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MODERN SLAVERY DISCLOSURES IN MINING: A COMPARISON OF LARGE UK AND AUSTRALIAN COMPANIES

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Based a sample of major UK and Australian mining companies, this study explores what corporate disclosures about modern slavery tell us about institutional influences. Researchers from the Australian National University and University of South Australia conclude that transparency-promoting legislation on modern slavery can be a powerful motivator for change.

INTRODUCTION

Slavery was abolished by most countries over 100 years ago yet remains pervasive in contemporary society. Modern slavery, as it has come to be known, incorporates a range of practices that include forced labour, debt bondage, child labour, sexual servitude and human trafficking.[1] Although modern forms of slavery can affect individuals within private or domestic settings, one of the largest areas of potential concern is the corporate sector, with estimates suggesting that more than 20 million individuals are enslaved in corporate supply chains worldwide.[2] As a result, modern slavery is embedded within many products used worldwide daily.

Given that commercial institutions are a part of the problem, they can also be a part of the solution. A growing number of developed countries have legislated against modern slavery and require large organisations to provide accounts not only of their operations but also those of their supply chains.[3] Supply chain-based disclosure legislation indirectly extends the jurisdictional reach required to break down the complex web of slavery-related activities

1. New, 2015
2. International Labour Organization, 2017
3. LeBaron and Rühmkorf, 2017

that pervade every continent and industrial sector.[4] However, this approach has been criticised by some as a mild form of law.[5] Specifically, this relates to penalties that are either non-existent or reputational, which means that regulatory requirements can often be met by merely reporting that no action has been taken.[6] That formal regulation is mainly designed to encourage voluntary self-regulation, which might not be effective.[7] Others look for a broader, international solution, although this is also disparaged because of its voluntary nature and commensurate lack of enforcement.[8] Also championed is a mix of national, international and self-regulation through industry or individual codes of conduct.[9] Despite these governance mechanisms, it remains of concern that institutional pressures associated with globally unacceptable activities can be manipulated and resisted locally by developing organisational capabilities that allow slavery to continue.[10] The newness of modern slavery research in the context of commercial activity has meant evidence about the actual practice on which these criticisms of recent governance are based is relatively weak, and the area requires further development and debate.[11]

Transparency-based modern slavery legislation is relatively new, and little is known about how organisations navigate the emerging institutional landscape.[12] In order to ensure modern slavery governance continues to develop in a way that is effective beyond lip service, there is a need for evidence relating to the corporate reaction across countries and contexts. A logical place for this agenda to commence is by assessing the nature of company disclosures themselves. In other words, there is a need to consider what organisations are doing, or say they are doing, about eliminating modern slavery practices and why they are doing it.

This study contributes to the literature by evaluating modern slavery disclosures made by large mining companies. Mining has a chequered background and questionable social legitimacy, given its activities take place in remote places far from workers, making it prone to modern slavery. In his seminal work, Crane[13] identifies mining as an industry in which modern slavery flourishes, because of its geographic isolation, the low education of workers and high unemployment levels in some countries, physical, political or psychological distance leading to dependence and low opportunity for escape, and traditions, entrenched inequalities and religious beliefs. The focus here is on disclosures of a small set of large listed Australian and UK mining companies. The contrast between companies in the two countries is of interest because one country, the UK, enacted modern slavery legislation in 2015, while at the time of this study, legislation about reporting in Australia remained prospective (Modern Slavery Act, 2018 (Cth)). In investigating this issue, the following research question is considered:

> **What do disclosures about modern slavery in supply chains tell us about institutional influences on UK and Australian listed mining companies?**

We explore disclosures made by 20 mining companies, ten listed in the UK and ten in Australia, using thematic analysis. To provide a theoretical understanding of the actions

4. Crane, 2013
5. LeBaron and Rühmkorf, 2017
6. New, 2015
7. Feasley, 2016
8. Feasley, 2016; New, 2015
9. Feasley, 2016
10. Crane, 2013
11. Guthrie and Dumay, 2020
12. Crane, 2013
13. Crane, 2013

undertaken by companies in the two countries, the study draws on new institutional sociology and explores the interplay of coercive, normative and mimetic isomorphic pressures in modern slavery. The results provide a basis for guiding policy developments, practice and further research across time and contexts.

The remainder of this paper is arranged as follows. The next section examines existing literature in this area, and the paper's theoretical and institutional foundations, after which the research method used to undertake the study is discussed. Findings are then presented, followed by a discussion and a short conclusion.

LITERATURE REVIEW AND THEORETICAL FRAMING

Modern slavery has defied a generally accepted legal definition but broadly refers to severe exploitation of workers for economic gain.[14] This study focuses on modern slavery within corporate supply chains, including different forms of forced labour, debt bondage, human trafficking and child labour.[15] Modern slavery in supply chains is characterised by factors that result in the worker being unable to leave the workplace for reasons ranging from the threat of harm, debt bondage and withheld wages, to the retention of passports.[16]

Modern Slavery in Supply Chains

The last decade has seen the unambiguous criminality of modern slavery gain traction with governments and non-government organisations (NGOs) worldwide, leading to legislation to combat the practice in several jurisdictions (see Table S1, supplementary material).[17]

