fight Slavery Now, 2017b).</p>
<i>Domestic servitude</i>	<p>Special category of labour trafficking in which victims are held in private settings, receive low or no wages, are subject to abuse and restrictions in relation to freedom of movement, and are often held in bondage (Fight Slavery Now, 2017a).</p>
<i>Forced marriage</i>	<p>When individuals, usually young girls or women, are forced to marry against their will. May be linked to other forms of modern slavery. For example, women or girls who are forcibly married may then be trafficked by their husbands for sexual or labour-related purposes (End Slavery Now, 2017). May also involve one party being transferred to another for financial compensation.</p>

Following this line of thought, modern slavery in this research is defined as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised" (United Nations Office of the High Commissioner for Human Rights, 1926). This research focuses on the best practices of the private sector in addressing modern slavery. Therefore, only practices involving modern slavery in the workplace, including forced labour, debt bondage, child labour, human trafficking (only those associated with commercial activities), will be considered in the definition of slavery. Although human trafficking focuses on the movement of people within the prism of slavery as a management activity, human trafficking is seen as a component of the labour slavery supply chain, rather than slavery itself, as one researcher points out (Crane, 2013). Furthermore, since forced marriage and sex trafficking have little to do with the workplace, these types of exploitations are not the main focus of this analysis and may be included if there are explicit instances in the data.

2.2 Business and Modern Slavery

2.2.1 Business' Relation to Modern Slavery

The relationship between business and slavery-related practices is becoming an increasing concern. Slavery, especially forced labour and debt bondage is prominent in many business models (Christ & Burritt, 2018). It is estimated that 25 million people are in forced labour, accounting for more than 60 % of victims of modern slavery (International Labour Organization, 2017). This is the most prevalent type of exploitation where victims are forced to work for personal or commercial gain. Such exploitation finds its way into business operations and international supply chains through the economics of globalisation and the concept of comparative cost advantages within capitalist structures (and might be even considered to sustain it) (Christ & Burritt, 2018; Gold, Trautrim, & Trodd, 2015; Lund-Thomsen & Lindgreen, 2014). Enabled by global inequality and hierarchical social ties, businesses and their supply chains benefit from the exploitation of low-cost labour (Gold et al., 2015). Moreover, in the production process, most products are made in complex and specialised multinational chains. Various companies each contribute a small part to the final outcome of a product. At the next supply chain tier down towards the market, such as the exporter or wholesaler level, slave-made commodities are inseparably mixed with items of other origins (Gold et al., 2015). As a result, whether implicitly or explicitly, businesses have contributed to the emergence of modern slavery.

The extant literature has highlighted many cases of modern slavery related to businesses. Slavery was discovered in many instances on sugar cane plantations in Brazil that manufacture ethanol fuel (Rush, 2007). Coercive labour was also identified to impact people of all ages, including children, in Thailand's fishery industry (Chantavanich, Laodumrongchai, & Stringer, 2016). Migrant workers are especially vulnerable to enslavement, according to studies of the UK's agriculture, manufacturing, and cannabis industries (Phung & Crane, 2018). In England, the Intercontinental Hotel Group was related to the use of slave labour through contracts with external employment agencies for their service (Bales & Cornell, 2008; Christ, Rao, & Burritt, 2019). Slave and child labour were revealed on cacao farms in West Africa by British Broadcasting Corporation (BBC) (Gold et al., 2015). Most notably, debt bondage is common in Bangladesh. Still, it was not until more than 1,000 employees were killed when the Raza Plaza garment factory collapsed in 2013 that the international community spoke out against these dangerous and unacceptable working conditions (Christ & Burritt, 2018; Johnson Jr, 2013).

The above examples illustrate how different forms of modern slavery have benefited companies' operations and supply chains. Adding to this, the rise of new business models that are based on the use of coercive labour also plays a significant role in fuelling this issue. A detailed examination by Crane, LeBaron, Phung, Behbahani, and Allain (2018) shows the dark sides of the innovations in business models that are based on modern slavery. Business models are described as the logic behind how a business produces, delivers, and captures value (Crane, LeBaron, Phung, Behbahani, & Allain, 2018). Therefore, it relates to a company's plan to profit from its resources, revenue stream, and cost structures. According to their analysis, while traditional slavery uses enslaved workers in production and domestic service, new activities are added to create value for the owners more rapidly (Crane et al., 2018). Along with this is a change in the structure of the new business models, moving from the purchase of slaves in advance to a wide range of new activities to control workers.

What is more interesting is that these activities are connected in new ways. For example, enslaved labourers are being turned into captive 'customers' where they need to pay in exchange for services such as accommodation, food, transport, and immigration services. Afterwards, these labourers find themselves in the situation where they are deprived of liberty and are engaged in 'forced labour' under either abuse, coercion, or more subtle means such as manipulated debt, retention of identification documents, or threats of deportation to immigration offices (International Labour Organization, 2021). These activities are introduced by new actors coming into the picture. They are on-site contractors, subcontractors, or intermediaries who "mediate between individual workers and

the organisations that need work done, shaping how workers are matched to organisations, how tasks are performed, and how conflicts are resolved” (Bonet, Cappelli, & Hamori, 2013). Slavery, despite its illegality, continues to evolve and innovate to allow companies to make higher profits, making it extremely difficult to detect and prevent due to its hidden nature.

2.2.2 Efforts to Address Modern Slavery in Business

Slavery and exploitation in business operations have been challenged by various stakeholder activism group and expectations. The international community, legislatures, and the general public are increasingly expecting companies to play a role in ensuring that modern slavery is addressed in their operations and supply chains.

2.2.2.1 Soft Law Requirements

Some of the soft law requirements by international organisations have been enacted to raise such expectations to multinational corporations (MNCs), such as the Organisation for Economic Co-operation and Development (OECD), the UN, and the ILO. In 1976, OECD introduced *Guidelines for Multinational Enterprises*, which included a set of broad, non-binding standards of good conduct for all multinational companies to take positive actions towards economic and social changes (Plaine, 1977). The ILO adopted *Convention Concerning Minimum Age for Admission to Employment* as a commitment to eradicate child labour in 1973. Three years later, they expanded their scope to other issues with their *Tripartite Declaration of Principles Concerning Multinationals Enterprises*. Policies on job promotion, child and forced labour, health and safety procedures, policies on a variety of other employment and labour issues are all included in the Tripartite Declaration as voluntary standards for corporate practices (Choudhury, 2018).

In 1988, the UN established a working group to address business and human rights issues by activities of MNCs. In 2003, this group drafted the *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* ("UN Norms") as a proposed code of ethics for MNCs (Choudhury, 2018; Cirilig, 2016). However, the UN Norms were not adopted due to firm opposition from the business community. Nevertheless, it became the first non-voluntary effort to spell out business human rights responsibilities (Ruggie, 2007). Instead, the UN introduced the United Nations Global Compact (UNGC). This is a voluntary initiative for companies to “align strategies and operations with universal principals in human rights, labour, environment and anti-corruption, and take action to advance societal goal” (United Nations Global

Impact, 2021). Nowadays, it represents more than 13,000 companies located in 160 countries, became the largest corporate sustainability initiative.

Adding to this line of efforts, in 2005, Professor John Ruggie was appointed by the UN Human Rights Council to have an in-depth investigation on human rights issues in business. The UN Guiding Principles (UNGPs) on Business and Human Rights (also called the Ruggie's Principles) were drafted as a result of his work and later endorsed by United Nations Human Rights Council in 2011 (Choudhury, 2018). The Principles were built on the foundation of the “*Protect, Respect and Remedy*” framework, which illustrates three distinct yet complementary pillars: the state's obligation to protect against human rights violations, a company's responsibility to abide by all relevant laws and uphold human rights, and reliable access to remedies for victims (United Nations Office of the High Commissioner for Human Rights, 2011).

With regard to business, the UNGPs outline specific actions that businesses need to take to “*avoid infringing on the human rights of others*” and “*address adverse human rights impacts*” (United Nations Office of the High Commissioner for Human Rights, 2011). These steps include establishing policy commitment, conducting human rights due diligence to identify, prevent, mitigate, and take into consideration business human rights impact, and introducing a remediation process to account for those impacts. Essentially, the due diligence process involves evaluating actual and possible human rights impacts, incorporating and acting on the findings, monitoring responses, and communicating how impacts are handled (United Nations Office of the High Commissioner for Human Rights, 2011). Grievance mechanisms are also a part of the remediation requirements, in which businesses have a role in building an efficient process for victims to get access to remedial means. This system enables remediation opportunities for workers or communities that are potentially harmed by business activities. All of the above-mentioned steps should be considered businesses' duty to extend to their actions, partnerships and the entire value chain (United Nations Office of the High Commissioner for Human Rights, 2011).

Notably, the UNGPs sets out a framework to define how a company concerns a negative human rights impact: they can either cause, contribute, or directly link to an adverse human rights impact. A good illustration of how businesses can cause adverse human rights impacts is when they participate in discriminatory employment practices, dissolve unions, or expose staff to dangerous working conditions by failing to provide them with protective equipment (Van Ho, 2021). In the case of businesses' contributions to adverse human rights impact, this is evident in their information or data

disclosure to the government that is later used to harass dissidents (United Nations office of the High Commissioner for Human Rights, 2012). A company's operations, goods, or services are directly linked to an adverse impact when, for example, another party in its supply chain, such as a supplier, uses bonded labour that is unknown to the company and in breach of contractual terms (Ruggie, 2013). In summary, businesses may be directly or implicitly involved in modern slavery by their own activities, global supply chains, or collaboration with business partners.

2.2.2.2 Stakeholders' Expectations

There is also an increasing demand from investment policies for companies to strengthen their commitment to eradicate modern slavery; this is a step up from what is previously seen as a 'nice to have' proposition. These policies are such as those from the World Bank's International Finance Corporation (International Finance Corporation, 2009) and European Bank for Reconstruction and Development (European Bank for Reconstruction and Development, 2012). Recently, an Investor Toolkit on Human Rights was published, guiding financial sectors in assessing human rights aspects in their lending practices (Investor Alliance for Human Rights, 2020). Institutional investors now evaluate the portfolio of companies to see if there exist robust and efficient human rights policies, due diligence processes, and grievance mechanisms and take concrete actions reliant upon those baselines (Investor Alliance for Human Rights, 2020). An example of such change is the evaluation of respect for human rights before a foreign direct investment, which previously only aimed at high-risk sectors such as mining and oil extractions but now extends to other industries, including consumer products, manufacturing, information and service industries (Blanton & Blanton, 2007).

Besides, expectations for business actors also are spelled out by authoritative structures and standard-setting bodies. These initiatives include human rights reports by NGOs, benchmarking, and think tanks. These institutions have introduced their own methods to monitor business human rights, such as “*Human Rights Watch, Amnesty International, the Global Reporting Initiative, The Business Leaders Initiative on Human Rights*” (Gallhofer, Haslam, & Van Der Walt, 2011). Their strategies are related to the practice of “naming and shaming,” strengthening business codes of conduct, or involving in litigation matters (Choudhury, 2018). One example is the Business and Human Rights Resource Centre. The Centre’s websites keep track of human rights abuses of more than 10,000 companies worldwide; in 2020 alone, it has made 605 approaches to companies relating to their human rights violations and requests their response. In addition, there are several initiatives to benchmark companies' efforts in addressing human rights by the NGOs. A well-known effort is the

CHRB, which originates from institutional investors, governments, and civil society. It is an attempt to evaluate and rate the human rights performance of the world's largest publicly traded companies in agriculture products, apparel, extractives, ICT manufacturing, and recently added automotive manufacturing. In addition, think tanks also play a significant role in promoting businesses' respect for human rights. In 2020, a report was published by the Australian Strategic Policy Institute, which specifies that the Chinese government has forced more than 80,000 Uyghur workers to work in 82 multinational corporations like Apple, Amazon, BMW, Nike, H&M (Van Ho, 2021; Xu, Cave, Leibold, Munro, & Ruser, 2020). Overall, reporting practices, benchmarks, and think tanks coerce businesses to act responsibly towards human rights.

Different collaborative initiatives within the industry have also been created to provide an opportunity to learn about possible forced labour connections, recognise commonalities, learn best practices, and test mitigation strategies with peers through industry and business associations. For instance, after “sweatshops” were exposed in the apparel supply chain in the 1990s, the apparel industry partnership and the Fair Labour Association were established to address the issue (Flynn & Walker, 2020). Similarly, Strong Together's initiative was launched by the nine largest supermarkets in the UK to address modern slavery connected to retail consumer goods (Christ et al., 2019). The Pharmaceutical Supply Chain Initiative was established to share knowledge and expertise across multidisciplinary areas. Its human rights standard is one of the fundamental principles for Responsible Supply Chain Management (Pharmaceutical Supply Chain Initiative, 2019).

2.2.2.3 *Legislations*

Addressing modern slavery requires a collective approach, and of course, the government is an important pillar of support. Despite the UNGPs and benchmarking and reporting coercion from NGOs and think tanks, there is frustration with the effectiveness of such measures due to their lack of enforcement power. NGOs and several countries call for a more robust approach from the government to enforce companies to take action. Recently, new progress from the government to address this urge has been put in place. The dynamics in the existing and upcoming legislation have increasingly heightened the obligations to respect human rights from businesses.

Different regulatory trends have been adopted to push for business conduct to respect human rights through due diligence. The Dutch Child Labour Due Diligence was adopted to prevent child labour in products and services in their market (van Kalmthout, Romeo-Stuppy, Huber, von Eichborn, & Clément, 2021). Other examples are the European Union (EU) Timber Regulation and the European

Conflict Minerals in Supply Chain Regulation (Bueno & Bright, 2020). The EU Commission is also considering mandatory human rights supply chain due diligence legislation in 2021 (EU Parliament's Responsible Business Conduct Working Group, 2021). While these regulations preclude a more thorough application of substantive human rights due diligence to a particular sector or problem, they do not specify liability conditions in the event of harm (Bueno & Bright, 2020).

Adding to this, there are also increasing legislations to account for human rights through litigation. The Trafficking Victim Protection Reauthorisation Act (TVPPRA) imposes a solid foundation for both civil and criminal litigation against human rights violations relating to forced labour, sex, and forced labour trafficking or intentionally benefitting from these offenses (Beale, 2018). In 2017, France also enacted its Duty of Vigilance Law requiring companies to prove they have a proper due diligence process that includes three parts: elaboration, disclosure, and effective implementation of a 'vigilance plan' (Cossart, Chaplier, & De Lomenie, 2017). Businesses could incur liability with fines of up to €10 million plus additional penalties if harm were caused by non-compliance that could have been avoided (Christ et al., 2019).

