

Race to the Bottom?
A Critical Analysis of Canada's Modern Slavery in Supply Chain Legislation

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TABLE OF CONTENTS

TABLE OF CONTENTS	ii
ABSTRACT	iv
ACKNOWLEDGEMENTS	v
ABBREVIATIONS	vi
Chapter 1: Introduction	1
Supply Chains: The Nexus of Modern Slavery and Globalization	2
Combatting Modern Slavery in Canada	4
Response from the Canadian State.....	8
Focus of Research	10
Theoretical and Methodological Framework	12
Overview of Chapters.....	14
Chapter 2: Literature Review	16
Introduction.....	16
I: The History of Modern Slavery in Supply Chains	17
II: Modern Slavery, Human Trafficking, Forced Labour – Conceptualizing the Issue in Academia.....	19
III: Global Supply Chains, Corporate Harm, and Politico-Economic Ideals of Neoliberalism	22
IV: The Issue in Context – Canada’s Response to Modern Slavery	27
V: International Corporate Accountability Laws as a Comparative Tool.....	34
VI: Corporate Social Responsibility and Disclosure Policies.....	38
Conclusion.....	41
Chapter 3: Theoretical Framework	44
Gramsci’s Theory of Hegemony	44
Understanding Modern-Era Corporate Harm by Way of Gramsci	48
Applying a Critical Gramscian-Neo-Marxist Approach	51
Chapter 4: Research Methods	56
Employing Critical Discourse Analysis to Observe ‘Crises’ in Hegemony	56
Research Questions and Objectives	61
Data Sources: Objects of Discourse and Claims-Making	62
Data Analysis Strategy	65
Chapter 5: Research Findings	68
Introduction	68

I. Modern Slavery as Child and Forced Labour	69
Achieving Results Through a Modest Scope	69
A Siloed Approach to Address Modern Slavery	72
II. Modern Slavery as a Problem of the Undeveloped World.....	75
Playing the Blame Game	76
Poverty Equals Exploitation	79
Upholding Canada’s Role as Champion for Human Rights.....	81
III. The Corporation as an Agent of ‘Financial’ Social Good.....	86
Ethical versus Functional Duty of the Corporation	86
Corporate Social Responsibility: The Art of Smoke and Mirrors	90
Nudged onto the Same Playing Field	94
IV. Global Supply Chains and Free Markets as Solutions to Modern Slavery	99
Supply Chains as a Lifeline for the Canadian Economy	99
The Detriment of State Overregulation	102
Conclusion: Summary of Findings	105
Chapter 6: Conclusion	108
Examining State Conceptualizations of Modern Slavery and Corporate Accountability.....	108
Heeding a Call to Action: Who is Responsible Anyway?	110
Accommodating Unheard Voices	114
References	117
Appendices.....	142
Appendix A: Members of the Standing Committee on Foreign Affairs and International Development	142
Appendix B: Witnesses Appearing Before the Standing Committee on Foreign Affairs and International Development.....	144

ABSTRACT

This study critically examines the Government of Canada's conceptualization of transnational corporate accountability and exploitative labour in its legislative response to modern slavery in global supply chains. With a primary focus on the government's recently proposed Bill S-216: *Modern Slavery Act* – which would mandate companies to report on their activities to reduce modern slavery in their supply chains – empirical data is drawn from parliamentary debates about this bill and its earlier iterations as well as a report produced by the House of Commons committee originally charged with studying the issue. Informed by the corporate crime and business management literature as well as a neo-Marxist theoretical lens that employs such concepts as Antonio Gramsci's theory of cultural hegemony and global capitalism, the dominant views taken up in conversations hosted by the Canadian state are captured using critical discourse analysis. Overall, dominant voices accepted into the federal government's approach reinforce neoliberal assumptions of wealth accumulation, profit maximization, and free-market economies, thereby trusting transnational corporations to self-regulate and use their financial capital to curb the conditions that engender exploitative labour. The findings of this interdisciplinary study reveal that the legislative proposal culminating from the policy-making discourse defers to measures that prioritize the social benefits of corporate social responsibility, which ultimately eclipse the need for criminal sanctions against Canadian corporations with operations that employ modern slavery. This research helps to expose the reproduction of corporate impunity as a result of the inability/unwillingness to address the status quo of global capitalism.