A feature of most slavery-related laws is the requirement for increased disclosure by corporate entities, the intention being to encourage take-up of decision-making and management practices that aim to identify and end modern slavery in enterprise supply chains.[18] One of the earliest examples of modern slavery-related legislation is the California Transparency in Supply Chains Act of 2010 (see Table S1, supplementary material). Building on the momentum emerging from California, the UK Modern Slavery Act was introduced in 2015. The UK Act includes a supply chain disclosure provision like the Californian Act. Section 54 requires commercial organisations with an annual turnover of over £36 million that produce goods or services in the UK to publish annual Slavery and Human Trafficking Statements.[19] The statements are required to detail what steps the organisation has taken during the financial year to ensure modern slavery is not occurring internally or in its supply chain. Section 54(4) of the UK Modern Slavery Act acknowledges that compliance does not mean the organisation guarantees itself to be slavery-free; rather it is taking steps to identify and prevent its occurrence. If organisations meet the reporting threshold but do not take steps to identify, prevent and eradicate slavery in their supply chains, they are required to make this fact public in their modern slavery statements.

Legislation against modern slavery has also been adopted in other jurisdictions, including France, the Netherlands and the European Union. The European Union introduced Regulation 2017/821 in 2017, with an enforcement date of January 2021, detailing a uniform approach for supply chain due diligence, with a focus on companies that source and use conflict minerals.[20]

14. New, 2015
15. Feasley, 2016
16. Gold et al., 2015
17. Craig, 2017; Gold et al., 2015. https://globalaccesspartners.org/wp-content/uploads/2023/02/Burritt_Supplementary_Material.pdf
18. Wen, 2016
19. Craig, 2017
20. Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017

Australia is another country to consider corporate reporting on modern slavery in supply chains for large Australian companies.[21] A *Modern Slavery Act* has been introduced by Parliament based on many provisions of the UK Act and includes a requirement for corporations with an annual turnover of A$100 million or above operating in Australia to publish annual Modern Slavery Statements, required from 31 December 2020. Replication of the UK Act is designed to limit the regulatory burden on cross-listed companies, helping to encourage a high level of compliance.[22]

The developments listed above suggest that the institutional landscape concerning the corporate management of modern slavery risk is rapidly developing. However, little is known about how corporations manage modern slavery risk, especially operations beyond direct control in their supply chains, and how they respond to new sources of institutional pressure. Some, such as Crane,[23] argue that the nature of modern slavery makes it possible for suppliers and companies in specific settings to manipulate the institutional setting while developing organisational capabilities that allow the practice of slavery to continue unabated. These difficulties may have contributed to the apparent refusal by many large UK companies to produce a modern slavery statement in the first year in which such a requirement was compulsory.[24] The possibility of institutional deflection also suggests that available research on sustainability management might not provide recommendations that can be easily generalised to the modern slavery setting. Thus, there is a need for modern slavery-specific research that seeks to understand the organisational response to these new institutional pressures. This will facilitate the review and improvement of legislation to ensure the goal of ending modern slavery is more likely to be achieved.

Mining and Modern Slavery

This study's focus on the mining sector addresses the need for industry-specific research (Crane, 2013). Research shows that the minerals industry is one of several where the use of slavery-related labour has been found to be more prevalent.[25] Reasons identified include that mining work can be simple and non-technological, providing fertile ground for workplace abuse and the use of slave labour, whether trafficked across national borders or sourced domestically.[26] Also, unauthorised mining work is often unskilled and dangerous, meaning the risk of vulnerable people being trapped in slavery is high.[27]

Mines and quarries are point-source locations and should, in principle, be easy to identify in the presence of appropriate controls. Unlike factory work that can be relocated to hidden facilities and 'shadow factories',[28] a mine cannot be moved to a different location to hide the use of illegal labour. Nevertheless, mining often occurs in geographically isolated areas where practices are unobservable and local cultural and cognitive norms, poor governance, conflict zones and undemocratic states can rely on modern slavery. A case in point is coltan mining, coltan being a component of cell phones and other consumer electronics, and proceeds of the sale being used to fund militia groups in the Democratic Republic of Congo.[29] Another case is gold mined in Peru, where 'about one fifth of exports are illegally mined with

21. Birkey et al., 2016; Christ and Burritt, 2018; Commonwealth of Australia, 2017
22. Commonwealth of Australia, 2017
23. Crane, 2013
24. Business & Human Rights Resource Centre, 2017a
25. Bales and Trodd, 2013; Crane, 2013; LeBaron, 2016; Pierce, 2011
26. Bales and Trodd, 2013; Gold et al., 2015
27. Crane, 2013
28. LeBaron, 2014, p. 243
29. Crane, 2013

forced labor by workers who labor without work contracts, benefits, or basic safety gear'.[30] Modern slavery is not limited to small-scale mining and has been discovered in its supply chains by large companies such as the Australian-based Fortescue Metals Group.[31]

This paper compares large, listed UK and Australian mining companies. Although these companies have many similar institutional structures, especially concerning the environment for reporting on forced and child labour,[32] since 2015 the UK has had modern slavery legislation, which includes supply chain reporting requirements. The Australian Government's *Modern Slavery Act*, 2018 (Cth) has also introduced mandatory reporting obligations, and differentiating effects of institutional influences at a point of time might be discernable. These settings facilitate comment on LeBaron and Rühmkorf's[33] criticism of the UK Act as being too mild, and that methods recognized before the introduction of such legislation are inadequate.[34]