Besides the increasing trend in the request to comply with the due diligence process and litigation, other regulations that require corporations to disclose information regarding human rights are the California Transparency in Supply Chains Act (CTSCA) 2010, the UK MSA, and the Australian MSA. The CTSCA was the first national legislation requesting businesses to disclose their engagement with modern slavery in their supply chain (Voss et al., 2019). The reporting requirements are only limited to retailers or manufacturers with an annual worldwide income of \$100,000,000 (State of California Department of Justice Office of the Attorney General, 2013). Businesses are not required to update their efforts on an annual basis to eradicate modern slavery in their supply chain (Voss et al., 2019). New (2015) also noted that "the notion of exactly which firms' policies and actions should cover suppliers is not at all clear" (New, 2015). These limitations lead to lower achievement in transparency (Koekkoek, Marx, & Wouters, 2017).

In 2015, the UK introduced the MSA. This new legislation was able to fill the gap in transparency by requesting businesses with a turnover threshold of £36 million or over and with operations in the UK to publish a statement on their efforts to annually identify, prevent, and address modern slavery within their supply chain (Voss et al., 2019). This information must be publicly available on their website and be signed off by at least one of the directors (Christ et al., 2019). Besides requiring more transparency, the Act also increases the penalties that can be imposed: up to sentences of life

imprisonment for serious violations of human trafficking and offenses related to modern slavery and provided protections for victims (Monciardini, Bernaz, & Andhov, 2021).

Australia also adopts its MSA, focusing on similar criteria as the UK MSA, but adding more clarification to reporting requirements to “provide certainty to business about their obligations and will improve the consistency and comparability of Modern Slavery Statements” (Australian Government, 2020). It requires companies and their entities to disclose their actions to perform due diligence and remediation efforts to address human rights in their supply chains. In contrast, the UK MSA only vaguely requires companies to disclose the steps it has taken to assess and manage the risk of slavery and trafficking. Moreover, it also requests the companies to reveal information relating to their consultation process, with each reporting entity covered by the joint statement and any entities owned or controlled by any reporting entities. Furthermore, to account for COVID-19, where a number of businesses face lots of challenges, both financially and socially, by this unique circumstance, the Australian MSA also requests companies to disclose their efforts to honour human rights in the reporting period of 2020. The following section will explain what the specific requirements of the Act are.

2.2.3 Australian Modern Slavery Act

Even in high GDP countries with a good governance system, modern slavery can still exist, either due to the gap in protecting vulnerable populations like migrants, minorities, homeless or through the consumption of products or services produced by modern slavery. Australia is not an exception. It was estimated that 15,000 people were living in conditions of modern slavery on any given day in 2016. According to a study by the Walk Free Foundation, forced labour accounts for a quarter of all human trafficking and slavery referrals reported to the Australian Federal Police in 2016 (Walk Free Foundation, 2020). Furthermore, according to Anti-Slavery Australia, only one out of every five victims is identified (Anti-Slavery Australia, 2021). That means that 80% of slaves remain undocumented and remain as slaves. Australia also imports products that are at risk of modern slavery on significant scales – according to the Global Slavery Index 2018, the top five “at-risk” products, including electronics, garments, fish, rice, and cocoa, accounting for US\$12 billion worth of annual imports into Australia (Walk Free Foundation, 2018).

Modern slavery is still prevalent in Australia, so even though slavery is illegal and banned by Criminal Code, Australian businesses are still engaged in modern slavery, both directly and indirectly (Christ

et al., 2019). The Australian Government recognises the importance of introducing legislation that can narrow the unregulated loopholes in the global market and leverage business power (Australian Government, 2018). Moreover, the legislation was hoping to promote “a race to the top” by offering reputational incentives for corporations to act against modern slavery (Australian Government Attorney-General’s Department, 2018).

The MSA was passed in November 2018 and came into effect in January 2019. This Act established a \$100 million gross global revenue threshold for the reporting requirement, lower than the recommended \$50 million from the Committee. However, it is argued that only large businesses will have the capacity and resources to comply with the reporting requirements at this time (Australian Government, 2020). It should also be noted that with the requirements on the supply chains, the request for compliance with human rights will also trickle down to smaller suppliers. In this sense, both large and small businesses can be influenced by the reporting, either directly or indirectly.

In a nutshell, the Australian MSA requires entities with yearly consolidated revenue of AU\$100 million and above to report. This threshold requirement applies to more than 3,000 entities and foreign entities operating in Australia, including public procurement (Sinclair & Nolan, 2020). It requires approval from the company's board of directors and signatures from at least one board member. The statements are submitted to the Australian government for publication on a publicly available online registry administered by the government. The Act will be under review every three years to evaluate its effectiveness. The Australian Government is also required to report yearly to Parliament on the progress of the implementation.

The Act creates a set of mandatory reporting criteria and advanced guidance that the entities need to comply with. The goal is to facilitate consistency and comparability in the evaluation process between companies' statements. These criteria include:

1. Reporting entities' identity, structure, operations, and supply chains.
2. The risks of modern slavery in their operations and supply chains.
3. Steps taken to identify and mitigate the risks, including due diligence and remediation process.
4. The way the reporting entities evaluate the effectiveness of their actions.
5. The process of consultation with any entities the reporting entity owns or controls.
6. Any other relevant information.

2.2.4 Modern Slavery Statements

With the trend of increasing legislation on the reporting practices by businesses, there has been growing yet still scant research with interest in modern slavery statements. Both academic (Christ et al., 2019; Flynn & Walker, 2020; Stevenson & Cole, 2018; Voss et al., 2019) and non-academic studies (Business & Human Rights Resource Centre, 2020) have explored the content of modern slavery statements. These studies have provided an understanding of the practices companies have made to address modern slavery risks (Flynn & Walker, 2020) through a supply chain perspective (Stevenson & Cole, 2018) or from a specific industry such as fashion and textile (Birkey, Guidry, Islam, & Patten, 2018; Voss et al., 2019), and beef and timber (Pinheiro, Emberson, & Trautrim, 2019).

These studies have found that legislations sometimes lack enforcement measures, have limitation in its implementation (Birkey et al., 2018; Flynn & Walker, 2020; Voss et al., 2019), and fall short of the ability to cover the supply chain from end to end (Pinheiro et al., 2019). Therefore, the quality of the reporting responses varies (Voss et al., 2019) and the responses tend to be more symbolic than substantive (Birkey et al., 2018), with firms with a high profile (Birkey et al., 2018; Flynn & Walker, 2020), such as apparel and footwear retailers, seeming to have more disclosure. Collectively, these studies outline a critical role for a more coercive influence. However, they also acknowledge the Act has made “an effect on raising very difficult conversations between companies” (Pinheiro et al., 2019) and has promoted positive developments in businesses, such as revising supplier codes of conduct or reinforcing risk assessments (Voss et al., 2019).

However, most of these studies do not have a firm theoretical framework to explain how firms respond to the legislation. Furthermore, until recently, because of the limited number of mandatory reporting disclosure requirements, only a few studies have explored the phenomenon of interest under the institutional theories (Christ et al., 2019; Flynn & Walker, 2020; Stevenson & Cole, 2018). Therefore, this study aims to fill the gap and uses the institutional theory perspective to investigate the disclosure statements by leading companies. This is because institutional theory allows a more detailed examination of narratives within the disclosures on how businesses' responses differ from what this theory mentions as coercive, normative, and mimetic pressures.

3 Institutional Theory

External pressures affect organisational behaviour, according to the institutional theory (Hirsch, 1975). Institutional theory claims that a company's structure, policies or standards, and behaviour will be influenced not only by commercial pressures but also institutional pressures (Meyer & Rowan, 1977). In other words, companies' activities will not only indicate the business' purpose of making profits but also rules and norms exerted by its external environment to achieve legitimacy (DiMaggio & Powell, 1983). The external environment that can have such influence includes governments, NGOs, investors, customers, industry peers, and unions. Companies are concerned with the legitimacy from this external environment because "organisations seek to establish congruence between the social values associated with or implied by their activities and the norms of acceptable behaviour in the larger social system" (Dowling & Pfeffer, 1975). In the context of modern slavery, a company's failure to take appropriate action might lead to harm in business reputation, financial loss (Koekkoek et al., 2017; Voss et al., 2019), and even damage its social legitimacy to operate (Dowling & Pfeffer, 1975). Thus, the author argues the use of theoretical theory with its strength in an explanation of how businesses adapt to rules and norms to achieve legitimacy (DiMaggio and Powell, 1983) will provide a better understanding of the essence of the phenomenon in which business response to modern slavery in Australia.

There are three types of isomorphic drivers in the institutional theory: coercive, normative, and mimetic (DiMaggio & Powell, 1983). Government mandate and civil society organisations can coerce businesses to behave in some ways, professional organisations have a normative effect on businesses, and peer association triggers businesses to mimic one another (Flynn & Walker, 2020). Institutional theory speculates that companies will produce homogenous policies, procedures, and behavioural changes to coherently respond to what is expected of them by the institutional environment. Moreover, according to this theory, businesses highlight their social responsibility cues through their structure, policies and practice (Campbell, 2007). However, the desired effect of institutional pressure is not always achievable, and companies might "ceremonially" abide by (Meyer & Rowan, 1977) or even defy institutional expectation (Oliver, 1991).

Coercive isomorphism is caused by both official and informal constraints applied to companies by other organisations on which they are dependent, as well as cultural expectations in the society in which they operate (DiMaggio & Powell, 1983). It originates from official rules and regulations that

can lead to inspection and sanction, with governmental entities and other influential stakeholders as the most likely source of pressure (Woolthuis & de Jong, 2017).

The next institutional pressure is normative pressure from professional organisations at supranational levels, where their centralized strength is still insufficient; hence, one of their techniques of influence is through the use of "soft power." (Scott, 2005). Their effect can be seen, for example, in the encouragement of developing 'standards,' which contain moral but not coercive backing (Scott, 2005). Professionalization is yet another source of normative pressure. This includes professional training from professional associations that promote the development of rules and norms among management and employees (DiMaggio & Powell, 1983). In addition, the advancement of (technical) knowledge and experience determines the 'state of the art' in a given subject; professionals and experts play an important role in defining these norms (Woolthuis & de Jong, 2017). Professionals advance compliance strategies that could be adopted by corporations (Martínez-Ferrero & García-Sánchez, 2017). Mimetic pressure originates from similar or related organisations to respond to uncertainty (DiMaggio & Powell, 1983). In this instance, a business may embrace relevant behaviours from other businesses, industries or countries, and model themselves on such behaviours.

The author argues that when companies publish their statements on modern slavery, the communicative messages in the statements are not only to focus on matters stipulated by the Act, but also reflect how concerns by other stakeholders are addressed in their response. Based on the institutional theory, the author argues that different types of pressures exist and affect business execution of managing modern slavery risks. Specifically, in the Australian context, where businesses are required to report their efforts to address modern slavery risks, the pressure might come not only from regulators but also from powerful external stakeholders such as investors, NGOs, and civil societies. The normative pressures might stem from the supranational organisations through setting up norms and rules for business to show their commitment to antislavery efforts. Companies could also follow the examples of modern slavery practices in other business or industry. As a result, this study strives to unfold what other drivers play in the implementation of responses to modern slavery and their influence on business implementation of their response to modern slavery. Even though institutional theory is well presented in the literature, it also has limitation. DiMaggio and Powell (1983) distinguished three forms of institutional isomorphism, yet they also acknowledged that these forms are not always empirically separable; each is a discrete mechanism, but they can act reciprocally (DiMaggio, 1983). My data is restricted in terms of aiming to give specific details required for an accurate categorization. As a result, the categorization of the data is based on the

interpretation that seems to be the most logical and rational to the author's knowledge. This research aims to bring additional information on what can be the drivers that influence businesses to respond to modern slavery. Through this, it might help to verify the already-acquired knowledge of DiMaggio and Powell (1983)'s institutional theory through the analysis in the new area.

Despite this limitation, the adoption of institutional theory is supported by current literature. It has been employed to examine businesses' social disclosure practices (Islam & McPhail, 2011). Islam and McPhail (2011) apply institutional theory to create a connection between stakeholder pressure and business reporting practices as well as to investigate isomorphic reporting behaviours across various organisations that are under similar social and environmental pressure. In the same vein, it has also been used to examine how companies tackle green issues under external pressures. Institutional theory has emerged as a significant study direction for explaining environmental practices (Sarkis, Zhu, & Lai, 2011). Recent research efforts by Flynn and Walker (2020) and Christ, Rao, & Burritt (2018) explore the modern slavery reporting practices under institutional theory perspectives.

Under the lens of institutional theory, the research by Flynn and Walker (2020) creates a "theoretical framing" on how companies respond to modern slavery risks in their supply chain. According to their model, at the institutional level, businesses encounter coercive, mimetic, and normative pressures. In response to these pressures, at an organisational level, changes signalling their compliance include responses regarding structure, policy, and practices. Under the structural response, a company establishes the role of an anti-slavery designate, working along with cross-functional teams in working/steering groups under the supervision of an executive committee. Besides, companies also respond by developing policies applicable to suppliers address modern slavery, human rights, and other concerns. Finally, they also implement practices to address modern slavery in their supply chains, such as adding contractual clauses, requiring suppliers to declare their endorsement of the company's ethics for suppliers, conduct surveys, establish key performance indicators, and train their employees.

Based on Flynn and Walker (2020)'s theoretical framing, this research borrows their foundation of institutionalism that illustrates how the three institutional pressures lead to businesses' structure, policy, and practice responses to address modern slavery risks (Drivers and Responses elements in Figure 1). However, the original framing does not exactly account for how the responses satisfy the six explicit requirements of the Australian MSA. The author assumes that there will be a pattern in

the underlying actions, which originate from Flynn and Walker's three response types, that applies to each of the six Australian MSA reporting criteria, namely, 1) structure, operations, and supply chains, 2) assessment of risks in operations and supply chains, 3) risk mitigation and remediation, 4) effectiveness evaluation and update of procedures, and 5) consultation and engagement with relevant stakeholders¹. Therefore, the author adds the Reporting element to the framing to address how firms report on tangible underlying actions in response to modern slavery under the provisions of the Australian MSA (Reporting element in Figure 1). The Reporting is essentially in the form of the modern slavery statements published by the firms; hence, the author puts this element in the Institution side to reflect that the statements are made publicly available to show compliance to the 'drivers' of responses and the expectations of the relevant institutions.

¹ The sixth requirement of the Australian MSA is for 'other relevant information'; therefore, this part is not included in the framing, although they will be analysed, included in the themes, and reported if there is sufficient information in the statements.