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Lastly, this thesis is dedicated to victims of modern slavery worldwide: those who have died due to exploitative labour, those who today are fighting to escape, and those who have survived and are now free. Their plight and courage give this project purpose. It should be the impetus for us all to alter the narrative to end modern forms of slavery and develop meaningful and responsible policy, whether in the steps we take to reduce our footprint by the goods we consume or in the transformative systemic decisions made by those in positions of power.

ABBREVIATIONS

CDA	critical discourse analysis
CORE	Canadian Ombudsperson for Responsible Enterprise
CPC	Conservative Party of Canada
CSR	corporate social responsibility
DFAIT	Department of Foreign Affairs and International Trade
ESDC	Employment and Social Development Canada
FAAE	Standing Committee on Foreign Affairs and International Development
G7; G20	Group of Seven; Group of Twenty
ILO	International Labour Organization
IRPA	Immigration and Refugee Protection Act
LPC	Liberal Party of Canada
MP	Member of Parliament
NAP	National Action Plan to Combat Human Trafficking
NDP	New Democratic Party
NGO	non-governmental organization
OECD	Organization for Economic Co-operation and Development
RCMP	Royal Canadian Mounted Police
SDIR	Subcommittee on International Human Rights
TIP	Trafficking In Persons Report
U.K.	United Kingdom
UN	United Nations
UNICEF	United Nations International Children’s Emergency Fund

Chapter 1: Introduction

Despite having long been outlawed and condemned, slavery continues to exist today. After having borne witness, over centuries, to the horrors it unleashed during the transatlantic slave trade, society has never ultimately moved past the notion of human life as property. Indeed, there are more enslaved people in the world today than when slavery was legal.¹ Slavery is used to make the clothes we wear and the food we eat. From the North American agricultural sector to debt bondage in the Southeast Asian construction industry, domestic servitude in the Caribbean, sex trafficking in Nigeria and Eastern Europe, forced labour in Thailand's seafood sector, and countless other situations, slavery is deeply rooted in the operation of multinational corporations by way of global supply chains (Albert et al., 2018; Banerjee, 2021; Kara, 2017a).

As this issue receives greater awareness, elected officials are forced to consider the question: can a private non-state actor be held liable for their alleged human rights violations of international law?

For its part, the Canadian government has a duty to act as a signatory to the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, supplementing the United Nations *Convention against Transnational Organized Crime (Palermo Protocol, 2000)*. In recent years, because of reports from different government subcommittees charged with studying human rights issues, the Government of Canada has contemplated how it will address modern slavery and the role of transnational corporations therein. This thesis critically examines the conceptualization of modern slavery in official terms and how this coheres with efforts to combat this international human rights issue.

¹ At the height of the transatlantic slave trade (1820-1866), an estimated 2.4 million enslaved Africans were transported on ships to the Americas. Since 2016, there is an estimated 40 million people victimized by slavery worldwide (Global Slavery Index, 2018b, p. 1; International Labour Organization, 2017, p. 9-10; Landman & Silverman, 2019, p. 276; Radburn, 2019, p. 930).

Supply Chains: The Nexus of Modern Slavery and Globalization

Global supply chains tied to multinational corporations represent over 80 percent of trade worldwide and employ over one in five workers (Thorlakson et al., 2018, p. 2072). Driven by globalization – the integration of international markets for commodities, labour, services, capital, and knowledge (Astrakhanseva et al. 2019, p. 1; O'Rourke, 2019, p. 357) – the production of goods and consequential social impacts are scattered around the world in global supply chains.