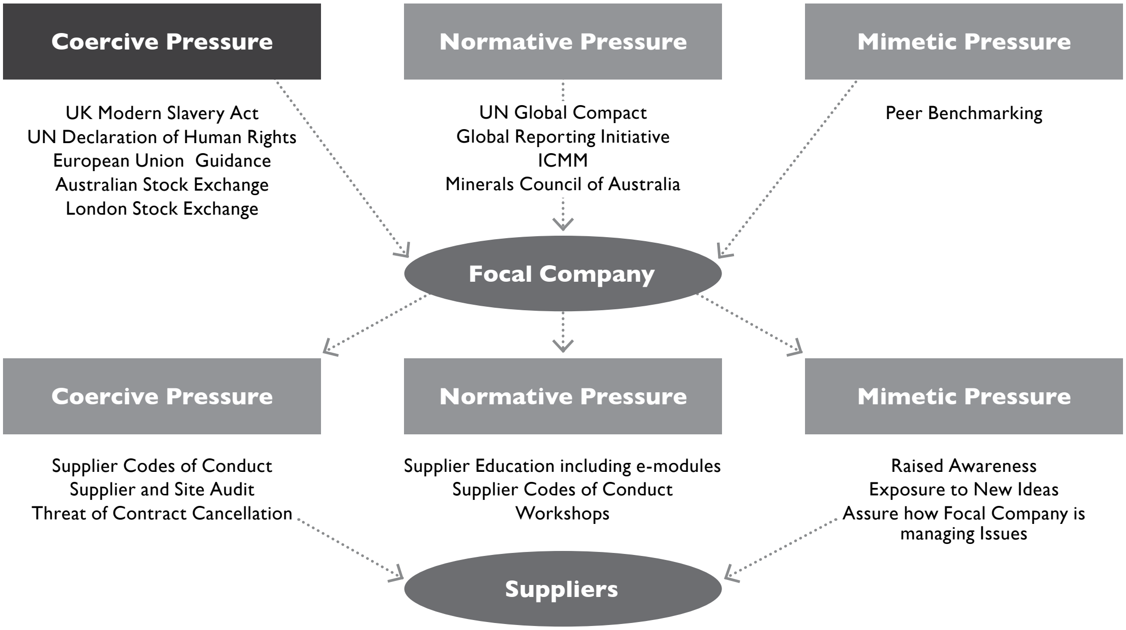
Theoretical Framing

Institutionalisation of modern slavery needs to be changed if modern slavery is to be ended. This is consistent with the United Nations Sustainable Development Goal 8 as a condition for decent work.[35] Crane[36] is one of the first authors to consider the use of institutional theory to help understand the conditions giving rise to modern slavery. One reason, identified by Crane,[37] for the observed continuity of modern slavery in supply chains when more legitimate forms of business are available, is complexity of the organisational field around slavery, with its varied legal and illegal, formal and informal institutions. The complexity of supply chain arrangements and the lack of transparency about these assist management to hide the unacceptable practice of modern slavery.[38] It is argued here, in line with Crane,[39] that only when sufficient institutional pressure is brought to bear on enterprises and their governance will an appropriate foundation for the ending of the wicked problem of modern slavery be possible.[40]

Three institutional isomorphisms (or mechanisms) – coercive, mimetic and normative – are viewed as key to the institutional approach to changing corporate behaviour.[41] The coercive mechanism of change is legally sanctioned, for example, by legislation or contract; the mimetic mechanism is morally governed by management; the normative mechanism is culturally supported.[42] Lack of awareness of these mechanisms and how they combine in global projects, such as ending modern slavery in operations and supply chains,[43] might lead to unexpected costs when regulative, cognitive-cultural and normative institutions are misunderstood.[44] We argue that institutional theory as developed originally by DiMaggio and Powell[45] provides the most logical foundation for analysis of modern slavery disclosures as it is the coercive, mimetic and normative pressures that are

30. Feasley, 2016, p. 17
31. Chuang, 2015
32. Chen and Bouvain, 2009
33. LeBaron and Rühmkorf, 2017
34. New, 2015
35. United Nations, 2018
36. Crane, 2013
37. Crane, 2013
38. New, 2015
39. Crane, 2013
40. Guthrie and Dumay, 2021
41. DiMaggio and Powell, 1983
42. Scott, 2008
43. United Nations, 2018; International Labour Organization, 2018
44. Orr and Scott, 2008
45. DiMaggio and Powell, 1983

FIGURE 1



needed to build awareness and encourage a change in the mindset of management and institutional structures (see Figure 1).

Literature lends support to the idea that national and international institutions have the potential to reduce modern slavery through coercive means that are legally sanctioned. Legislation about criminality and the rights of victims when slavery is discovered is complemented by compulsory disclosure in supply chains of certain companies as a means to encourage better corporate behaviour.[46] While Feasley[47] argues 'the international regulation regime plays a vital role in giving a global platform for increased education and awareness and idea development about the need to remove forced labor from supply chains', Crane[48] accepts the potential influence while pointing out the varying effectiveness of coercive sanctions.

Normative and mimetic institutional pressure on enterprises to eradicate modern slavery can emanate from industry and professional associations and peer groups. These groups, such as the ICMM[49] and Minerals Council of Australia, introduce standards and codes encouraging companies to behave in a virtuous manner in relation to workers using multiple 'nodes of networked governance'.[50] Fleischman and Tyson[51] also identify another possibility represented by the past role of the accounting profession in encouraging conventional slavery through the monetisation

46. Wen, 2016
47. Feasley, 2016, p. 23
48. Crane, 2013
49. International Council on Mining and Metals
50. Braithwaite, 2006, p. 885
51. Fleischman and Tyson, 2004

and commodification of the worth of slaves. This normative institutional pressure can equally be attributed to the development of modern slavery and acts against virtue. Hence, in practice, normative pressure can be viewed as an under-theorised and under-explored double-edged sword.