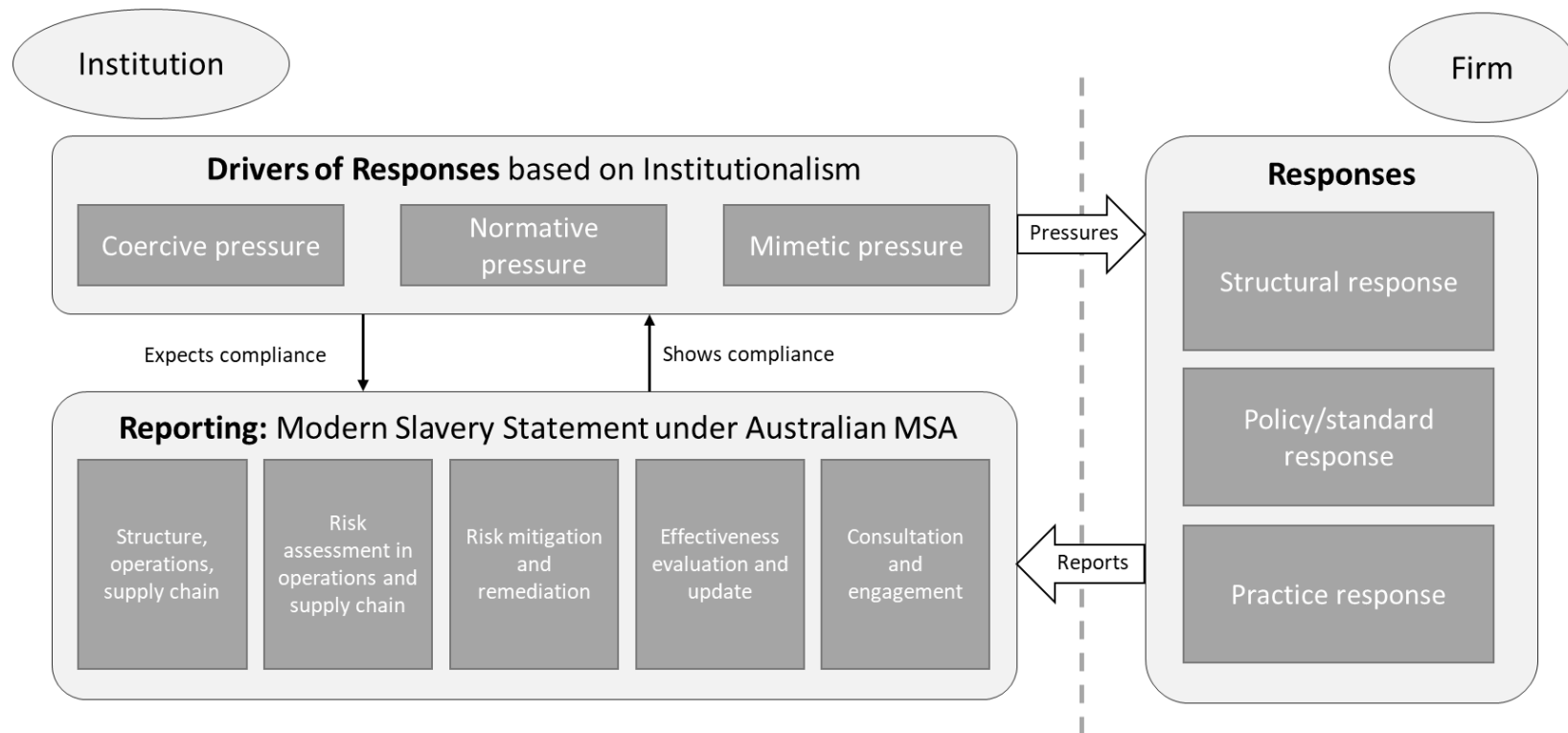


Figure 1. Theoretical framing. Adapted from (Flynn & Walker, 2020). The author adds the reporting element and reorganises the interaction between drivers, responses, and reporting.

4 Methodology

The section below describes the methodological selection that this research employs to answer problem formulation on how leading companies respond to modern slavery under the provisions of the Australian MSA. The philosophy of science will include a discussion on the ontology and epistemology that address the world views that the researcher adopts, which leads to a decision on how to study the subject. In addition, the strategy that is developed to conduct the research will be described. Finally, data collection techniques and data analysis methods in alignment with the philosophical assumptions will also be discussed.

4.1 Philosophy of Science

The philosophy of science that underpins the research is explained in the following section. The philosophy of science is an important pillar of the study because it directs the researcher's choice of theories, data collection, and analysis method in the research process.

All approaches to the study of society are based on some sort of frame of reference. Different theories represent different viewpoints, concerns, and problems worth investigating, and are usually based on a collection of assumptions that reflect a specific view of the existence of the topic under investigation (Berg & Engstrand, 2011; Burrell & Morgan, 2017). The frame of reference or collection of assumptions is called a paradigm. It is a combination of ontology that seeks to address the question "what is there to know" (Guba & Lincoln, 1994) and epistemology which aims to understand "how do we know what we know" (Crotty & Crotty, 1998). This study embraces the **social constructivist paradigm with constructivist ontology and interpretivist epistemology**.

The social constructivism paradigm relates to the belief that there are multiple realities instead of only objective truth. The phenomenon of interest in this research, which is the concept of modern slavery reporting practices, mainly occurs in the social world and should be viewed as a constantly changing and evolving concept. Moreover, the author wants to understand the point of view of companies behind the reporting practice and construct reality with them at the same time. The social constructivism paradigm enables researchers to participate with these social actors to create different versions of realities based on the understanding of the context. These reflections determine that social

constructivism seems to be the most adequate frame of reference to find the answers to the research question.

The ontological perspective of social constructivism relates to the development and perception of social phenomena (ideas, beliefs, and interpretations) (Egholm, 2014). It also emphasizes: "reality is relative, multiple, socially constructed" (Given, 2008). In this thesis, the author has adopted this perspective because she is examining the social constructs, such as modern slavery reporting and leadership practices. They are socially constructed by the reporting companies' comprehension, knowledge, and experience. Moreover, the understanding of this phenomenon is influenced by the author's background, culture, and education, thus resulting in the author's co-creation of meaning by "mutual interaction within the research setting and dialogic interaction" (Given, 2008).

Epistemologically, this research undertakes the interpretivist assumptions, believing that the social world can only be perceived through the viewpoint of those who are directly involved in the phenomena under investigation (Berg & Engstrand, 2011). Interpretivism employs language to clarify and interpret the nature of social reality (Della Porta & Keating, 2008). According to this, the thesis aims to explore the perception of the companies being investigated in modern slavery reporting and interpret their behaviour from their standpoint. Their subjective experience is explored through their narrative expression in the statements. Furthermore, the interpretation of the finding and description of the phenomenon is also affected by the author's standpoint.

4.2 Iterative Reasoning

Easterby-Smith, Thorpe, and Lowe (2002) argue that the evaluation over empiricism, theoretical science, and epistemological stance should encourage researchers to choose the best methodological approach for their research (Easterby, Thorpe, & Lowe, 1991). The philosophical perspective, namely social constructivism and interpretivism, in combination with the phenomena in question defines the methodology the researcher uses in this thesis.

This research adopts the **iterative reasoning** in which social phenomenon is viewed through existing theories as the point of departure. What drives themes and categories is the researcher's purpose on what she wants to know on the subjects, as well as what the data are telling her based on the theoretical framework, experience, knowledge, and literature review (Bruce, 2007; Cser, 2020; Srivastava & Hopwood, 2009). At the same time, data are revisited on a regular basis to develop meaning and redefine comprehension, which is a process considered as reflexive iteration (Srivastava & Hopwood,

2009). As discussed later in the data analysis section, theoretical thematic analysis is adopted to examine the data.

4.3 Qualitative Research

In alignment with the interpretivist approach, this research follows the **qualitative research strategy**. The researcher looks into non-numerical data and analyses meanings of words, not numbers (Becker, Kolbeck, Matt, & Hess, 2017; Cser, 2020). With this method, the social phenomenon is examined through interpretive descriptions, which include the interpretation and perception of the social phenomenon's experiences (Denzin & Lincoln, 2011). Qualitative approach is suitable in this research because it allows the search for a complicated and detailed comprehension of a problem or when contexts or settings of the subject in questions needs to be examined (Creswell, 2007). In this instance, the viewpoints on modern slavery reporting and business practices are expressed in the statements by selected companies. In addition, as the single case study is implemented, the emphasis of the research is on a small scale yet comprehensive and overarching analysis of statements by three organisations. This aligns with qualitative research whose purpose is to examine and explain a series of interrelated connections of activities and values of selected entities within a given context (Becker et al., 2017; Cser, 2020).

Besides, the purpose of this research is to understand how businesses respond to modern slavery under the provision of the Australian MSA, which is a new social phenomenon with scarce literature. Therefore, this research is considered as **exploratory study** since the author seeks to investigate a research topic with little or no scientific understanding yet believes in the significance of this uncovered phenomenon (Stebbins, 2008).

4.4 Research Design

Since the research objective is to obtain an in-depth understanding of how businesses respond to modern slavery under the provision of Australian MSA, a **single case study design** is employed to answer this objective. This research design is appropriate because it allows the researcher to examine the contemporary phenomenon through and within its real-world context (Yin, 2017). A case study differs from other methods in that it places a "specific, in-depth focus on a phenomenon in its naturalistic setting as an object of interest in its own right" (Daymon & Holloway, 2002), allowing for a thorough and comprehensive review of the case (Bencker, 2021; Bryman, 2016).

There are two types of case studies: single- and multiple-case studies. What separates between the two is based on the cases chosen, the context, and the units of analysis (Bencker, 2021; Yin, 2017). This research takes the form of an **embedded, single-case study design**. The **context** under investigation is businesses' response to modern slavery under the provisions of the Australian MSA. The particular **case** is the response of the Australian extractives sector, which is in the form of modern slavery statements by extractives companies. Three modern slavery statements from three different companies are analysed and compared against one another; hence, there are three **units of analysis** within this research.

Though case studies are contested by some researchers because often the cases cannot be generalised to the overarching context and population (Bryman, 2016), the purpose of case study is not statistical but theoretical generalization (De Vaus, 2002). The possibility of this generalization can be achieved if a strategic selection of cases is conducted (Flyvbjerg, 2006). In the next section, the case selection explanation and introduction of critical cases are presented.

4.4.1 Case Selection

The **purposive sampling** method was used to select the case since this type of sampling affords the opportunity to identify and select an information-rich case relevant to the phenomenon of interest in qualitative research (Palinkas et al., 2015). Purposive sampling aims to systematically sample the cases that are important to the problem formulation of the research (Balasubramanian & Shukla, 2018; Bryman, 2016). Besides, this method supports the research in understanding the dimension of the context (Poulis, Poulis, & Plakoyiannaki, 2013), thus offers a more in-depth look into the subject of interest. The companies were selected based on their performance on human rights, as presented below. The availability of statements from the companies offers the opportunity to find the answers to the research question. Companies with high rankings in CHRB are chosen as the critical case, meaning that the results from this case could be applicable to all or a significant majority of other cases (other companies in other sectors) (Flyvbjerg, 2006).

Every year, World Benchmark Alliance produces CHRB to assess human rights performance of the top more than 200 companies across five sectors evaluated as exhibiting a high risk of negative human rights harm. Extractives is among the sectors with highest modern slavery risk exposure along with agricultural products, apparel, ICT manufacturing, and, recently, automotive manufacturing. On the

basis of this benchmark, this research chooses the extractives companies, namely BHP, Rio Tinto, and Newmont, for two reasons. First, these companies are required or voluntarily choose to comply with the Australian MSA. Second, they have an overall higher benchmark score compared to other companies in other sectors which are also under the jurisdiction of the Australian MSA. These criteria highlight the leadership positions of these companies in dealing with modern slavery issues. These arguments support the author's position that selected cases are critical, thus enhancing the study's methodological generalizability (Flyvbjerg, 2006).

Rio Tinto Group. Rio Tinto PLC and Rio Tinto Limited are the two companies that make up the Rio Tinto Group, which are headquartered in the United Kingdom and Australia, respectively. Since 2016, the business has been required to report under the UK MSA. While it is not required to report under the Australian MSA until June 2021, it has included a table in the statement that explains their approach to the legislation. With a total score of 23.5 out of 26, it ranked 2nd in the CHRB. It is also worth noticing that Rio Tinto is the company with the highest ranking across sectors in CHRB that needs to report under the Australian MSA.

BHP Group. BHP includes BHP Group Limited and BHP Group Plc, operating as a single unified economic entity. Its global headquarters and BHP Group Limited is located in Melbourne, Australia. BHP Group PLC is headquartered in London, United Kingdom. The statements published are made in accordance with the UK MSA and the Australian MSA. It ranked 9th in the CHRB, with an overall score of 19.5.

Newmont Corporation. Newmont Corporation has its headquarter in Colorado, United States. Two of its 100% assets located in Australia are Boddington and Tanami. Newmont voluntarily prepared a statement and published it on their website, asserting that the statement represents its support for the Australian government's effort to combat modern slavery. This reporting option is available for business to ensure that those who are not subject to the reporting requirements can participate if they so desire (Australian Government Modern Slavery Business Engagement Unit, 2018). The company scored 19 and ranked 11th in the CHRB in the extractives category.

4.5 Data Collection

This section presents the procedure for data collection, provides thorough explanations of the methodology employed, and discusses of their importance in connection with the philosophical context described earlier in this chapter.

The sample of extractives companies was gathered by first searching for companies with the CHRB score of 19 or higher (above 70% band range) in the Modern Slavery Registry under the mining, metals, chemicals, and resources (including oil and gas) in the registry (Australian Border Force, 2021). The registry is an online publicly accessible source managed by the government where companies submit their statements. Next, the researcher conducted a web-page search of companies in the CHRB in combination with the key term “modern slavery statements” to locate companies that operate in Australia, but their modern slavery statements were not found in the registry. As a result, a list of three companies was compiled. It is also worth mentioning that the modern slavery statement is usually aligned with the financial year, which varies by business. The companies in the research sample issued statements that extend over a calendar year or a twelve-month span until April or June (Voss et al., 2019). As of April 4, 2021, the latest statements by the three companies are selected. A summary of their information can be found in Table 2.

Table 2. Companies studied in this research.

<i>Company</i>	<i>CHRB Score in 2020</i>	<i>Year of Statement</i>	<i>Reference</i>	<i>Number of pages</i>	<i>Appendix</i>
<i>Rio Tinto Group</i>	23.5	2019	(Rio Tinto Group, 2019)	20	A
<i>BHP Group</i>	19.5	2020	(BHP Group Limited, 2020b)	18	B
<i>Newmont Corp.</i>	19	2020	(Newmont Corporation, 2020)	10	C

4.6 Documents

This research focuses on the examination of secondary data – **modern slavery statements** made by companies in relation to the Australian MSA. The statement documents corresponding to the selected companies are shown in Table 2. Secondary data is argued to enhance the validity of retrospective research (De Vaus, 2002) because the researcher cannot interfere in the natural surroundings of the study (Cser, 2020; Daymon & Holloway, 2002). Moreover, due to the sensitivity of the modern slavery topic, businesses’ perception of their response to the Australian MSA is difficult to acquire from the primary data. It would be almost impossible to research those involved in the modern slavery

reporting or management in the companies, or they would most likely refer to the publicly available information on a business webpage. Yet, it is argued that “people who write documents are likely to have a particular point of view that they want to get across” (Bryman, 2016). Viewed in this light, documents define a person's or organisation's standpoints and show their concerns or interest. The author considers that documents are not receptive and thus provide a transparent lens to comprehend companies' actions and standpoints. As Sarantakos (2012) points out, the system itself and the act of measuring have no effect on the results (Sarantakos, 2012).