The International Labour Organization (ILO) (2017) estimates that of the 40 million victims of modern slavery worldwide, an estimated 24.9 million people are victimized by forced labour; 16 million are exploited in the private sector in domestic work, construction, or agriculture; 4.8 million endure forced sexual exploitation; and another 4 million are forced into labour imposed by state authorities, such as military servitude (p. 9-10). This figure is quite telling overall, given it translates into 5.4 victims of modern slavery for every 1,000 people worldwide. Modern slavery is therefore considered to be one of the world's most challenging crimes for criminal justice practitioners to understand, detect, and combat because it affects so many people globally and is mostly hidden from public view (Caruana et al., 2021, p. 258; Landman & Silverman, 2019, p. 278).

Research by the Council on Foreign Relations finds that modern-day slavery is most common in impoverished countries and vulnerable minority communities; however, it also exists in developed and industrialized regions of the world. It most often takes place in industries that are labour intensive, low-skilled, and underregulated (Albert et al., 2018, p. 4). While modern slavery is not precisely defined in law, it is used to link such existing legal concepts as human trafficking, forced labour, child labour, debt bondage, forced marriage, and forced sexual exploitation (Albert et al., 2018, p. 5-6). For this thesis, supply chain modern slavery (and by

association, human trafficking) is referred to as a circumstance whereby vulnerable individuals are “compelled, recruited, transported” into exploitative labour from which they cannot escape or refuse because of “threats, force, coercion, violence, deception, fraud, and/or abuse of power” “anywhere along the supply chain” from raw extraction to the consumer, “for the purpose of service provision or production” (Albert et al., 2018, p. 4; Caruana et al., 2021, p. 251; Gold et al., 2015, p. 487; ILO, 2017, p. 9; *Palermo Protocol*, 2001, article 3(a); Public Safety Canada, 2012, p. 4).

A significant factor contributing to modern slavery today is the advent of globalization, which drives neoliberal aims of corporate profit maximization supported by fluid and transnational economic flows of goods and services. Fundamentally, neoliberal philosophies propose that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills with strong private property rights, free markets, and free trade (Harvey, 2007, p. 64-65). This perspective helps advance the production of privately-owned capital within a deregulated market economy as the best way to ensure the efficient flow of goods and services and to achieve social welfare globally.

Today, multinational corporations are largely not held legally responsible for their supply chain activities while operating abroad (Evans, 2020, p. 668; Islam & Gray, 2018, p. 3). This situation is made possible by liberalized trade and deregulated economic policies (the removal or reduction of restrictions in a particular industry to improve business operations and increase global competition), which are agreed upon by governments, the private sector, and cross-governmental political and financial entities (Anderer et al., 2020, p. 642, 662; Evans, 2020, p. 676). The influence of multinational businesses has grown rapidly due to the emergence of a neoliberal arrangement of capitalist systems. Political, social, and legal arenas align themselves

with economic interests and equate the value of the corporation with the survival and success of the capitalist market economy (Jessop, 2009, p. 338; Snider, 1987, p. 37-38). Consequently, the impunity of the corporate sphere and its damaging practices are supported by the de facto productive forces of corporate-led capitalism (Bittle, 2012, p. 49; Glasbeek, 2002, p. 17; Tombs & Whyte, 2009, p. 108; Wacquant, 2009).

While global supply chains are considered vital to the stability of national and international economies (Mani et al., 2018, p. 260), they are inherently problematic because they can conceal nefarious and often dangerous activity, such as modern slavery. Correct and vigorous legislative enforcement, while not a panacea, can serve to uncover human rights violations in the wild west of the global market economy (Banerjee, 2021, p. 417; Cockayne, 2016, p. 474; Landman, 2020, p. 318).