In summary, problems of removing modern slavery practices are multiplied because of the invisibility of the victims and the potential ineffectiveness of a single institutional solution, such as banning modern slavery through coercive means, or as a minimum making modern slavery practices more transparent, which requires a full mix of coercive, normative and mimetic policies to take companies beyond compliance.[52] The convergence of pressures to eliminate modern slavery based on different institutional isomorphisms and incentives seems to be a necessity where the rule of law holds, but not necessarily in undemocratic states where corruption is high. Analysis of the disclosed practices of mining companies in this regard provides a stepping stone to further understanding current practice in the developed country institutional milieu and what can be learnt about the potential from these influences.

The following section considers the research method used to investigate modern slavery disclosures in the UK and Australia's largest listed mining companies.

RESEARCH METHOD

The sample used for this research comprises 20 large mining companies, the ten largest listed on the Australian Securities Exchange (ASX) and the ten largest on the London Stock Exchange (LSE) by way of market capitalisation as of 31 December 2017 (see Table S2, supplementary material). This sample was selected for several reasons. First, mining is recognised as an industry in which modern slavery is found to flourish because it occurs in isolated regions insulated from law enforcement and others, such as unions, that might help protect individuals[53] and can involve intense manual labour.[54] Second, legislation introduced in Brazil, California, the United Kingdom, the European Union and France has introduced required reporting for defined large companies.[55] Third, leadership in developing new reporting systems is often associated with the largest companies in an industry, because these companies have available, and can commit, the specialised resources needed for inspection and reporting.[56] Finally, the largest mining companies have multinational operations and global supply chains in which modern slavery risks can occur.

Mining companies in Australia and the United Kingdom were chosen to compare at the end of 2017 because the UK is cited as the first country in the world to introduce compulsory reporting on modern slavery,[57] and Australia was about to introduce similar legislation (the *Modern Slavery Act, 2018* (Cth)) to that in place in the UK. Nonetheless, the psychic and cultural distances between the countries are relatively small, although differences exist, and managers claim these are under-estimated.[58] In addition, of the largest mining companies considered, three, BHP Billiton, Rio Tinto and South32, were listed on both the ASX and LSE, relating to the close cultural and historical connection between the two countries. Hence, the cross-listed companies provide a helpful third point of comparison.

A set of the public required and voluntary disclosures as at 31 December 2017 was examined in the context of identified coercive, normative and mimetic institutional influences. Information about

52. Quirk, 2006
53. Crane, 2013
54. Feasley, 2016
55. New, 2015; Baumann-Pauly et al., 2013
56. Business & Human Rights Resource Centre, 2017b
57. UK Government, 2018
58. Fenwick et al., 2003

modern slavery disclosures for each company was identified from their websites. Where in-site search functions were present, the following terms were used to identify initial areas of interest: 'slavery', 'human rights', 'forced labour', 'child labour' and 'labour' (applying both American and British spelling). PDF documents were downloaded in total, and non-downloadable information was cut and pasted into a searchable Word document. Links contained within the pages identified from the initial word search were checked using a snowballing process until all relevant information was obtained (Table 1 below).

All data obtained during the data collection phase was uploaded and coded using NVivo Pro version 11. Qualitative thematic analysis was used to explore the data, although some primary forms of quantification were used to complement the analysis as needed. Data were analysed in line with the different forms of isomorphism incorporated within institutional theory, which was then complemented with an analysis of disclosures based on different modern slavery-related topics. Additional insight was gained by analysing the disclosures inductively.

FINDINGS

Analysis of the disclosures made by the UK and Australian listed mining companies reveals an interesting institutional dynamic concerning how organisations respond to the coercive pressure of modern slavery legislation and how the different forms of isomorphic pressure are passed down to other companies in the supply chain and translated in different coercive, normative and mimetic ways.

Results reveal that the introduction of the UK Modern Slavery Act 2015 positively affected how the UK-listed mining companies report on modern slavery. Each of the UK-listed mining companies except one, Hochschild Mining plc, and the three cross-listed entities, include a stand-alone Modern Slavery Statement on their website stated as being in line with UK legislation, approved by the board and signed by a director. This indicates commitment, clear accountability and accessibility to information. The situation in large mining company disclosures can be contrasted with the fact that compliance with modern slavery legislation has previously been shown to be lacking in most UK companies required to report, with only half of them reporting and under 20% of registered

TABLE 1. SOURCES OF DATA

INFORMATION SOURCE	NO. UK LISTED COMPANIES n=10	NO. AUSTRALIAN LISTED COMPANIES n=10	AUSTRALIAN CROSS-LISTED COMPANIES n=3
Website data – MS specific – non-downloadable	7	5	3
Modern Slavery Statement	9	3	3
Code of Conduct and/or Ethics	9	8	3
Separate Human Rights Policy/Statement	2	4	1
Supplier Code of Conduct	5	4	3
Sustainability or CSR Report	8	7	3

Modern Slavery Statements meeting these basic requirements.[59] The evidence suggests, at least in the context of the top mining companies, that modern slavery legislation has a coercive effect relative to others falling under the Act. Nevertheless, these mining companies are going beyond the minimum requirement for compliance in which zero action is acceptable.