Moreover, certain **delimitations** have been considered in the data analysis and will be elaborated upon here. First, the COVID-19 Section in the BHP statements is not coded and not analysed in order to provide fairness across the samples. Although the Australian MSA requests companies to disclose their COVID-19-related human rights efforts in the reporting period of 2020, this research takes place in the transition period; hence, not all the statements include a section for COVID-19. Second, the information in the statements and, therefore, the codes are treated as though they, on the whole, respond to the Australian MSA. BHP and Rio Tinto publish a joint statement to respond to both the UK MSA and Australian MSA. However, the actions outlined in the statement are assumed to entirely respond to the Australian MSA unless specified explicitly that it is for the UK MSA, e.g., the table showing the statement's alignment with the UK MSA.

4.7 Data Analysis

After the collection of data, **thematic analysis** was used to examine the statements (Braun & Clarke, 2006). This method of data analysis allows for the identification of meaning in the data and themes generation (Guest, MacQueen, & Namey, 2011). However, critics question the ability of thematic analysis due to its lack of considerable literature on this technique in comparison to other established ones such as grounded theory and ethnography (Nowell, Norris, White, & Moules, 2017). On the contrary, some scholars favour this approach because of its adaptability (Daymon & Holloway, 2002). This study employs ‘theoretical’ thematic analysis which is characterized by the fact that the author has a theoretical interest about what might be found and creates a predetermined set of codes on the basis of theory and literature. The process of ‘theoretical’ thematic analysis will be presented below following Braun and Clarke (2006)’s step-by-step guide:

Step 1: Getting familiar with data: Data were read and reread multiple times to help the author familiarize with the information. Phrases and sections that are interesting and relevant to the research question are highlighted. See Figure 2 for examples of coding.

Step 2: Creating initial codes: Initial codes are manually created from the data. Based on the literature review and the examination of the statements, seventy-six types of codes were identified. The list of codes is in Table 3.

Step 3: Looking for themes: Following a review of the code content, repetitive codes are reduced or combined with other codes that have similar content. Themes were then created by combining related codes into categories.

Step 4: Assessing themes: Themes were then checked and organised until a master list of thematic codes is produced. Table 4 was created with a list of identified themes.

Step 5: Describing and naming theme: By revisiting the data within each theme, the researcher was able to assess the story generated by each theme, how it fits into the overall plot, and analyse the story in the findings section.

Step 6: Creating the report: In the discussion, the researcher completed the study by describing how the results clarified the concepts in the theoretical context. The problem formulation is addressed through this process.

Table 3. List of Codes.

<i>ID</i>	<i>Codes</i>
1	Risk indexing and risk analytics
2	Surveys or questionnaires
3	Vetting or screening suppliers
4	Information sharing platforms
5	Modern slavery guides for risk assessment
6	Government reports
7	Risks based on geography
8	High-risk sectors
9	Country and sector with highest spend
10	Country and sector with largest number of suppliers
11	Locations of their assets
12	Audit
13	Internal team
14	Third-party audit
15	Onsite visit or web conferencing
16	Standardised procedures
17	Technological management systems
18	Review and update existing procedures
19	Timelines
20	Risk assessment
21	Business operations
22	Supply chain
23	Training or capacity building
24	Tailored to fit for purpose
25	Employees and subcontractors
26	Compliance with ethics codes
27	Training for suppliers
28	Grievance mechanism
29	Whistleblowing
30	Accessible
31	Anonymity
32	Anti-retaliation
33	Embed human rights or modern slavery issues in their policies and management system
34	Plan to respond and remediate the impact
35	Remediation plan
36	Terminate the relationship
37	Suppliers' own grievance mechanism
38	Cascade (flow down provision)
39	Challenges for engagement beyond direct suppliers
40	Training for grievance mechanism handling
41	Supplier code of conduct
42	Contractual clauses
43	Challenges for engagement beyond direct suppliers
44	Communicate with to their employees, suppliers, agents, service providers, customers, business partners
45	Government, civil society, NGOs
46	Support for policy and legislative development
47	Investees
48	Business code of conduct
49	Key performance indicators (KPIs)
50	Number of reported incidents
51	Number of trainings for employees or suppliers,
52	Percentage of supplier conformance with code of conduct
53	Number of risk assessments
54	Percentage of supplier conformance
55	Challenges to involve indirect suppliers and the constraints by certain legislations
56	Flow down provisions
57	Complete list of suppliers nor specific incidents
58	Table explaining how each section of statement complies with reporting requirements
59	Future plans
60	International protocols
61	Requirements by their investors
62	Development in regulatory trends
63	Workers' organisations/Unions
64	Benchmark reports by NGOs
65	Multi-stakeholder initiatives
66	Subject experts
67	Social disclosure initiatives
68	Certification schemes
69	Internal human rights experts
70	Cross-functional working groups
71	Executive committees
72	Stand-alone policies or standards on human rights or modern slavery concerns
73	Integrated policies or standards
74	Necessary conditions to eradicate modern slavery
75	Novelty of modern slavery topic for suppliers
76	Update from previous statements

Table 4. Codes and the corresponding identified themes.

<i>Drivers of Responses</i>	<i>Responses: Change in Structure and Governance</i>	<i>Response: Risk Assessment</i>	<i>Response: Remediation</i>	<i>Response: Monitoring and Review</i>
<ul style="list-style-type: none"> · Regulatory trends · Requirements by investors · Workers' organisations/Unions · NGOs <ul style="list-style-type: none"> – Benchmark · Multi-stakeholder initiatives <ul style="list-style-type: none"> – Industry social disclosure initiatives – Industry certification schemes · Subject experts · International protocols 	<p>Structure:</p> <ul style="list-style-type: none"> · Internal human rights experts · Cross-functional working groups · Internal audit team · Executive committees <p>Policies:</p> <ul style="list-style-type: none"> · Stand-alone policies/standards on human rights/modern slavery concerns · Integrated policies or standards with human rights/ modern slavery concerns <p>Processes:</p> <ul style="list-style-type: none"> · Standardised procedures <ul style="list-style-type: none"> – Vetting or screening suppliers – Risk assessment conducted on: <ul style="list-style-type: none"> - Business operations - Supply chain · Embed human rights or modern slavery issues in their policies and management system 	<p>Tools:</p> <ul style="list-style-type: none"> · Modern slavery guides for risk assessment <ul style="list-style-type: none"> – Government reports – NGO benchmark reports – Knowledge sharing platforms · Surveys/Questionnaires · Audit <ul style="list-style-type: none"> – Onsite visit or web conferencing – Third-party audit · Technological management systems · Risk indexing and risk analytics <p>Risk criteria:</p> <ul style="list-style-type: none"> · High-risk geographies <ul style="list-style-type: none"> – Locations of assets – Locations of supply chain · High-risk sectors · Highest spend/largest number of suppliers <p>Requirements:</p> <ul style="list-style-type: none"> · Compliance <ul style="list-style-type: none"> – Business Code of Conduct – Supplier Code of Conduct · Contractual clauses with modern slavery terms · Cascading/flow down provisions · Training or capacity building <ul style="list-style-type: none"> – Employees and subcontractors – Suppliers – Tailored to fit for purpose 	<ul style="list-style-type: none"> · Grievance mechanism/ Whistleblowing <ul style="list-style-type: none"> – Accessible – Anonymity – Anti-retaliation · Remediation plan <ul style="list-style-type: none"> – Terminate the relationship – Remedial actions · Request for suppliers' own grievance mechanism · Training for grievance mechanism handling 	<ul style="list-style-type: none"> · Challenges <ul style="list-style-type: none"> – Engagement beyond direct suppliers and flow down provisions – Constraints by certain legislations – Novelty of topic for suppliers – Necessary conditions to eradicate modern slavery · Review and update of existing procedures <ul style="list-style-type: none"> – Timelines · Communication and engagement with stakeholders <ul style="list-style-type: none"> – Employees – Suppliers – Customers – Business partners – Government <ul style="list-style-type: none"> - Support for policy and legislative development – Civil society – NGOs – Investors and investees · KPIs <ul style="list-style-type: none"> – Number of reported incidents – Number of trainings for employees or suppliers – % of supplier conformance with code of conduct – Number of risk assessments – Complete list of suppliers or specific incidents <p>Reporting:</p> <ul style="list-style-type: none"> · Table explaining how each section of statement complies with reporting requirements · Future plans · Update from previous statements

Policies and governance continued

Access to remedy

We have mechanisms in place to address the concerns of stakeholders who feel *Our Code* has been breached or wish to raise other business conduct issues.

International
accord
Grievance
mech

Accessibility
Update
from
previous
statements

Review/
monitoring

Update of
procedures

Technological
management
system

Aligned with the United Nations Guiding Principles on Business and Human Rights, the *Our Requirements for Community* standard requires that each operated asset has a local complaints and grievance mechanism. More information on complaints and grievance mechanisms can be found at bhp.com. In our FY2019 Statement, we outlined the approach we would take to pilot guidance for a globally consistent approach to the development of complaints and grievance mechanisms. This pilot was intended to be conducted at an operated asset in Minerals Australia. However, due to COVID-19 travel restrictions and access to communities, this work was delayed. We plan to complete the pilot program in FY2021 using a revised approach, due to changed ways of working as a result of the pandemic.

Complaints and grievances and reports of community or human rights issues received by our operated assets are required to be logged in our Event Management System, which was launched in FY2020. The system includes categories for community complaints and grievances relating to amenity, behaviour, human rights and Indigenous rights. This allows us to improve our investigation

Request suppliers to have their own grievance mechanisms

Suppliers working for BHP with more than 100 employees are required to provide evidence that they implement and monitor a functional grievance mechanism or equivalent process(es) for employees, contractors and (if applicable) communities in which we operate. Of these suppliers currently registered in our GCMS, 137 have indicated they do not currently have a grievance mechanism in place for their workforce and have been assessed as high or very high risk. Additional due diligence will be conducted on these suppliers and where required, a development plan will be implemented. From FY2021, all suppliers that rate as high and very high risk after the initial screening through the GCMS registration will be asked to provide evidence of the grievance mechanism (or equivalent) in place at their organisation. This change aligns to our risk-based approach, rather than relying on employee numbers to assess remedy options.

KPI: number of
complying
suppliers

Review/monitoring

Update of
procedures
(supplier
engagement)

Vetting/screening

Risk assessment
criteria

We recognise human rights risks are present in organisations of all sizes. We also acknowledge some organisations, including smaller enterprises, may face challenges with the implementation of management processes and procedures that provide adequate access to remedy for workers and other stakeholders. We are committed to working collaboratively with these suppliers to understand their constraints and seek to find ways to support the provision of complaint and grievance mechanisms. Information on accessing EthicsPoint is available for suppliers in the Ethical Supply

Challenge: novelty
and necessary
conditions

Training for suppliers
Engagement with
suppliers

Figure 2. Example of coding.

4.8 Trustworthiness

To satisfy the reliability criteria, this research follows the line of reasoning by Lincoln and Guba (1985) on trustworthiness (Lincoln & Guba, 1985). The credibility of this study is addressed when a description of the use of proper and suitable steps during data collection and findings are provided (Shenton, 2004). Moreover, as previously mentioned, the non-reactive nature of documents highlights their validity aspect. As the statements are published under the provision of governmental legislation and by established companies, their authenticity and authorship qualify what Bryman (2016) notes: “authenticity of the documents was confirmed, and it would seem that credibility was verified” (Bryman, 2016). Selecting critical cases improves generalisability and transferability. The author also explains the theoretical, methodological, and analytical decisions throughout the analysis, which satisfies the confirmability of the research (Koch, 1994). Finally, the research is traceable, as records of statements, data collection and analysis are documented in the appendix. This establishes the dependability of the study.

4.9 Ethical Consideration

In analysing and publishing a research on firms’ responses towards human rights and modern slavery issues, it is possible that the research may cause harm to the firms, which in this case, may be regarded as the ‘participants’ of the research (Bryman, 2016). The harm could be in the form of negatively impacting the firms’ image, reputation, or self-esteem, for example, through criticisms or disapprovals. Therefore, the research deems of utmost importance the use of constructive criticisms in the evaluation of a firm’s human rights practices.

The three companies, Rio Tinto Group, BHP Group, and Newmont Corporation, form the central part of this research. It should be noted that these companies are not involved in the research and that the researcher is not in dialogue with any representative from the three companies during this research. Hence, there is not any form of approval from the companies, nor has the researcher informed or presented the findings and content of this research to the companies. Furthermore, at the time of conducting this research, the researcher works as an intern at Grundfos (Grundfos Holding A/S, Denmark) in the areas of human rights and sustainability. As such, the researcher is aware of potential objectivity and aims to be impartial in the research.

5 Findings

After the analysis of the statements, five themes emerged on businesses' responses to modern slavery: **1) drivers of responses**, their responses in the forms of **2) changes in the structure and governance**, **3) risk assessment**, **4) remediation**, **5) monitoring and review**, and how they formulate the **6) reporting**. The themes represent the purpose of the research to investigate how leading companies respond to modern slavery under the provision of the Australian MSA. Businesses' perception of drivers that influence their response to modern slavery were expressed in the *drivers of responses* theme. *Changes in structure and governance* emerged from the data as their own theme, and this encompasses the changes in the organisational structure, policies, and standardised procedures that businesses have undertaken to manage modern slavery in their operations and supply chain. Finally, the themes with responses relating to specific practices taken by businesses, including *risk assessment*, *remediation*, and *monitoring and review* recurred throughout the statements. These practices form concrete actions taken by businesses to identify, mitigate, remedy, and prevent modern slavery risks and the process of reviewing and updating their organisational structure and policies over time. The *reporting* theme involves the consolidation and organisation of the responses into a modern slavery statement that complies with the reporting criteria of the Australian MSA.

5.1 Drivers of Responses

The theme of drivers of responses comprises business perspectives on what motivates them to initiate the responses. From the statements, different external stakeholders were identified to have such influence and exert different kinds of pressures on businesses.

Powerful external stakeholders such as regulators, investors, and NGOs seem to play significant roles on driving business responses. The statements of Rio Tinto and BHP emphasise the **requirements by their investors** on getting an understanding business approach to modern slavery. BHP explains they are requested “*to present our approach to assessing and managing human rights risks, including modern slavery and human trafficking, to investors throughout FY2020.*” Business is required to act upon such requests to maintain its relationship with the investors. This could be interpreted as companies' behaviour towards modern slavery is under a certain influence by their investors. In other words, firms are under constant evaluation by the investors whether they have a comprehensive and efficient approach towards human rights and modern slavery.