Combatting Modern Slavery in Canada

Much of the public knowledge about modern slavery in Canada originates from official government sources, such as the Department of Justice, Public Safety Canada, and the Royal Canadian Mounted Police (RCMP). Together, these sources generate a narrative about what constitutes transnational trafficking networks and how to address them. Labour organizations, human rights and advocacy groups, academics, and consumers contribute to this narrative.

In Canada, modern slavery is incorporated within the human trafficking offences of criminal and immigration laws. Sections 279.01 to 279.03 of the *Criminal Code of Canada* define the offence of human trafficking as:

1. “The recruiting, transporting, transferring, receiving, holding, harbouring or concealing a person, or exercising control, direction or influence over the movements of a person, for the purpose of exploiting them.”
2. “[The receipt of] a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission [of the above actions].”
3. The “[concealing, removal, withholding or destruction] of any travel document that belongs to another person or any document that establishes another person’s identity or immigration status” (*Criminal Code*, 1985, s. 279(1) – 279(3)).

Section 279.04 further defines the offence of exploitation for the abovementioned sections as “[causing a person] to provide labour or a service by engaging in conduct that could reasonably cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide the labour or service” (*Criminal Code*, 1985, s. 279(4)).

Additionally, section 118 of the *Immigration and Refugee Protection Act (IRPA)* states it is an offence to bring people into the country by means of abduction, fraud, deception, the threat of force, and coercion (*IRPA*, 2001, s. 118).

These two instruments form the extent of Canada’s current enforcement apparatus for addressing modern slavery. However, although modern slavery constitutes a crime under Canadian law, the current regime mostly focuses on (and has largely been used for) cases rooted in organized crime, such as instances where Eastern European women were trafficked into the country to work in the sex and escort trade in Toronto and Montreal (Public Safety Canada, 2016, p. 6). Since the criminal offences were brought into force, there have been 25 charges laid under the *Criminal Code* (90 percent of which accounted for domestic cases of human trafficking

and 10 percent involved victims trafficked into Canada from abroad) and three charges but no convictions under the *IRPA* (Public Safety Canada, 2012, p. 8). The legal instruments at the government's disposal do little to capture the corporation as a criminal actor in the offences laid out in law (Beatson et al., 2017; Smith & Betts, 2015). In fact, no law in Canada is tailored to combat modern slavery in business. Unlike several of its major trading partners, Canada remains without a modern slavery disclosure legislation, which uses “public oversight to govern private action by mandating that organizations regularly inform stakeholders of what they are doing and allowing consumers to judge their action” (Sabel & Zeitlin, 2012, as cited in Rogerson et al., 2020, p. 1506). Canada also does not wholly restrict the importation or procurement of goods produced by forced or child labour.

A set of legal cases concerning corporate accountability for violations in overseas operations have also shaped anti-slavery law and policy in Canada. The Supreme Court of Canada verdict, *Nevsun Resources Ltd. v. Araya* (2020) permits transnational human rights litigation against Canadian companies in breach of international customary law and for the case to be tried in Canadian courts. This case stems from allegations brought before British Columbia's Superior Court in 2014 by three Eritrean refugees who claimed they had been conscripted into the Eritrean military's 'National Service Program' for forced labour at the Bisha Mine owned by Canadian-based Nevsun Resources Ltd. The Supreme Court ruled that businesses can be held liable in Canada for actions conducted in their foreign operations. In striking down Nevsun's objection to the lawsuit based on the act of state doctrine² – which denies domestic courts the power to scrutinize acts of a foreign government – this decision

² Supreme Court Justice Abella concluded that the act of state doctrine does not form part of Canadian common law, nor do its underlying principles bar the Eritrean workers' claims (*Nevsun Resources Ltd. v. Araya*, 2020).

makes it possible to hold private non-state actors liable in domestic Canadian courts (*Nevsun Resources Ltd. v. Araya*, 2020; Beedell and Tamrat, 2020; Haynes, 2020; Kamalnath, 2021).