Indeed, the UK mining companies generally report on three of the Act's suggested content areas – engagement in due diligence, supply chain risk and assurance assessments and training concerning modern slavery. Of note is the explicit focus on modern slavery and modern slavery-related areas in the disclosures made by the UK-listed companies. For example, reference is made to specific areas included in definitions of modern slavery, such as forced labour and child labour, with action taken to minimise the risks in each area. Table S3 (supplementary material) provides sample quotes and demonstrates the coercive effect of UK legislation.

Figure S1 reveals UK-listed companies and cross-listed companies were more likely than companies listed solely in Australia to be taking specific action in relation to different topics associated with modern slavery.

Normative influences are evident in both samples (see Table S3). Guidelines from extra-organisational bodies such as the United Nations Voluntary Principles on Security and Human Rights and the United Nations Global Compact are referred to by about half the sample, with an even distribution between the UK and Australian companies. The International Labour Organization (ILO), with its voluntary labour standards, is also mentioned by several companies from both samples, albeit the role of this organisation is not prominent. Against the normative tendencies, it is anomalous that the Global Reporting Initiative (GRI) as a normative basis for reporting is mentioned by a larger number of Australian than UK companies. Aspirational language tends to be used in relation to these voluntary principles and standards rather than focusing on actual practice. To a lesser extent, industry bodies such as the Association of Mining and Exploration Companies are also mentioned as a normative source of guidance on disclosures.

The UK sample is more specific concerning action taken to ensure that normative principles are translated into practice. A summary of typical normative aspirations and actions is contained in Figure S1 (supplementary material). Aspirational language is used by most companies with generic and non-specific statements such as '[Oz Minerals is committed to] Not employing forced, bonded or child labour and supporting the elimination of child, forced and compulsory labour'[60] being typical. However, it is notable that the companies listed only in Australia do not appear to be moving beyond the aspirational position to complement it with specific processes and activities, the only exception being Fortescue Metals Group, which provides considerable information about modern slavery. This is taken up further in the discussion. The specific action taken, where mentioned, generally incorporates due diligence, supplier screening and audit, training (both in-house and within the broader supply chain) and other approaches aimed at building awareness, all topics suggested for voluntary inclusion under the UK Act. Sometimes this information involves quantification, as in the following example from Rio Tinto:

> **Our online human rights training including guidance around forced labour has been mandatory for all employees in Rio Tinto's Procurement function since 2014. As of December 2016, 96 per cent of all**

59. Business & Human Rights Resource Centre, 2018
60. Oz Minerals Annual Sustainability Report, 2016

> **Procurement employees had completed the training.**[61]

However, more often, disclosures involve descriptions of programs and initiatives representing an area for potential improvement for better transparency and accountability to be achieved.

About half the sample provides mimetic disclosures based on peer benchmarking in both countries to assist with comparison concerning company performance in respect of modern slavery governance. The crossover with normative pressures from industry associations is also noted, highlighting the interrelationship between the classificatory categories and the use of soft regulation to encourage greater self-regulation, especially in the early days of encouraging modern slavery disclosures as one tool designed to help build countervailing resilience in companies to resist or defeat pressures to adopt modern slavery practices.[62]

An analysis of disclosures against modern slavery themes highlights some new observations (Figure S1, supplementary material). In particular, little emphasis is given to bonded labour across all companies in the sample, yet this is a longstanding issue and key component of modern slavery.[63] Figure S1 (supplementary material) also reveals that Australian companies have much to do to catch up to their UK-listed counterparts in disclosures about aspirations and actual performance, with a single Australian company, Fortescue Metals Group, driving its results. Fortescue Metals Group is known for having a Chairman who actively engages in exposing modern slavery in its supply chains. Nevertheless, modern slavery continues as revealed in relation to the sourcing of the company's solar panels from a company in China known for its practice of modern slavery.[64]

Beyond this, analysis of the results also reveals evidence of how the UK-listed mining companies are transferring institutional pressures to other organisations and suppliers upstream in their supply chains. For example, training programs are often extended to include suppliers and contractors. As reported by Vedanta:[65]

> **This year, we provided more than 375,573 hours of training on Code of Conduct including Human Rights aspects.**
>
> **As part of our commitment to continual improvement, and going 'beyond legal compliance', we are currently working on rolling out an e-learning module... across the group and issuance of post-training e-certificates.**
>
> **Under the current framework implementation, we have put in place a system for training of vendors/ suppliers... The total coverage in terms of training is 78.9% with regards to contractors and regular employees.**

Although e-training could be classified as normative, the commitment to supplier training is often codified via supplier codes of conduct that extend to modern slavery and the protection of human rights, suggesting the further extension of coercive institutional pressure on others in the supply chain. Antofagasta similarly notes in their 2016 Modern Slavery Statement:

> **As part of the Compliance Model, due diligence is performed on all new suppliers before they are engaged and periodically thereafter. The due diligence process requires suppliers to complete a questionnaire**

61. Rio Tinto, 2017 Modern Slavery Statement
62. Crane et al., 2019
63. Quirk, 2006
64. AFR, 2021
65. Vedanta, 2017, Sustainable Development Report 2016–2017

> **explaining their compliance models, training programs, codes of conduct, processes for receiving and investigating complaints, third party background checks and compliance procedures for the prevention of slavery and human trafficking.**

This encourages suppliers to work with other normative and mimetic sources to monitor and improve their performance in this area. Combined with the analysis presented earlier, this suggests the catalytic impact of modern slavery legislation has the potential to extend beyond focal companies, as shown in Figure 1. Indeed, analysis of the disclosures suggests that many UK organisations are internalising institutional pressures, which then translate into new forms of coercive, normative and mimetic pressure placed on other organisations in their supply chain, as displayed in Figure 1.