Besides, Rio Tinto's statement attended to *the development in regulatory trends* in modern slavery, which not only covers the legislations from UK or Australia but also other ongoing and upcoming legislative initiatives such as *"An Agenda for Action on Business and Human Rights by the Finnish European Union (EU) Council Presidency, referring to the need for further EU-wide initiatives"* and *"Consultation by the Canadian Government."* This appears to position Rio Tinto as staying abreast of the development of new laws on human rights and modern slavery. At the same time, this demonstrates the rising of legal requirements with respect to human rights that multinational companies need to take into consideration in their activities. The other types of pressures that are referred to in the statement by Rio Tinto are concerns raised by the *workers' organisations* or *NGOs* with their *benchmark*. Specifically, businesses were reported to take action on certain issues relating to modern slavery or human rights as a result of *"following concerns that were raised by a workers' organisation including around labour rights"* (Rio Tinto) or makes the reference to their ranking in NGO's benchmark. As a result of these initiatives, companies were put in the spotlight and are coerced (**coercive pressure**) to attend to their weak spots, thus further influencing companies to address modern slavery and human rights abuse.

There are multiple instances of references in all of the statements to *multi-stakeholder initiatives*. This can be considered as the second source of institutional pressure. Some of the examples are *International Council on Mining & Minerals*, *UN Global Compact*, and *UN Annual Forum on Business and Human Rights*. These initiatives are reported to provide an opportunity for companies to have a constructive discussion, learn from peers, and develop good business practices. For example, the Newmont statement mentions: *"recognizing the value of collaborating with our peers to learn from others and internalise best practices, we are members of several industry groups and multi-stakeholder initiatives."* What is worth mentioning is that these initiatives also include some measures such as industry *social disclosure initiatives* or *certification schemes*, motivating companies to follow the expected performance in their industry. The statement from Rio Tinto explains that these initiatives *"not only help us to highlight our practices but assist us to identify opportunities for improvement at the group and asset level."* With these measures, a company can evaluate its performance compared to its peers and identify gaps for improvement. In addition, this demonstrates that businesses are under pressure to conform to these expectations because they want to signal their commitment to tackling modern slavery. The institution of forums for exchanging ideas, learning from best practices from other companies, and specific industry measures exemplify the **mimetic pressure** applied to companies.

Besides the above, the normative pressure set up by supranational organisations and subject experts also drives businesses' response to modern slavery. All of the statements highlight the importance of alignment with *international protocols* by supranational organisations such as the Universal Declarations of Human Rights, ILO, and most commonly, UNGPs. This is illustrated by how documents, procedures, or approaches towards respecting human rights mentioned in different parts of the statements are created based on the reference to UNGPs and the other protocols. Rio Tinto and Newmont even have a full dedicated page for UNGPs. Rio Tinto's statement explains:

"All of these documents, developed with reference to core international standards including the Universal Declaration of Human Rights and the UN Guiding Principles on Business and Human Rights (UNGPs), state that we reject any form of slavery and prohibit the use of forced or bonded labour."

Moreover, *subject experts* like consultant services can exert a strong influence on business through advising norms and rules that businesses should follow to address modern slavery. For instance, *Business for Social Responsibility's human rights working group* and *Voluntary Principles on Security and Human Rights* provide workshops, training programs and professional networks of experts to companies. Their expertise and professional service contribute to companies' knowledge on modern slavery issues. Therefore, the standardized norms and rules established by the supranational organisations and subject experts put pressure on business to conform which demonstrates the **normative pressure** that companies need to cope with.

In summary, coercive, mimetic, and normative pressures have been discerned in the businesses' statements on modern slavery. Coercive pressure arises from new regulatory trends, benchmarks by NGOs, and requirements from investors and worker organisations. Second, mimetic pressure is demonstrated when companies learn best practices from their peers from multi-stakeholder initiatives to replicate these practices in their internal procedures. Third, normative pressure originates from norms or rules set up by supranational organisations and subject experts. These findings showcase the theme of drivers of responses to modern slavery from businesses' perspectives.

In the following four subsections, principal findings of the current investigation on the four other themes related to the responses by the businesses (i.e., changes in structure and governance, risk assessment, remediation, and monitoring and review) due to the aforementioned drivers will be outlined.

5.2 Response: Changes in Structure and Governance

5.2.1 Structure

A recurrent theme in all statements is the changes implemented to the **business structure** to increase their capacity to govern human rights issues. The roles of *internal human rights experts* are established in the companies. They engage in the functions that are directly involved with supply chain or third parties such as *Ethical Supply Chain and Transparency*, *Corporate Relations*, and *Third-Party Due Diligence team*. Recognizing the importance of these experts within their businesses, the companies are increasing their human resources on due diligence and human rights-focused supply chain. For instance, the statement by Rio Tinto includes:

“Recognizing the importance of understanding the local context and following the expansion of our Third-Party Due Diligence team in Asia in 2018, we are increasing due diligence expertise in the Americas by hiring due diligence specialists in Montreal in 2020”.

Working with modern slavery requires a cross-functional approach, as Rio Tinto states: *“preventing and addressing modern slavery risks in our operations and supply chains ... requires an integrated cross-functional approach that is embedded across our organisation.”* Therefore, **cross-functional working groups** are organised to coordinate and administer a range of human rights issues related to business, including modern slavery. Members of the working groups comprise relevant functions such as *“representatives from legal, business integrity & compliance, supply chain, human resources, health, safety and security, risk and communications”* (Newmont’s statement). Their work is independently evaluated through the **internal audit team**. **Executive committees**, such as the *Board of Sustainability Committee* and *Risk and Audit Committee* (BHP), are in charge of monitoring the progress of the working groups in addressing modern slavery risks in their operations and supply chain.

It is worth noting that Rio Tinto’s and BHP’s statements clearly show the establishment of teams and committees with clear roles and reporting functions in their structure; however, such clarity is absent from Newmont’s report. Newmont only refers to a cross-functional human rights working group as its highlight. Nevertheless, business structural adjustments occur in response to modern slavery.

5.2.2 Policies

Policies and standards are established by the organisations to address modern slavery and concerns on human rights abuse. There are two types of policies and standards emerging from the findings. The first group of policies and standards are the ***stand-alone policies or standards on human rights or modern slavery concerns*** such as Human Rights policies or Human Rights standards. The excerpts below illustrate these policies:

“Our Human Rights Policy Statement outlines our commitment and approach to respecting human rights.” (BHP)

“... in our Human Rights standard, which reflects the minimum requirements to which all sites must adhere.” (Newmont)

The second group includes ***integrated policies or standards*** which integrate modern slavery or human rights concerns as part of more comprehensive policies or standards on broader topics such as ethics, sustainability, and community or stakeholder management. These policies and standards might address multiple stakeholders; these can be employees, sub-contractors, customers, business partners, suppliers, joint venture partners and third parties in relation to mergers and acquisitions, growth projects and strategic acquisitions. For example,

“Our Procurement standard mandates that all new suppliers and certain renewals of existing suppliers must undergo due diligence relating to ethics and integrity...” (Rio Tinto)

“Our Sustainability and Stakeholder Engagement policy outlines our commitment to the UN Guiding Principles on Business and Human Rights (‘Guiding Principles’).” (Newmont)

“Our Stakeholder Relationship Management standard includes requirements for all sites to have complaint and grievance mechanisms in line with the Guiding Principles.” (Newmont)

5.2.3 Processes

In order to evaluate the existence of modern slavery in their businesses, companies are found to establish different ***standardised procedures*** to assist the process of ***vetting and screening of suppliers*** and assessing modern slavery risks in their operations and supply chains. An example of such standardisation is by BHP: *“The inclusion of contracting and administration processes for community development projects and donations in our Global Contract Management System (GCMS), which commenced in FY2019, helps to standardise our ethical supply chain and transparency due diligence for social investment.”* This process standardisation is shown in Figure 3.

With these procedures in places, **risk assessment** and analysis can be effectively conducted on both their **business operations** and their **supply chain** to identify modern slavery risks in their own operation. One example is the human rights risk assessment implemented at BHP at their Global Asset Services office in Manila and on projects in Australia, as well as human rights impact assessment at Western Australia Iron Ore (WAIO) asset in Minerals Australia and in Minerals Americas. Another example is Rio Tinto's review of their marine function.

Businesses are also found to **embed human rights or modern slavery issues in their policies and management system**. This is an essential point of action because having an anchored approach towards addressing human rights or modern slavery will help firms establish a clear roadmap to identify, implement, and monitor issues. An example is from BHP:

"In order to understand and manage the risks that BHP is exposed to, we have a Group Risk Architecture, which is a tool to identify, analyse, monitor and report risk. It currently comprises 12 Group Risk categories, which cover a number of Group Risks, including Community and Human Rights. This tool helps us to identify current risks (which may be strategic or operational in nature), as well as emerging risks, that are associated with these Group Risks." (also in Figure 4)

Through this, all business activities, projects, and decisions are conducted with human rights and modern slavery concerns addressed to both internal and external stakeholders *"around major transactions, including all major divestments ... major acquisitions ... new activities in high-risk countries and major projects"* (BHP) at different levels such as site, functional, and group.

It is worth noting however that while firms acknowledge that their procurement and supply chain operations may be subjected to modern slavery, there is not any clear reference in the statements where firms directly address their buying behaviour. To address this, firms could consider redirecting the training of their procurement personnel from focussing on corrective actions to employing best practice measures when purchasing, for example, paying fair market prices and not unnecessarily demanding early product deliveries. Like in the case of Rio Tinto: *"Our training programme seeks to emphasise that cost reduction must not come at the price of our policies and standards, including our Supplier code of conduct."*

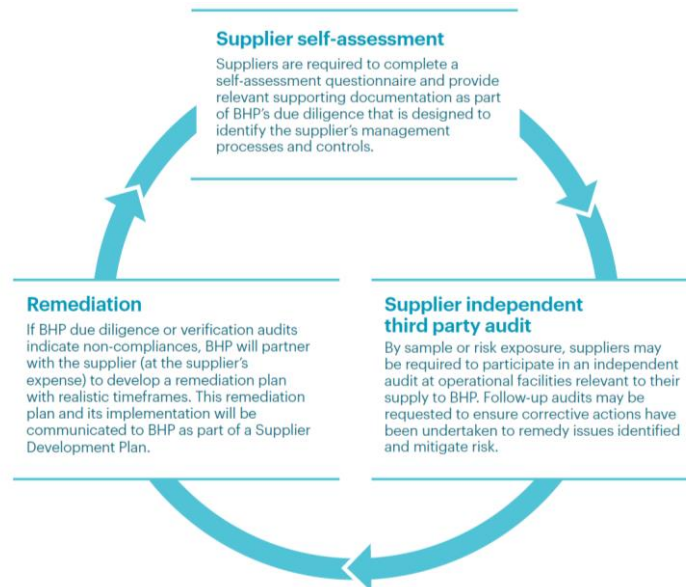


Figure 3. Example of standardization of the Ethical Supply Chain and Transparency process at BHP. Reproduced from (BHP Group Limited, 2020b).

Group Risk Categories				Group Risks				
Strategy	Strategy formation	Commodities exposure	Assets and growth options +					
Growth and development	Political stability and new country entry	Expansions, organic growth and major projects						
Production and operations	Operational productivity	Mine to port infrastructure	Third party performance	Asset integrity	Transformational change			
Commercial	Procurement and inbound supply chain management	Maritime	Commodity price	Sales security and concentration +	Counterparty risk			
Planning and technical	Exploration	Resource development	Reserve reporting	Rehabilitation and closure	Tailings storage facilities +	Geotechnical stability +		
People and culture	Attract, retain and engage capability	Diversity, inclusion and equal opportunity	Industrial and employee relations	Labour relations				
Health and safety	Aviation	Process safety/hazardous materials containment ▲	Non-process fire and explosion +	Physical security and company crisis	Mental and physical health	Occupational safety	Contractor management	Occupational health exposures
Environment, climate change and community	Biodiversity loss and land use impacts	Human rights	Climate change ▲	Community ▲	Water interactions			
Technology, innovation and systems	IT/OT service management	Cybersecurity	Automation and technology innovation	Data protection	Principal risks The allocation of our principal risks to the Group Risk Architecture is shown in a darker shade of blue. Our principal risks are described further in the Risk factors section. These include risks that could result in events or circumstances that might threaten our business model, future performance, solvency or liquidity and reputation. In identifying our principal risks, we have considered the potential impact and probability of the related events or circumstances, and the timescale over which they may occur. Changes to our principal risks in FY2020: + New ▲ Renamed Changes are described further in the Risk factors section.			
Financial management	Liquidity	Tax	Financial control and reporting	Balance sheet				
Allocation of capital and group planning	Capital allocation	Corporate planning	Licence to invest					
Legal compliance and stakeholder management	Geopolitics and stakeholder relations +	Ethics and compliance	Legal and regulatory					

Figure 4. BHP example. Inclusion of Human Rights and Community in the Group Risk Architecture. Reproduced from (BHP Group Limited, 2020a).

5.3 Response: Risk Assessment

5.3.1 Tools

Companies establish tools to systematically carry out the risk assessment and due diligence. An example of these tools includes *surveys or questionnaires* to suppliers, communities, or workers during the phases of vetting or screening suppliers. However, this tool is acknowledged to have a limitation in providing “*an accurate assessment of risk*” (Newmont). Therefore, *information sharing platforms, modern slavery guides for risk assessment, government and NGO reports* are also employed to evaluate suppliers. The goal of utilizing different tools to assess suppliers or third parties is to increase transparency and have a better understanding of risks that may be hidden in the supply chain and are impossible to detect from a survey. This demonstrates the effort of businesses in supply chain transparency through triangulating data from different sources, as Rio Tinto mentions:

“When we need more in-depth information on identified risks, we use country, industry and company specific resources such as the US Department of State’s Trafficking in Persons report and country narratives, KnowTheChain industry benchmarking and the Modern Slavery Registry.”

Various human rights and modern slavery *risk indexing and risk analytics* have been reported to be used by firms to improve their understanding of their potential exposure to human rights risks in different locations. The Verisk Maplecroft Modern Slavery Index² is utilised by BHP along with some other taxonomy metrics. Rio Tinto uses the Verisk Maplecroft Modern Slavery Index as well as other indices such as the Global Slavery Index and Transparency International Corruption Perception Index. Newmont, on the other hand, only uses the Global Slavery Index.