Seven years before this court ruling, a catastrophic event occurred in Bangladesh that would have severe repercussions for Canadian companies operating abroad. In April 2013, the Rana Plaza garment factory in Dhaka collapsed, killing over 1,130 workers and injuring more than twice as many. Subsequent investigations revealed the disaster was caused by poor compliance with building safety codes (Aulakh, 2015). Bangladesh's garment manufacturing industry has drawn large investments from North American and European multinational retail corporations who source their products from the country's supplier factories, despite longstanding unsafe labour conditions (Claeson, 2012; Sethi, 2014). Management of the factory overlooked safety protocols as well as labour standards to meet retailer demands for faster and cheaply produced goods (Barua et al., 2021, p. 43; Bossavie et al. 2019, p. 6). A lawsuit was filed by factory workers against Canadian company, Joe Fresh (owned by the parent company Loblaw), who had contracted orders supplied from the Rana Plaza factory. However, the case was eventually dismissed by Canadian courts, which ruled Loblaw owed "no duty of care" to the plaintiffs³ since they "did not create the dangerous workplace conditions" (Perkel, 8 August 2019).

These two developments – in addition to a lawsuit against the Canadian mining company, Hudbay Minerals, for allegations of sexual assault of workers connected to its operations in Guatemala (Raymer, 23 September 2021) – all included accusations of forced labour, slavery, cruel or inhumane treatment, and crimes against humanity. Regardless of whether these cases

³ The plaintiffs alleged that Loblaw's adoption of a corporate social responsibility policy created a duty to protect factory workers down the supply chain from structural safety issues. Ontario's Court of Appeal rejected the plaintiffs' arguments since their injuries were sustained in Bangladesh, the governing law is effectively that of Bangladesh and not of Canada (Eizenga et al., 21 December 2018).

succeeded, they raised serious concerns for Canadian lawmakers, legal professionals, and company executives about the liability of private enterprises, business conduct of Canadian corporations abroad, and the legal mechanism for holding businesses accountable while ensuring future non-offending.

Response from the Canadian State

There has been some movement to develop a body of proactive measures to address transnational corporate conduct and defend those harmed by Canadian corporations overseas. From 2012 to 2016, the Canadian government implemented a National Action Plan to Combat Human Trafficking (NAP) and the subsequent 2019 National Strategy to Combat Human Trafficking. Both identified a need to collect national data on trafficking and to establish support services for victims to enable better reporting of cases involving the trafficking of Indigenous peoples (Public Safety Canada, 2017; 2019; Department of Justice Canada, 2017)⁴. Global Affairs Canada is also in the process of renewing and expanding its Responsible Business Conduct strategy for Canadian companies active abroad from a focus on the extractive sector toward a version that will address all economic sectors (Global Affairs Canada, 2022).

More recently, the federal government introduced the creation of an independent Canadian Ombudsperson for Responsible Enterprise (CORE) and a multi-stakeholder Advisory Body to inform the federal government and the CORE on responsible business conduct abroad. Since its outset, the focus of this group is on the mining, oil and gas, and garment sectors (Global Affairs

⁴ The focus on Indigenous trafficking victims in Public Safety Canada's NAP and National Strategy to Combat Human Trafficking is informed by and responds to the 2019 final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. The report highlights that sexual exploitation and human trafficking are strongly linked to the disproportionately high rates of violence against Indigenous women and girls in Canada and that the extent of human trafficking and victimization of Indigenous women is grossly under-reported (2019, p. 5).

Canada, 2019). The CORE is responsible for publicly reporting the findings of its investigations and could make recommendations for law and policy reform. In 2019, however, the federal government appointed a special advisor to the Minister of International Trade Diversification, which strips the CORE of its powers to investigate international cases of abuse brought against Canadian companies (Canadian Network on Corporate Accountability, 2021). To date, the federal government has not taken the steps to grant the expected investigative and other powers and authorities to the CORE. As such, it currently remains inactive.