Under the UK Act, the suggested information to disclose relates to the organisation's structure, business and supply chains. Several companies provide specific basic facts about their supply chains even though this is not mandated. For example, four of the UK and four of the Australian companies indicate how many suppliers they manage (Table S2, supplementary material). Two of these companies are cross-listed. No information was provided about the total number of tiers being managed.

To summarise the results, while the UK-listed mining companies and Australian companies cross-listed in the UK have responded to the coercive influence on disclosure concerning modern slavery legislation, non-cross-listed Australian companies are at an earlier stage of development. Indeed, two Australian companies, Evolution Mining and Mineral Resources, were marked by a lack of disclosure on human rights and modern slavery. Specific to modern slavery disclosures, the largest engaged Australian mining companies rely on human rights-related legislation with mimetic and normative institutional pressures supporting countervailing resilience to the institutionalisation of modern slavery in companies.

DISCUSSION

Motivated by a lack of prior research and arguments that institutional influences may operate differently in the context of modern slavery, this study sought to obtain exploratory evidence and analyse how coercive, normative and mimetic pressures are reflected in the UK and Australian listed mining company disclosures about modern slavery in direct operations and supply chains.

Coercion

Exploration of modern slavery disclosures of a set of the largest UK and Australian listed mining companies reveals the impact of specific modern slavery legislation. The observations from UK-listed company disclosures are in sharp contrast to those provided by the Australian sample, except for cross-listed entities subject to UK requirements, with evidence of direct coercive influence on modern slavery disclosures being largely absent in the Australian group. Nevertheless, human rights are also embodied in laws in the two countries and are coercive, being partly based on the United Nations Universal Declaration of Human Rights.

Although the human rights legislation applicable in the UK and Australia ratifies the International Covenant on Civil and Political Rights Article 8 under which 'no one shall be held in slavery, slavery and the slave-trade in all their forms shall be prohibited, no one shall be held in servitude, and no one shall be required to perform forced or compulsory labour' (as defined with some exclusions regarding military and prisoner populations),[66] Table 1 shows human rights legislation to have less influence on disclosures than the specific Modern Slavery Act. In this regard, based on the evidence presented, Australia appears to be a laggard. Given the sources of data on modern slavery issues available – ranging from

66. UNHCR, 1966

Modern Slavery Statements, through Supplier Codes of Conduct, to Sustainability Reports – non-cross-listed Australian companies have much work ahead of them. In the absence of Modern Slavery legislation, human rights legislation could account for the results showing that the most prominent Australian mining companies strongly emphasise general human rights (see Table S3 and Figure S1).

Normative

Concerning both samples, normative reference is often made to the UN Agreements on Human Rights, and it can be argued that this is seen as the minimum standard to be applied or used to demonstrate conformity with basic societal expectations. However, given the lack of detail provided about how compliance is achieved, especially by Australian companies not subject to UK legislation, the more skeptical might suspect this agreement is being used as a legitimising tool by the state and business, designed to demonstrate compliance. In contrast, actions within the company remain unchanged.[67]

The Australian mining companies appear to lag in relation to modern slavery disclosures and, by 2017, had not taken up the opportunity to be proactive and adopt the UK and cross-listed organisations' practices, which, as Table S3 (supplementary material) shows, were said to have been driven by the UK Modern Slavery Act 2015. In this regard, institutional mimetic pressures in the Australian setting appear ineffective. Indeed, only one Australian mining company considered the potential for legislation to be introduced in Australia to merit a stronger emphasis on modern slavery disclosures and that company, Fortescue Metals Group, had an individual leader in the movement against modern slavery as founder and Chair of the board of directors.

It appears that institutional pressures have worked to keep disclosures to a minimum in Australian companies. In 2017, in line with Crane's argument,[68] the Australian mining companies, by implication, appear to accept the view that either modern slavery is not essential and there is little need to report, or that, by default, silence on the issue strengthens the resolve of mining companies to accept and by default support the practice of modern slavery. Transformation from this situation needs normative acceptance that change is necessary, that options such as mimetic self-regulation exist with or without the threat of new regulation, and that the companies can change, starting with policy, after which a resource commitment is needed to weed out any instances of modern slavery in practice. Judging by disclosures made, what is needed and what has been missed by the Australian miners is the establishment of a countervailing resilience against modern slavery. Nevertheless, these poor normative and mimetic results, framed at best in aspirational terms rather than actions, are a powerful advocate for the introduction of legislated shaming of Australian companies into better practice because of impacts on their reputations – 'a fairly weak instrument for improving practices' but the best available.[69] Nevertheless, it is a paradox that shaming does not bring about leadership that encourages learning about how to change on this issue.