Based on these risk assessments, high-risk suppliers can be selected for *audit*. The audit process can be implemented by an internal team within the company or a *third-party audit* team. This includes interviews with workers through an *onsite visit* or *web conferencing*. Suppliers in high-risk countries are also required to provide their labour policies for companies to assess risks. For instance, Rio Tinto states that they require from their high-risk suppliers “*an enhanced due diligence review under the Know Your Supplier procedure*” and ask for “*the labour policies of prospective suppliers that planned to bring manual labourers onto our sites in high or very high-risk countries.*”

² “The Verisk Maplecroft Modern Slavery Index assesses the risk to business of exposure to practices of slavery, servitude, trafficking in persons and forced labour. Verisk Maplecroft Index scores are presented on a scale of 0–10, where 0 represents highest risk and 10 represents lowest risk.” (BHP)

These tools are sometimes included in the standardised procedures for the risk assessment process. Examples of these procedures are the aforementioned *Know Your Supplier procedure*, *Ethical Supply Chain*, and *Transparency process*. BHP illustrates this process through a cycle in which suppliers are required to complete a self-assessment questionnaire (Figure 3). When risks are identified, they might be asked to take part in an independent audit and even a follow-up audit. If they fail to comply, the supplier will be requested to devise a remediation plan at their own expense. These procedures are supported by **technological management systems** such as *Global Contract Management System* (BHP) or *Employee Relations case management system* (Rio Tinto). Some systems couple the supply chain database to the sourcing sustainability and human rights risk metrics, such as the *Responsible Sourcing Tool*³:

“We also use resources like the Responsible Sourcing Tool to enhance our understanding of which goods or services may be higher risk due to known challenges arising in a particular industry, or because of how goods are manufactured, or services are carried out. These tools have revealed that some of our higher risk sourcing ... This is due to a variety of factors in these sectors, including the use of sub-contracting, an increasing use of migrant workers and the prevalence of lower-skilled labour.” (Rio Tinto)

Making use of technology is beneficial towards managing the contractual work and administration related to risk assessment.

“The inclusion of contracting and administration processes for community development projects and donations in our Global Contract Management System (GCMS), which commenced in FY2019, helps to standardise our ethical supply chain and transparency due diligence for social investment.”

5.3.2 Risk Criteria

With the aforementioned risk assessment and analytics tools, companies tend to evaluate **risks based on geography**, where a socio-political system is insufficient to protect against forced labour, child labour, and debt bondage, or **high-risk sectors**, where the use of a low-skilled workforce, seasonal labour, and migrant workers are prevalent. The statement by BHP explains:

“As a result of the pilot program review, we have enhanced our approach by shifting to a tailored assessment of supplier taxonomy risk in the initial screening, using existing taxonomy metrics (including Verisk Maplecroft indices), third party data analysis and industry expertise for sector-

³ The Responsible Sourcing Tool is not owned by Rio Tinto. The tool is publicly available and is managed by the State Department’s Office to Monitor and Combat Trafficking in Persons, Verité, Made in a Free World, and the Aspen Institute (<https://www.responsiblesourcingtool.org/>)

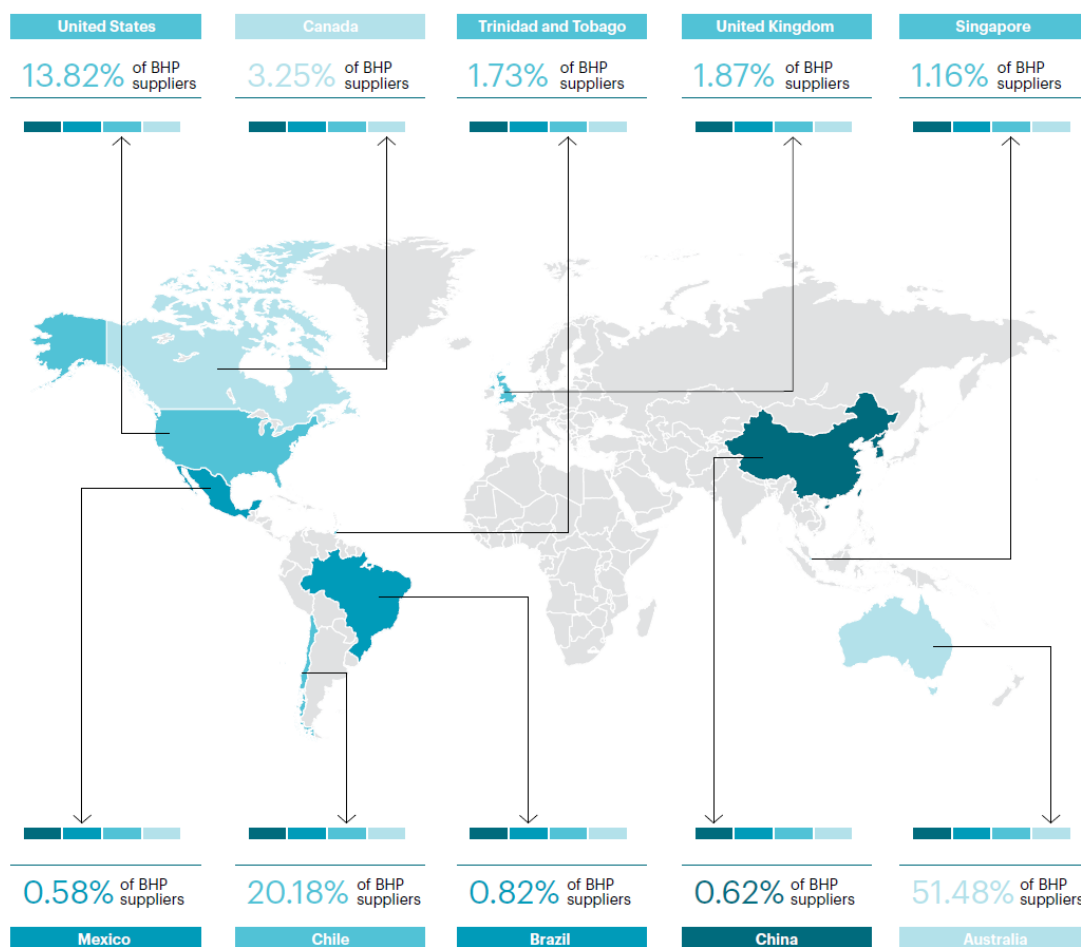
specific risk profiles. This approach enables us to better identify the suppliers with the highest potential risk and reduces our dependence on supplier self-assessment.”

Interestingly, Rio Tinto also chooses to categorise their suppliers by **country and sector with the highest spend**: “After Australia, Canada and the United States, our next highest-spend countries are Mongolia, Singapore, China, South Africa and Great Britain.” In the case of BHP, the firm also performs risk indexing based on **country with the largest number of suppliers** (Figure 5). While this practice is selected because business assessments often seek to recognise problems that are important to a business and its stakeholders, human rights risk assessment focuses on risks that affect the impacted parties, irrespective of business risks. What is essential here is that businesses need to locate where they can potentially impact human rights and take action on those risks.

Through the combination of risk analytics tools and well-established criteria, businesses are able to map the modern slavery risks not only at various of their **supply chain locations** but also within their own operations and assets. In line with this approach, BHP conducts a detailed risk mapping of their supply chain with an illustrative map of its top 10 suppliers by countries based on the Verisk Maplecroft Modern Slavery Index (Figure 5) and a table with of their service providers in high-risk sectors. Newmont provides a table with the **locations of their assets** and their modern slavery index ranking, while Rio Tinto presents a link to their webpage with an interactive map of their business operations. BHP also apply the risk assessment tools to their non-operated joint ventures or non-operated assets and their investment.

Top 10 BHP supplier countries by country of incorporation

Verisk Maplecroft Modern Slavery Index 2020



Verisk Maplecroft Modern Slavery Index Classification 2020

● Extreme >0-2.5 ● High >2.5-5.0 ● Medium >5.0-7.5 ● Low >7.5-10

Figure 5. BHP's example of assessment of modern slavery risk exposure in different operative locations using the Verisk Maplecroft Modern Slavery Index 2020. Reproduced from (BHP Group Limited, 2020b).

5.3.3 Requirements

Modern slavery risk assessment is, in essence, a measure of compliance to companies' **requirements** on modern slavery respect. The sub-theme of requirements involves different compulsory and necessary conditions that companies impose on employees, suppliers, and other relevant stakeholders to prevent human rights and modern slavery risks. Four prominent conditions emerged from the data: 1) compliance with business code of conduct or supplier code of conduct, 2) contractual clauses with specific terms, 3) cascading or flow down provision, and 4) training or capacity building for relevant stakeholders.

Companies are found to enforce a requirement for suppliers, employees, and other business stakeholders to **confirm to compliance** with the company **ethics code** (**'business code of conduct'**) or the **supplier code of conduct**.

"Our [Business] Code [of Conduct] sets out standards of behaviour for our people and outlines the human rights commitments applicable to our people, as well as our contractors and suppliers (where under relevant contractual obligation)." (BHP)

"Our Supplier code of conduct, available on our website in five languages, is provided to prospective suppliers, and is regularly referenced in discussions with existing suppliers." (Rio Tinto)

However, it is not certain if it is indeed their commitment to actively impose on their suppliers to comply with their standards or if it is only lip service. Lack of a monitoring process to evaluate compliance makes such a claim insufficient for the supply chain to take concrete action to address modern slavery.

Compliance with supplier codes of conduct is one of the **contractual clauses** that businesses have established to set an expectation for their supply chain. The supplier codes and requirements can relate to a variety of aspects that suppliers need to comply with, such as *"human rights, bribery and corruption, money laundering, trade sanctions or denied party transactions."* (Rio Tinto). Businesses are found to have updated their contractual clauses to include human rights and modern slavery and even imposed modern slavery clauses to purchase order terms and conditions. Such provision requires their suppliers to report if they are aware of any allegations of human rights or modern slavery activities in their supply chain or get audited against modern slavery requirements. For example,

"Compliance with the Minimum requirements for suppliers is necessary for doing business with BHP and they are included in our procurement standard contract suite, BHP Vessel Charter Party(8) and purchase order terms and conditions." (BHP)

This is also a part of firms' efforts to **cascade** their effects (**flow down provision**) to the supply chain beyond Tier-1 suppliers, where their sub-suppliers are also required to honour the same requirements as direct suppliers. The following excerpts from BHP and Newmont's statements illustrate these requirements:

"...a requirement for the partner organisation/donation recipient to comply with a tailored version of our Minimum requirements for suppliers in its activities with BHP and to ensure any subcontractors also do so" (BHP)

"We also have a Supplier Code of Conduct, which has a clause on human rights and labor issues outlining our zero tolerance for discrimination, harassment, workplace violence, bullying or child and forced labor within our supplier's own or their affiliates' operations or the operations of other companies within their own or their affiliates' supply chains." (Newmont)

Additionally, employees and management are also provided with materials on how to detect modern slavery through **training or capacity building** activities. Rio Tinto recognises the importance of having training for employees: *"It is imperative that they understand the key signs of modern slavery, particularly those colleagues most likely to be exposed to it."* These trainings can be conducted through *face-to-face, webinar, video or online programs*. Especially since some of the functions have a high risk of exposure to modern slavery issues, these trainings are mandatory and the training materials are **tailored to fit for purpose** such as the trainings for the *Corporate Affairs, Procurement and Maritime, and Supply Chain Excellence* teams.

Companies also engage with their suppliers to build the suppliers' capacity to combat modern slavery. Suppliers are also provided with **supplier training** on the topic of modern slavery to help them spot and report forced labour, child labour or trafficking cases. As Rio Tinto states: *"Capacity-building with our suppliers is integral to preventing modern slavery across the value chain. This is a reciprocal approach – we learn from suppliers and assist to increase their awareness as well."*

5.4 Response: Remediation

Companies are expected to have a remediation process for dealing with impact if risks are identified through the risk assessment procedure. In response to these requirements, they set up a **grievance mechanism** and **whistleblowing** system for employees, suppliers, community and other stakeholders to raise complaints or concerns if a violation in terms or conditions of their policies and standards occurs. These procedures may be set up both at firm level and at site level. This is essential because remediation needs to be available and **accessible** to meet the requirements of UNGPs. These

mechanisms are informed through a company website or via a supplier code of conduct. **Anonymity** of reporting through these channels must be guaranteed and protected under the **anti-retaliation** policy of firms.

Example of accessibility – *“In FY2020, we installed signage at three major ports to inform seafarers of the contact details to raise a complaint about work and living conditions on board a vessel.”* (BHP)

Example of anonymity – *“Our Integrity Help Line supports this by enabling the reporting of anonymous complaints or concerns through a third party.”* (Newmont)

Example of anti-retaliation - *“We prohibit any form of retaliation against anyone raising a human rights issue or concern and expect those we work with to do the same. We reinforce our anti-retaliation provision of the Code of Conduct when employees present questions or complaints of violations of our Code of Conduct.”* (Newmont)

An example of the implementation of such a system is Rio Tinto’s confidential whistleblowing programme, called ‘Talk to Peggy’, which allows their employees, suppliers, community members, stakeholders, and the public to raise issues to management (Figure 6). Without a reliable system, impacted parties will not trust companies to raise their issues or handle the issues properly. As Rio Tinto claims: *“We know though that we will only be able to rely on our grievance mechanisms for these purposes if the mechanisms are trusted and secure.”*

RioTinto Our reporting programme
Confidential. Safe. Respectful. Fair. myVoice

Report an Incident

You can safely and confidentially report here anything that feels wrong or is not aligned with our values, behaviors, standards, policies and procedures (including The Way We Work)

Select your location. *

Select one

Where did the incident occur? *

Select one

GET STARTED

Check Status

You can check the status of your report or question using the access number and password you created when you submitted the report.

Access Number Password

Forgot your password?