Despite all these initiatives offering a sense of commitment by the Canadian government to confront exploitative labour, one area of focus lacks serious transformational action and warrants further examination: the accountability of multinational corporations in the facilitation of modern slavery practices around the world.

Internationally, modern slavery in global supply chains has increasingly become recognized as a problem for governments to address. Several jurisdictions have taken steps to implement corporate accountability legislation of their own, by which Canada's policy can be informed. California, the United Kingdom, Australia, and European countries such as France, the Netherlands and Norway have instituted legislation mandating companies to report on their actions to detect and prevent modern slavery within their global supply chains, as well as publish their findings on their website (Smith & Betts, 2015, p. 230). Consequently, some Canadian companies already report on their business practices in this regard, owing to the fact they operate in those jurisdictions with mandated disclosure policies listed above.

Focus of Research

The past few years have witnessed debates in Canada's political sphere around the implementation of a mandatory disclosure regime for anti-modern slavery practices. There are both supporters and opponents of mandatory disclosure laws in this debate. Some argue it would ensure multinational companies develop ethical business practices, while others contend these laws fall short in holding corporations and their executives criminally responsible for the use of modern slavery in their supply chains.

The focus of this thesis comprises the subsequent actions in Parliament to develop Canadian-style anti-slavery legislation. So far in Canada, the federal government's Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development⁵ has examined the human rights implications of child labour and delivered recommendations to the Canadian government to eradicate this problem from global supply chains (Government of Canada, 2019, p. 3). The focus of the Subcommittee sessions held over a year and a half in addition to a culminating report about child and forced labour were informed by testimonies and submissions from representatives of various government departments, non-governmental and advocacy organizations, and Canadian businesses. From this work, Members of Parliament (MP) and other Canadian politicians continue a years-long debate to legislate a mandatory disclosure policy that would require companies to report on their business activity and publish actions taken to eradicate modern slavery from their supply chains.

On three separate occasions, there have been efforts to enact modern slavery legislation in Canada. In 2018, Private Member's Bill C-423: *Modern Slavery Act (An Act respecting the fight*

⁵ The Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development will hereafter be referred to as SDIR. This Subcommittee heard from witnesses over the span of six of the 11 sessions from November 23, 2017 to June 14, 2018 devoted to studying and developing a report that was presented before the federal government on modern slavery and child and forced labour.

against certain forms of modern slavery through the imposition of certain measures and amending the Customs Tariff) was tabled by Liberal MP John McKay, followed by the second attempt in the Senate in February 2020 with Bill S-211: *Modern Slavery Act (An Act to enact the Modern Slavery Act and to amend the Customs Tariff)*, sponsored by Independent Senator Julie Miville-Dechêne.⁶ The latest bill currently in Parliament – introduced again in October 2020 and which has undergone Second Reading – is now called Bill S-216 *Modern Slavery Act*. Also sponsored by Senator Miville-Dechêne, Bill S-216⁷ is similar to modern slavery legislation in the United Kingdom, Australia and California. It imposes an obligation on certain “entities” (that produce or sell goods in Canada or elsewhere, import into Canada goods produced outside Canada, or control an entity engaged in the above activity) to report on the measures taken to prevent and reduce the risk that forced labour or child labour is used at any step in the production of goods in Canada or elsewhere by the entity or in the production of goods imported into Canada (*Modern Slavery Act*, 2020, s.5). The companies targeted under this proposed law must fall within certain criteria: it is 1) listed on a Canadian stock exchange; 2) has a place of business in Canada, does business in Canada or has assets in Canada worth at least \$20 million, \$40 million in annual revenue, or 250 employees; or 3) is prescribed by regulations (*Modern Slavery Act*, 2020, s. 2). While it does provide for fines of up to \$250,000 per offence and far-reaching investigative powers of the Minister of Public Safety in the event of non-compliance, serious criminal sanctions against company representatives are non-existent. As a final measure, the bill proposes an import ban, which prohibits the importation of goods manufactured or produced by forced labour or child labour, to goods mined by forced labour or child labour (*Modern Slavery*

⁶ Modern Slavery Act, 2018, Bill C-423, First Reading, December 13, 2018 (Canada, 42nd Parl., 1st sess.); Modern Slavery Act, 2020, Bill S-211, Second Reading, March 12, 2020 (Canada, 43rd Parl., 1st sess.)