From the results, countervailing resilience against modern slavery has not been institutionalised through coercive, normative and mimetic pressures on the largest mining companies in Australia. Only one Australian company took the opportunity to make a difference, which appears to have been driven by personal objectives rather than institutional pressures. Fortescue Metals' Chair, Andrew Forrest, an active philanthropist and one of the wealthiest Australians, helped establish the

67. Siddiqui and Uddin, 2016
68. Crane, 2013
69. New, 2015, p. 703

Walk Free Foundation to combat modern slavery on a global level. The Walk Free Foundation is partly responsible for establishing the Global Slavery Index,[70] which builds awareness at a larger scale through country-by-country estimates of the number of people in modern slavery and actions of governments to eradicate the practice. His interest was driven by his daughter's experiences working with Nepalese orphans she believed were being trafficked into the sex industry and an awakened personal desire to seek assurance about whether there was slave labour in his business operations and global supply chain.[71]

Mimetic

Institutional theory predicts that organisations tend to mimic or copy the actions undertaken by large industry leaders in an attempt to appear legitimate in relation to areas of concern to society and emulate their success. Thus, it could be argued that Fortescue Metals Group and other UK-listed Australian companies previously required to report under the UK Act provide a powerful example for others to follow. However, the lack of action from the other Australian companies suggests that mimetic influences are weak in the absence of more substantial coercive pressure, and, implicitly, modern slavery is seen as unimportant. Alternatively, given the lack of specific action concerning modern slavery, mention of mimetic processes could be used as a decoupling technique designed to give the appearance of adhering to social norms while actual practice remains unchanged.

Implications for Policymakers

Governance through legislated disclosures and criminal sanctions are becoming the enabling and driving tools to change the behaviour of companies about modern slavery. Regulatory policymakers so concerned about modern slavery that they seek specific governance of the behaviour of companies can take solace from the results, which show that, relative to the more general approach of Australian mining companies, leading mining companies in the UK have responded to legislated disclosure requirements. Continuation of this policy in these developed countries framed by the rule of law is both reinforced and encouraged by these results.

Of the various groups espousing what companies should disclose about modern slavery, the Global Reporting Initiative and United Nations Global Compact dominate company discourse (Table S3, supplementary material). The two collaborate to build transparency about modern slavery[72] along with the Responsible Labor Initiative[73] and Responsible Mining Initiative,[74] although the latter is not acknowledged in the disclosures explored. Nevertheless, regulatory policy based on an information strategy of which disclosure forms a critical part could directly encourage the development of the disclosure and third-party audit activities of these extra-organisational bodies concerned with reducing modern slavery in supply chains.

In addition, in this global industry, governance through mimetic peer benchmarking pressures, which disclosures reveal is partly relied on in the Australian context, appears from the evidence to be relatively ineffective in driving actions to reduce modern slavery. There is scope for regulators to leverage these mimetic pressures by encouraging the necessary cooperative processes and procedures associated with peer benchmarking to combat modern slavery practices. As human rights policy statements are currently only provided by a minority of the larger, leading companies (Table 1), a first step would be to develop a regulatory policy that further uncouples modern slavery (policy) statements from human rights policy statements to build the countervailing power of

70. Walk Free Foundation, 2018
71. Miller, 2014
72. https://dfge.de/gri-and-ungc-partnership-on-the-sustainable-development-goals/
73. https://www.responsiblelabor.org/forced-labor-transparency-and-reporting/
74. https://www.responsiblemineralsinitiative.org/news/rmi-and-gri-launch-responsible-mineral-reporting-toolkit/

modern slavery disclosure that could otherwise by swamped by other issues.

Implications for Practice

Legislation in the two countries, the UK and Australia, relies on company reputation as the main driver to change behaviour towards resistance and abandonment of any inclination to adopt modern slavery practices in operations or to turn a blind eye to its presence in supply chains. Apart from the need to be proactive to gain a competitive advantage by going beyond compliance if reputations are not to be sullied, two aspects of the results will be of particular concern to companies. These relate to the non-disclosure of basic information about supply chains that is not required by legislation, and the normative need for assurance processes to be developed to add credibility to modern slavery information, encouraged by mimetic imitation practices by peers and industry associations.

Coercive guidance about reporting on modern slavery in supply chains is aimed at general systematic presentation of certain information. It is not mandated but forms an essential part of risk assessment. This information is not provided by most companies considering modern slavery in supply chain management.[75] Most of the largest mining companies sampled did not undertake full supplier mapping to identify the number of suppliers and the countries in which these are based. In addition, of the six companies examined that did reveal the number of their suppliers, most did not indicate how supplier numbers relate to different tiers or, indeed, the number of tiers of suppliers being managed in their supply chains. Again, this appears to be necessary data for high-level managers and external parties trying to assess modern slavery risks and how best to address them and is data that proactive companies would search out, manage and report.[76] In both countries, the evidence indicates institutional pressures are not effective in encouraging such disclosures other than in line with selected priority areas and tier 1 suppliers. Perhaps encouraged by literature that considers the optimal number of suppliers[77] and sub-supplier compliance with sustainability standards,[78] policy and practice need to be developed.

Related to this point is the absence of information about assurance of supplier information. Particular attention needs to be directed to the supplier audit process, including research identifying the best ways to audit and assure modern slavery disclosures and risk practices and identifying areas for improved management. For example, are supplier contracts cancelled, or is a softer approach to resolution implemented through increased training, resources support and rehabilitation of the supplier to help avoid the risk of the supplier going underground with another focal company? Empirical analysis of supplier contracts and Supplier Codes of Conduct and Modern Slavery Statements could show whether there is a phased approach to eradicating slavery or a 'one strike and you are out' approach and would reveal the relative success of each strategy for companies.