CHECK STATUS

Figure 6. Rio Tinto's Talk to Peggy confidential whistleblowing reporting system (<http://www.talktopeggy.com/>)

Moreover, when a breach occurs, companies need to have a ***plan to respond and remediate the impact***. An example is BHP's *Human Rights Breach Remediation and Response Plan*. Companies have different strategies for dealing with non-compliance by suppliers, but the overall approach is to maintain relationships with suppliers, direct them to training, audit, and create a ***remediation plan*** with a follow-up audit to ensure corrective actions are taken within a realistic timeframe. The plans are communicated to the complainants and outcomes are documented. Even though it is claimed that businesses may ***terminate the relationship*** with suppliers (Rio Tinto and BHP), none of the statements within this study report any actual incident to such effect. For example,

"We also completed an independent third party audit on a supplier in the US following concerns that were raised by a workers' organisation including around labour rights. The auditor did not find any evidence of modern slavery. We are working with the supplier around mitigation actions on broader points." (Rio Tinto)

"A very small number of suppliers that do not commit to complying with the Minimum requirements for suppliers (and do not have standards that are higher than BHP's) are proactively followed up with and, in cases where they are not able to satisfactorily rectify the non-compliance, will be ineligible to conduct business with BHP." (BHP)

Newmont and BHP also require ***suppliers*** and their business partners to have their ***(suppliers') own grievance mechanism*** in dealing with complaints from their operations and supply chain. If such a mechanism is not available, complainants can be directed to the company's own grievance mechanism. For instance,

"We require that our suppliers remedy complaints or grievances expeditiously (see Supplier Code of Conduct). Where they do not have their own mechanism, they may direct complainants to our local mechanisms or the Integrity Help Line." (Newmont)

"Suppliers working for BHP with more than 100 employees are required to provide evidence that they implement and monitor a functional grievance mechanism or equivalent process(es) for employees, contractors and (if applicable) communities in which we operate." (BHP)

Further, ***training for grievance mechanism handling*** is also provided to employees at site level and to suppliers, such as through webinars, to promote their capacity in dealing with complaints when they arise. For example, Rio Tinto claims: *"We conducted webinars during 2019 on complaints and grievance mechanisms to better equip site-level staff to more effectively track complaints and run site-level grievance mechanisms."*

5.5 Response: Monitoring and Review

Companies are found to monitor the risk assessment process through *key performance indicators (KPIs)*. There are various KPIs that businesses focus on, such as *the number of reported incidents, the number of trainings for employees or suppliers, the percentage of supplier conformance with code of conduct*, etc. The following examples are how the KPIs are illustrated in the statements:

“In our FY2019 Statement, we disclosed two alleged breaches of seafarers’ human rights on a BHP-chartered vessel and a customer-chartered vessel respectively.” (BHP)

“Since its initial release in 2018, the training has been taken approximately 3,500 times.” (Newmont)

“In 2019, we recorded two modern slavery related “high” risk ratings as a result of Know Your Supplier due diligence reviews, a change from none in 2018 and four from September 2016 to the end of 2017.” (Rio Tinto)

While KPIs on instances of risk assessments, reported incidents, resolved complaints, and trainings on modern slavery or related to modern slavery are mentioned in every statement, other KPIs on the number of supplier conformances, audits, or follow-up audits are not disclosed in every statement. While Rio Tinto and Newmont mention their performance in the *number of risk assessments* conducted, it is not present in the statement by BHP. Meanwhile, the *percentage of supplier conformance* is revealed by BHP and Newmont, but not by Rio Tinto. This shows that companies can set different objectives in their decision making on their human rights strategy. The lack of a unified standard can be an issue to compare, contrast, and evaluate their performance in addressing modern slavery. Nevertheless, setting these indicators is still beneficial for internal communication across the organisation and helps define a clear expectation towards relevant stakeholders in providing deliverables for human rights or modern slavery mitigation.

More importantly, companies are found to *review and update existing procedures* to better identify risks that exist in their operations and supply chain. Such reviews can trigger a change or an update to the policies or training programs, or a simplification of the process. These activities are important because processes, procedures, and training need to be reviewed to evaluate their effectiveness and thus improve their design and implementation, allowing the companies to stay abreast of the trend in risk assessment. Continual evaluations of policies, training, or procedure help companies promote the effectiveness, learning, and transparency in their approach to tackling modern slavery.

“We have learned it is necessary to review the automated data with our regional teams who have an awareness of the supplier, their current controls and the type of goods or services they provide. While this takes more time, it provides a more accurate assessment and identification of risk.” (Newmont)

“Recognising that other labour rights issues may lay the foundations for modern slavery, we are looking at better ways to identify modern slavery risks from these types of reports and to ensure that mitigation measures are designed to support respect for all labour rights.” (Rio Tinto)

The review process is conducted with a certain set of **timelines**. A biannual or annual update to management or regular employee training provides a clear insight into the progress and keeps relevant parties informed when their feedback is required. For example, Rio Tinto reports: *“In 2019, we provided biannual updates to our board’s Sustainability Committee on our progress on tackling modern slavery.”* Similarly, BHP claims to be *“conducting an annual review of the supply risk assessment and assessment of controls.”* Meanwhile, Newmont does not disclose any information regarding timeline in their report.

Through these procedures, processes, or standards, companies can **communicate to their employees, suppliers, agents, service providers, customers, business partners** about their expectation towards business practices and standards. This is also an opportunity for businesses to receive feedback to improve their process and leverage relationships to raise awareness on human rights issues which give them a leadership position in this topic. As BHP states, *“The pilot program provided us the opportunity to seek feedback from engagement between suppliers and BHP’s Procurement team to enhance our approach.”* Companies are also found to engage with **government, civil society organisations, NGOs** to increase the capacity in combatting modern slavery of their local operations together with local suppliers. An example of this is Rio Tinto’s involvement with local government and development agency partners in Mongolia. Rio Tinto is also found to actively **support policy and legislative development** by *“providing input to the Australian Government’s Guidance for Reporting Entities under the legislation.”* Joint venture partners and non-controlled companies are also engaged in a similar manner. The same goes for **investees** from community donations, community development projects, and commercial sponsorships:

“The way we work explicitly applies to our suppliers and we expect our joint venture partners and non-controlled companies to respect the principles contained within it.” (Rio Tinto)

“The Minimum requirements for suppliers were also simplified in FY2020 for use in community donations, community development projects and commercial sponsorships.” (BHP)

Besides these efforts, businesses also recognise the **challenges** in dealing with modern slavery which help them pinpoint the areas in their structure, procedures, and tools that need improvement. Based on the review of these challenges, firms update the existing procedures. The first and common challenge was to **engage with indirect suppliers**, as the statement by Rio Tinto reflects: *“it can be challenging to understand how commitments in labour and other policies are implemented within a supplier’s business and value chains.”* The primary approach is to include flow-down provisions, as previously mentioned, to require direct suppliers to employ the same requirements for their own supply chain or motivate them to manage their sub-suppliers. Through this approach, firms’ leverage is only limited to Tier 1 of their supply chain. Even so, such a request is not always agreeably received. The statement by Rio Tinto acknowledged being questioned by suppliers whether the businesses have the authority to make such a request: *“Some suppliers have raised queries around Rio Tinto’s right to audit against our modern slavery requirements and the supplier’s requirement to confirm that it and its subcontractors have not been investigated or convicted for modern slavery offences.”* A business approach to deal with this challenge is by promoting capacity building as stated by the statement of BHP: *“... we have a responsibility to work constructively with our direct suppliers to build capacity both within their organisations and their own supply chains.”* Besides, other challenges posed to business action to tackle modern slavery are the **constraints by certain legislations** and the lack of information on best practices due to its **novelty of the topic**. The following excerpts represent these concerns:

“By comparison, BHP’s ability to respond to seafarers’ grievances is limited by the requirements of maritime law and our indirect relationship with seafarers.”

“Modern slavery clauses are still fairly novel, and information on best practice on their implementation is rare.” (Rio Tinto)

Taken these challenges into consideration, the statement by Rio Tinto expressed their opinions about the **necessary conditions for eradicating modern slavery**. It is not a siloed issue that can be solved in isolation, but there is a need for a collaborative approach: *“...the global fight against modern slavery needs multi-faceted and collective action. Enforcement of laws, resourcing of preventative and survivor support mechanisms and multi-stakeholder collaboration is essential. Policy coherence and consistent regulation are also key for actors working across jurisdictions.”* This example emphasizes the expectations of the need for law enforcement, resources, and collaborations as well as consistent and systematic jurisdiction for international businesses with operations and supply chains across the globe.

None of the statements within this study discloses neither a complete list of suppliers nor specific incidents, if they exist, of modern slavery violations. There are examples of statements elsewhere that have released complete supplier lists and reported specific violations; however, not by the companies that are considered herein. Although such action may help a firm to come across as being an honest and transparent organisation, the benefits do not justify the risks of disclosing proprietary information or losing reputation from reporting a violation incident that is not already in the public domain.

5.6 Reporting

5.6.1 Other Reported Aspects

Both Rio Tinto and BHP are found to use a joint statement to respond to both UK and Australian MSAs as the Australian MSA reporting allows companies to do so. Therefore, both of them create a *table explaining how each section of their statement complies with the reporting requirements* of each legislation. Since there is an overlap between the two MSAs, this approach is an effort to avoid repetition and potential inconsistencies across multiple statements. It also demonstrates the entanglement of legislations that multinational companies need to take into consideration.

Another recurrent sub-theme mentioned in the statements is about the *update from previous statements*. These updates commonly relate to business progress on the action plans, action to mitigate the violations or comparison about the performance presented in preceding reports. There is a slight difference in the focus between these updates. While BHP seemed to emphasize the mitigative actions, Rio Tinto appeared to illustrate the areas that their current performance exceeds last year's effort. This discrepancy could be attributed to companies having a different approach on how they choose to disclose their progress, which might make it difficult for readers to evaluate their efforts and compare between them. The extract below shows the examples of these updates:

"In our [BHP] FY2019 Statement, we disclosed two alleged breaches of seafarers' human rights on a BHP-chartered vessel and a customer-chartered vessel respectively".

"In 2019, we [Rio Tinto] recorded two modern slavery related "high" risk ratings as a result of Know Your Supplier due diligence reviews, a change from none in 2018 and four from September 2016 to the end of 2017."

Businesses are also found to provide, in detail, their *future plans* in tackling modern slavery with concrete action steps. This is an indicator to show firms' commitment to address modern slavery issues. Common future actions include: 1) increasing capacity through training, 2) reviewing and

enhancing management framework, 3) remediating complaints from grievance mechanism or findings from risk assessments, and 4) conducting due diligence as planned. For example, Rio Tinto plans to enhance their knowledge on modern slavery through the use of technology and partnerships with civil society organisations. BHP also acknowledges: *“some organisations, including smaller enterprises, may face challenges with the implementation of management processes and procedures that provide adequate access to remedy for workers and other stakeholders. We are committed to working collaboratively with these suppliers to understand their constraints and seek to find ways to support the provision of complaint and grievance mechanisms.”*

5.6.2 Compliance with Australian MSA Reporting

This research summarizes the identified codes in alignment with the reporting requirement in Table 5, which answers the third research sub-question of this thesis. With respect to compliance with the reporting requirements, this research found that certain types of responses are presented by companies to address each of the reporting requirements of the Australian MSA:

1. The first criterion is to represent reporting entities' identity, structure, operations, and supply chains. The statements described businesses met this criterion by providing a list of their reporting entities, as well as information relating to their structure, main locations of their operations and suppliers.
2. The second reporting relates to presenting the risks of modern slavery in their operations and supply chains. Companies argued they satisfied this by illustrating the tools they used to identify risks in their operations and supply chain, procedures for risks assessment, especially for high-risk operations and suppliers, and training for internal and external stakeholders on risk identification.
3. The third criteria include the steps taken to identify and mitigate the risks, including due diligence and remediation process, according to which statements explained about business code of conduct, their governance and risk management approach, availability of grievance mechanism, and engagement with external stakeholders.
4. The way the reporting entities evaluate the effectiveness of their actions is the fourth criterion. Businesses reported satisfying this by reviewing and updating policies and processes, tracking the implementation of existing programs, internal evaluation process and engagement with multi-stakeholder initiatives.

5. The fifth requires information on the process of consultation with any entities the reporting entity owns or controls, which was acknowledged by businesses through the consultation and review with the cross-function working groups, subsidiaries, executive committees, and, in some cases, some of their investors and partner civil society organisations.
6. The final requirement is to provide any relevant information. To satisfy this last criterion, businesses provided information on their engagement and collaboration with different initiatives and their plan for future actions.

It should be noted that there is an overlap in responses to particular criteria and some slight differences in how businesses choose what responses to meet the criteria. The research will ascribe the codes and themes to the reporting criteria that seem to be the most sensible to the researcher's knowledge and finding. Also, the codes are not exhaustive to address all the requirements, since the purpose of the research is to see how businesses respond to modern slavery in their operations and supply chain.

Table 5. Codes in alignment with the reporting requirements of the Australian MSA.

<i>Criterion</i>	<i>Featured codes/themes</i>
<i>1. Reporting entities' identity, structure, operations, and supply chains.</i>	<i>Basic entity's information, e.g., list of reporting entities, business model, countries with company's operations, business locations, entities in ownership, supply chains, joint ventures, and other investments.</i>
<i>2. The risks of modern slavery in their operations and supply chains.</i>	Tools: <ul style="list-style-type: none"> · Modern slavery guides for risk assessment <ul style="list-style-type: none"> – Government reports – NGO benchmark reports – Knowledge sharing platforms · Surveys/Questionnaires · Audit <ul style="list-style-type: none"> – Onsite visit or web conferencing – Third-party audit · Technological management systems · Risk indexing and risk analytics (for example, Verisk Maplecroft Modern Slavery Index)

3. Steps taken to identify and mitigate the risks, including due diligence and remediation process.

Risk criteria:

- High-risk geographies
 - Locations of assets
 - Locations of supply chain
- High-risk sectors
- Highest spend/largest number of suppliers

Processes (for risk assessment):

- Vetting or screening suppliers
- Risk assessment conducted on:
 - Business operations
 - Supply chain

(Enforcement of) Requirements:

- Training or capacity building
 - Employees and subcontractors
 - Suppliers
 - Tailored to fit for purpose.

Structure:

- Internal human rights experts
- Cross-functional working groups
- Internal audit team
- Executive committees

Processes (integration of processes):

- Standardised procedures
- Embed human rights or modern slavery issues in their policies and management system

Policies:

- Stand-alone policies/standards on human rights/ modern slavery concerns
- Integrated policies or standards with human rights/ modern slavery concerns

Requirements:

- Compliance
 - Supplier Code of Conduct
 - Business Code of Conduct
- Contractual clauses
- Cascade/flow down provisions

Remediation:

- Grievance mechanism/whistleblowing
 - Accessible
 - Anonymity
 - Anti-retaliation
- Request for suppliers' own grievance mechanism
- Training for grievance mechanism handling

4. The way the reporting entities evaluate the effectiveness of their actions.

- Remediation plan
 - Terminate the relationship
 - Remedial actions

Review and Monitoring:

- Review and update existing procedures
 - Timelines
- Communication and engagement with stakeholders
 - Employees
 - Suppliers
 - Customers
 - Business partners
 - Government
 - Support for policy and legislative development
 - Civil society
 - NGOs
 - Investors and investees
- Key performance indicators (KPIs)
 - Number of reported incidents
 - Number of trainings for employees or suppliers
 - Percentage of supplier conformance with code of conduct
 - Number of risk assessments
 - Complete list of suppliers or specific incidents

5. The process of consultation with any entities the reporting entity owns or controls

Consultation:

- Cross-functional working groups
- Executive committees
- Subsidiaries

6. Any other relevant information.

Other Reported Aspects:

- Table explaining how each section of their statement complies with the reporting requirements
- Future plans
- Update from previous statements
- Multi-stakeholder initiatives:
 - Industry social disclosure initiatives
 - Industry certification schemes

6 Discussions

6.1 Institutionalism behind the Drivers of Responses

The goal of this section is to apply the theoretical framing in order to create insights that can help answer the first research sub-question. We aim to understand what drivers are perceived to have influenced companies in response to modern slavery, which leads to the changes they have made to incorporate the modern slavery agenda into their corporate activities and how these efforts address the reporting requirements.