⁷ Modern Slavery Act, 2020, Bill S-216, Second Reading, December 8, 2020 (Canada, 43rd Parl., 2nd sess.)

Bill, 2020, s. 21). This measure works in tandem with similar developments being enacted in new and existing trade deals, such as the revised North American Free Trade Agreement's ban on imported goods sourced from exploitative practices.

This study critically examines the debates in Parliament around Bill S-216 (and its predecessors) to make sense of the way the issue of corporate involvement in modern slavery is framed by lawmakers. The objectives for this research are as follows: 1) to account for the Canadian government's framing of modern slavery; 2) to identify the political, social, and economic influences that factor into Canada's legislative corporate accountability strategies as they relate to modern slavery; and 3) to examine the claims advanced by the Canadian government, the private sector, civil society groups, on the proposed supply chain accountability law, and to identify which conceptualizations of corporate accountability win out in the legislative process.

Theoretical and Methodological Framework

The theoretical basis for this study takes its cue from critical criminology, which accounts for the unequal distribution of power and wealth as a vector for crime and the social relations that constitute law and enforcement (Lynch & Michalowski, 2006; Michalowski et al., 2010; Taylor et al., 2011). Applying Antonio Gramsci's cultural hegemony theory in the context of a neo-Marxist framework informs the study's analytical strategy to examine the dominant discourses that produce and reproduce the political, economic, and social ideologies of the modern neoliberal capitalist system (Gill, 1993; Gramsci, 1971; Martin, 1997; Marx & Engels, 1848/2012; Pearce and Tombs, 1998). To achieve its research objectives, the study applies these theoretical perspectives to examine how dominant claims are accepted while others are excluded

from the final conceptualization of modern slavery and corporate supply chain accountability legislation.

In addition, employing a methodology of critical discourse analysis helps to understand how dominant knowledge claims are supported and resisted within the Government of Canada's legislative approach to combatting supply chain modern slavery (Amoussou & Allagbé, 2018; Fairclough, 2001b; 2015; Kendall, 2007; Rogers, 2004; Wodak, 2001). To achieve this end, the responses by the Government of Canada, Canadian companies, and advocacy groups are investigated to reveal the dominant framing of the issue. The data sources collected for this research include transcripts of the SDIR's committee hearings (including witness testimony), and subsequent report concerning its study of child and forced labour in global supply chains, the federal government response to the report's recommendations, and the three iterations of the Government of Canada's proposed *Modern Slavery Act* (Bill C-423, Bill S-211, and Bill S-216) – including House and Senate transcripts detailing the debates of the bills by lawmakers.

The research that guides this thesis combines the policy, criminal justice, and corporate fields to examine how Canada's legislative measures address modern slavery, corporate accountability, and supply chain management. As I will demonstrate, my analysis of the empirical sources found four dominant themes from the discussions within Parliament on modern slavery: 1) modern slavery is confined to child labour and general assumptions about forced labour; 2) modern slavery is a problem predominantly in underdeveloped countries and an issue situated outside of Canada and Canadian companies; 3) corporations have the capacity by way of their financial capital to foster social change and international development, which is achievable through voluntary corporate social responsibility (CSR) initiatives (a private sector strategy toward ethically-oriented practices); and 4) the solution to modern slavery can be found

in globalized free markets and international trade, which in turn is supported by deregulated and liberalized global supply chains.