Scope for Further Research

Cross-sectional findings presented here suggest UK mining companies are relatively proactive in compliance with regulated modern slavery disclosures, compared with Australian mining company disclosures before implementation of specific modern slavery legislation. Future research includes the need for a comparative analysis of disclosures published over time, to ascertain whether companies reporting no issues did not

75. ICAR and FLEX, 2019
76. ICAR and FLEX, 2019
77. Ruiz-Torres and Mahmoodi, 2007
78. Grim et al., 2016

locate examples of modern slavery because they did not look hard enough and whether Australian legislation is more effective than UK legislation.

Normative pressures may mediate between legislated solutions and modern slavery disclosures and practices. The relative effectiveness of normative international and industry-based disclosure guidelines as complements or substitutes for government legislation also needs to be explored.

Debt bondage is relatively under-researched in the context of these mining companies. The results suggest that additional pressure of a voluntary nature, such as through the UN Global Compact, the ILO and the GRI, which contains guidance on debt bondage within its standard on Forced or Compulsory Labor (GRI 409), may have a complementary influence on companies concerning this specific issue, raising the question of the potential relative importance of international and national voluntary and mandatory initiatives.

The role of mimetic pressures on modern slavery outcomes also merits greater attention from researchers. Examination of when peer benchmarking succeeds and the factors behind success would interest government policymakers and businesses alike. Evidence indicates that peer benchmarking in the Australian companies has not encouraged them to catch up with the UK Act disclosure requirements.

Modern slavery and the efficacy of a disclosure-led governance regime to help address it are so new to academia that there are untold research opportunities that should help develop an understanding of how to promote disclosures that encourage countervailing resilience against the passive acceptance of modern slavery by a business.

CONCLUSION

Modern slavery is a problem for companies operating across international borders, with the UN and signatory countries targeting its elimination by 2030. Countries committed to ending the practice are tightening criminal legislation. In addition, several countries are using, or are about to use, an information disclosure strategy about operations and supply chains to change company behaviour.

This study explores what corporate disclosures about modern slavery in direct operations and supply chains tell us about institutional influences on a sample of the top UK and Australian listed mining companies, the minerals industry being an example of where similar cultures pervade and modern slavery has been found.

The institutional dynamic within the supply chain setting has not been explored in prior research and represents an important area for future study and a possible extension to existing approaches to institutional theory. In particular, results indicate that institutional pressures that encourage a countervailing resilience to the adoption of modern slavery are less effective than expected in the absence of specific legislation. However, the lack of action from Australian companies in the absence of legislation suggests that mimetic influences are weak in the absence of more substantial coercive pressure.

The results also reveal gaps in transparency that no institutional pressures, regulatory, normative or mimetic, have overcome. Also, disclosure about modern slavery in supply chains in the top UK mining and cross-listed companies examined does not appear to go far enough. Basic information about supplier numbers and tiers of sub-suppliers required for managing modern slavery is neither mandated nor voluntarily provided by the mining companies. Furthermore, disclosures about some aspects of modern slavery, such as assurance processes about the credibility of statements and related debt bonded labour, are not sufficiently addressed in either country.

Although the observations reported here represent development in understanding the corporate response to institutional pressures related to modern slavery, they come with a caveat. In particular, it should be noted that the number of companies for which modern slavery disclosures were examined was restricted to the ten largest listed mining companies from each of the UK and Australia, and the results of this study must be considered in the light of this limitation. Nevertheless, this was not deemed problematic given the exploratory nature of the research and the need to develop a greater understanding of how to combat this scourge on contemporary society. Future research can extend understanding by considering other industries, countries and samples.

SUPPLEMENTARY MATERIAL

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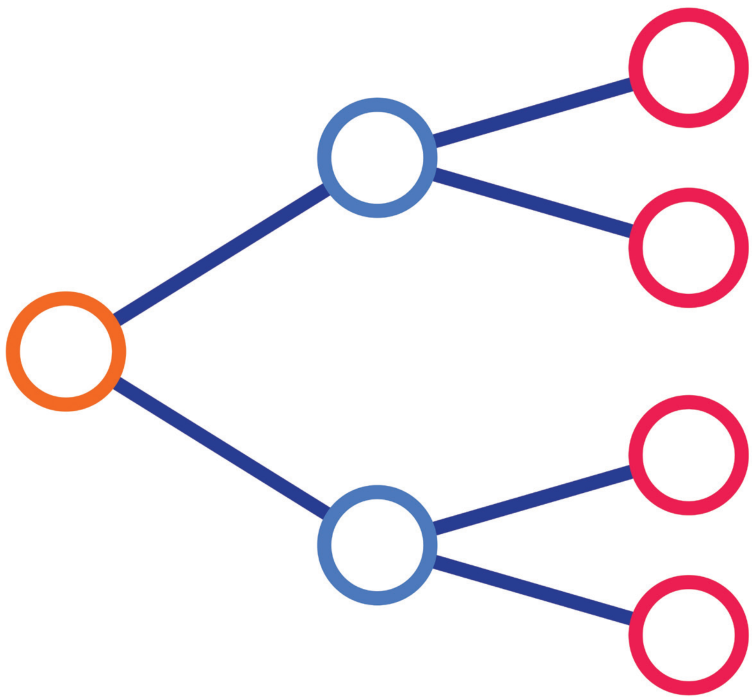

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