The initial objective of the research is to identify the types of institutional pressures that promote companies' action in response to modern slavery. This research found empirical support for the theoretical assumptions (DiMaggio & Powell, 1983) regarding what influences business compliance. Coercive pressure is found in the statements where governments and powerful stakeholders such as investors, civil organisations, and unions can force companies to take action to address modern slavery. While the response to the government is to cope with the current and upcoming trend of legislative mandates, it also addresses the stakeholder's expectation, as mentioned in the literature review. Stakeholders' expectation is at an extremely high level because extractives is a high-risk industry.

The institutional theory suggests that professional organisations at supranational levels can employ their 'soft power' through the development of standards to have an effect on business (Scott, 2005). This normative pressure is seen to exist in the findings where companies establish their policies and procedures based on the standard established by the UNGPs or ILO. Moreover, businesses' involvement with the professional associations through their support in providing training or capacity building on modern slavery and human rights signals 'professionalization', which is in line with DiMaggio and Powell (1983). In this vein, the expertise of subject experts from professional associations plays a role in spreading the norms and rules to businesses (Woolthuis & de Jong, 2017).

Institutionalism also indicates that business will attempt to mimic other businesses or industries in dealing with uncertainty (DiMaggio & Powell, 1983). According to the findings of the current study, businesses participate in multi-stakeholder initiatives to learn from their peers and improve their practices. This reaction is understandable, considering the novelty of the legislation. This also seems

to suggest that the decision to engage with these multi-stakeholder initiatives is also influenced by the level of human rights and modern slavery awareness in the extractives industry. Companies are more likely to participate in these initiatives as a result of the growing emphasis within the industry on modern slavery and human rights issues. Overall, this mimetic pressure could position companies' behaviours with a desire to look like model competitors while also avoiding the danger of a negative image, as also suggested by (Martínez-Ferrero & García-Sánchez, 2017).

6.2 Structure, Policy and Standard, and Practice Responses

The second research sub-question of this thesis is to explore what actions businesses take in response to modern slavery. From an institutional perspective, the analysis of changes in response to modern slavery indicates that businesses have implemented adjustments relating to structure, policies, and practices, as supported by Campbell (2007), DiMaggio and Powell (1983), and Flynn and Walker (2020). First, changes in structure are exhibited through the establishment of governance models. Second, policies and standards are also established to provide a roadmap for businesses to show their commitment to address modern slavery, provide guidance for decision-making and streamline internal processes to manage the modern slavery issues. Finally, the findings provided the largest set of significant clusters indicating **business adjustments in their practices**. These adjustments include conducting the risk assessments, creating grievance mechanisms, monitoring the performance with KPIs, and establishing internal evaluation processes.

These adjustments are to signal their **conformity to the institutional pressures**. The conformity could be interpreted as businesses' effort to portray that their values and beliefs about respecting human rights in their operations and supply chain are no different than those of the world at large. This is in line with the findings in Dowling and Pfeffer (1975) and Flynn and Walker (2020). However, the number of policies, standards, and processes are found to vary between the statements. Firms also show different levels of integrating human rights and modern slavery into business strategy or complete embedment into business activities. The results of this study found that Rio Tinto and BHP inaugurate more practices and policies while such efforts are at a lesser degree in Newmont's statement. Yet, in the CHRB rankings, Newmont only scored a half point less than BHP. A possible explanation for this might be that Newmont's statement published on their website is a voluntary act; thus, they do not adhere to the reporting requirements.

One important finding is that firms perform risk assessment based on **triangulations of data** and establish a **systematic procedure** to assess and mitigate risks. These efforts, at first glance, might seem like an entirely legitimate response to modern slavery. However, they are conducted and monitored internally, and the details of violations and remediation actions are not communicated in the statements. External institutions such as civil society, academia, the UN, government officials, and even consumers are unaware of corporate performance unless they have access to these data. Such issue on transparency is also discussed in (Harrison, 2013). The **lack of transparency** may place the evaluation of the effectiveness of these responses in questions. This could result in the company's responses being perceived as "ceremonial" compliance with institutional pressures (Meyer & Rowan, 1977).

Another interesting finding is that businesses focus their efforts on **collaboration** in tackling modern slavery. This includes collaboration with multi-stakeholder initiatives or training and capacity building for their suppliers, providing them with knowledge on modern slavery and how to address grievances. Such collaborations might be good in building knowledge, awareness and capabilities; however, smaller companies in the same industries or their suppliers may have limited resources to develop a holistic approach in tackling modern slavery. Multinational businesses with abundant resources can extend the scope of their support through joint audit and horizontal collaboration to positively influence their supply chains and industry, which in return, will also benefit them in addressing modern slavery (Stevenson & Cole, 2018). Moreover, through these collaboration initiatives, businesses increase their leverage to sub-suppliers, not just their direct suppliers. Horizontal collaboration has been researched under the supply chain management context by a few scholars (Chen et al., 2017).

Finally, this study has been able to demonstrate that there is **homogeneity** in business' response to modern slavery institutional pressure, which agrees with anticipation by DiMaggio and Powell (1983). A note of caution is due here because of the nuances of actions and processes presented in Rio Tinto and BHP's statements compared to that of Newmont. As previously mentioned, this inconsistency might be due to the application of reporting requirements. Nevertheless, the overall findings reported appear to support that when modern slavery grows to be conventional in business thinking and practice, businesses will adopt the same sets of policies, standards, and practices, which are in agreement with Stevenson and Cole (2018)'s and Flynn and Walker (2020)'s findings. Yet, as DiMaggio and Powell (1983) also acknowledge, institutions are responsible for structural change "as a result of processes that make organisations more similar without necessarily making them more

efficient.” Therefore, it is necessary for businesses to create transparency on how they respond to modern slavery and tackle the issues with determination and efficiency, instead of seeing the reporting as a “tick box” exercise (Phillips & Trautrim, 2018).

7 Conclusions and Future Work

7.1 Concluding Remarks

The present study contributes to the literature of modern slavery statements, answering how businesses with operations in Australia respond to modern slavery through analysing their modern slavery statements. The theoretical framing based on the institutional theory is employed to help the researcher investigate the issue at stake. Statements by leading companies in human rights from the extractives sector were examined to get an understanding of the perceived drivers that influence their response to modern slavery, the actions they have taken, and the way the responses are reported in compliance with modern slavery legislations. A workflow of the entire process may also be summarized in Figure 7.

1. The first contribution of the study was to explore what can drive businesses to respond to modern slavery. This study has shown that coercive pressure from regulatory trends, NGOs, and investors, normative pressure from supranational organisations or professionals, and mimetic pressure from multi-stakeholder initiatives with certification schemes or social disclosure measures are the main constructs of business responses.
2. The second contribution refers to how businesses respond to modern slavery. This was investigated through their establishment and adjustment of their structure, policies, and practices in dealing with the modern slavery issues in their operations and supply chains. Firms' adjustments involve the formation of the appropriate structure, policies, standardised processes, and most importantly, the implementation of the risk assessment, remediation, monitoring, and review activities to ensure the effectiveness of the whole procedure.
3. The third contribution illustrates how the responses comply with the reporting criteria of the Australian MSA. This reporting formulation is encapsulated in Table 5 which presents the general actions taken to meet the requirements.

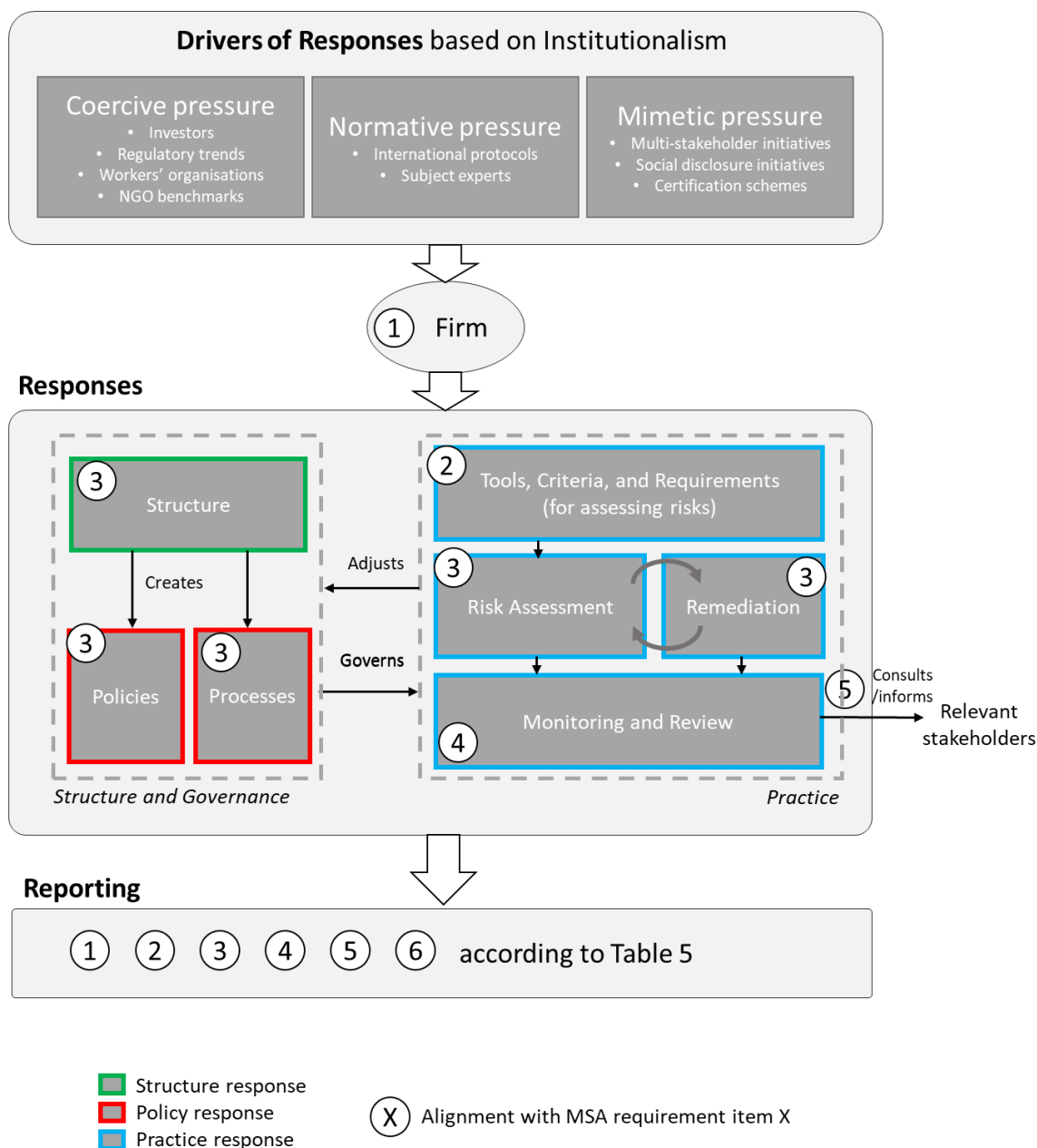


Figure 7. Workflow of businesses' response towards modern slavery and alignment with Australian MSA requirements.

Overall, firms in the extractives sector that are leading in the CHRB have expressed commitments in tackling modern slavery from their statements. However, gaps still exist in their approach such as a lack of disclosure of information on how they deal with the reported violations and how they handle the complexity of their supply chain. Therefore, a more proactive line of action to ‘walk the talk’ is necessary to address the root cause of the modern slavery issue. As Grint (2005) points out:

“Slavery, the worst form of all work, is not perpetuated by acts of individual deviants who promote it, but by the passivity of those who could collectively stop it...Enslavement is essentially dependent on enthrallment; ridding others of the former requires us to escape the latter” (Grint, 2005).

7.2 Implication

The finding of this research will be of interest to researchers in the field of business human rights and in general, towards the fields of sustainability, risk management or supply chain management, accounting, and business laws. They are likely to recognise the knowledge gap that requires more information and future research moving forward. It might also be of interest to businesses that want to understand what leading practices in addressing modern slavery are, how the reporting criteria by the Australian MSA can be met, and how to perform better than other businesses in this matter, of course, not only in terms of reporting but also actual actions towards eradicating modern slavery. This study could also be helpful to policy makers, investors, NGOs, and customers to get an overview and assess businesses’ actions to account for modern slavery in their operations and supply chains. Especially for policy makers, strategies to enhance the efficacy of the legislation might involve a request for greater transparency and concrete reporting criteria, similar to the standards set up for financial reporting by businesses.

The contribution of this study has been to confirm the influence of institutional pressures on businesses’ responses to modern slavery; thus, the responses exhibit comparable patterns of behaviours. Moreover, the thesis is the first to conduct an analysis of businesses in Australia and how they comply with the reporting requirements of the Australian MSA. These findings contribute to the understanding of business actions in the Australian context and provide a baseline for future research to evaluate the progress of companies over time.

7.3 Limitation

There are potential limitations that need to be addressed in this research. First, the selection of the sampling and restricted criteria to the extractives sector is arbitrary, although mining extraction is one of the sectors which are the most exposed and vulnerable towards modern slavery. The limited number of selected statements may not wholly represent other companies or other industries. It should also be noted that modern slavery is a prevalent issue across multiple industries; hence, different industries might have specific ways of dealing with modern slavery. The study is also limited to the modern slavery statements published by extractives companies trying to adhere to the Australian MSA to explore how businesses respond. Secondly, some scholars hold the view that the three forms of institutional pressure cannot be distinguished in the broader institutional literature (Hoejmose, Grosvold, & Millington, 2014). This research has followed the three separate constructs in alignment with the theory. While trying to separate between the three pressures, however, the author sometimes met with some uncertainties. The categorization is based on the author's knowledge, experience, and understanding of the responses in the narratives of the statements. Notwithstanding these limitations, this study offers some insight into the perceived drivers of responses that influence businesses' response to modern slavery. Thirdly, the research focuses on businesses with operations in Australia, which means the context is locally based. Other countries with different political, legal, cultural, social systems and companies with different governance systems might influence how businesses respond to modern slavery. Finally, from a theoretical point of view, the institutional theory is applied to comprehend the pressures that drive an organisation's response while it was not able to assess other driving or impeding forces such as the economic-efficiency concerns (Flynn, 2019), culture and identity of business (Scott, 2005), and technical condition (Woolthuis & de Jong, 2017).

7.4 Future Research

These limitations can be overcome by future studies. Future work should focus on triangulating the data with other sources of documents published on companies' websites such as policies, standards, codes of conduct, sustainability reports, and press releases to have a better understanding of companies' response to modern slavery. Furthermore, more statements from other sectors and in other countries should be evaluated in the future to get a more holistic view of the actions taken by companies in different contexts to address modern slavery. In addition, further investigation is also required to determine other pressures that can promote or hinder businesses' efforts to address modern

slavery. Finally, additional work might delve into how businesses change their response over time when they become more familiar with the reporting process of Australian MSA and need to adapt to the evolvement of the regulatory trends in reporting requirements.

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