As will be explored, the discourse chosen by the Canadian state to develop its modern slavery law downplays the severity of economic and social harms caused by corporations, which in turn creates a barrier to identifying their actions as potentially criminal. In specific, my study found that dominant conceptualizations frame the debate in narrow terms focusing on a limited scope of forced labour, poor oversight and labour standards in so-called developing countries, rogue, “bad apple” companies that act with impunity rather than all multinational corporations, and the international development that companies can foster through unregulated CSR approaches. In the process, the role of corporations in global, ‘neoliberalized’ supply chains and their responsibility for human rights violations found within is obscured and downplayed.

Overall, Canada has yet to draw a hard line for corporate accountability concerning a company’s business practices overseas, while also supporting a sentiment that reflects less of an urgency to institute a corporate reporting regime that could effectively eradicate modern slavery from global supply chains and by extension protect those who fall victim to the crime.

Overview of Chapters

The thesis is organized into six chapters, which are arranged as follows. Chapter 2 draws on criminological, corporate crime, and business management literature to situate the issue of combatting modern slavery and regulating transnational corporate behaviour within global capitalism. Chapter 3 explores my theoretical framework and how it informs my analysis of the findings. Chapter 4 describes the research questions, methodological approaches, data sources, and collection strategy of this study. Chapter 5 comprises an analysis of the study’s findings

regarding the response to global supply chain modern slavery by the Canadian state, the private sector, and advocacy groups evidenced in Parliamentary and government-related proceedings and official documentation. Lastly, Chapter 6 discusses the key findings of the study, their theoretical value, and their implications for future action that addresses slavery and corporate accountability.

Chapter 2: Literature Review

Introduction

In addition to law and policymaking relating to modern slavery, the academic literature focuses on the role of transnational organized crime in global human trafficking (Burnett & White, 2010; Caruana et al., 2021; David, 2012; de Vries, 2018). This chapter positions the thesis within the corporate crime literature, chronicles the history and evolution of modern slavery's conceptualization, and details the debates in academia surrounding the harms situated within global supply chains and the neoliberal influence in legislative regulations that respond to a deregulated and market-driven corporate arena.

Section I explores the history of modern slavery within global corporate supply chains. Section II examines the politics behind prominent conceptualizations of corporate liability as well as exploitative practices of modern slavery. Section III illustrates the context within which supply chain exploitation has become propagated by the economic and political perils of neoliberal capitalist ideology. Section IV details the history of the Canadian legislative response to modern slavery and supply chain injustices and how the two are framed in the policy. Section V examines the corporate accountability scholarship with an emphasis on policies in other jurisdictions around the world. Finally, section VI discusses the debate around voluntary measures as an alternative to legislated corporate disclosure regimes and the various camps endorsing or challenging CSR initiatives as a form of corporate self-regulation. An examination of existing literature demonstrates the need for more research about global supply chains and the dominant political, economic, and legal ideologies that define corporate accountability therein.

I: The History of Modern Slavery in Supply Chains

The enslavement and mistreatment of human beings as a form of property and a commodity to be sold and traded find roots at the outset of civilization. The historical roots of this phenomenon are based on the colonial enterprise. Slavery has taken place in ancient Greece and Rome, the medieval period, through to the transatlantic slave trade where such archaic techniques as chattel slavery and bondage were introduced and became entrenched into the societal fabric (Aronowitz, 2017, p. 3-4; Banerjee, 2021). With the turn of each era, the techniques of exploitation against new groups of people transform and become more pervasive. The construction and general understanding of human trafficking have evolved, from international forced prostitution networks to a contemporary variety of exploitative forms (Miers, 2003, p. xii).

Human trafficking is a term most strongly associated with modern slavery and the two are often employed synonymously in academic literature and government reports. Human trafficking is considered a crime in Canada. Under Canada's legal definition, human trafficking involves "any person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person for the purpose of exploiting them to facilitate their exploitation".⁸ The exploitation of trafficked victims includes sexual exploitation and forced labour, who may be trafficked domestically or internationally. In Canada, human trafficking is considered international (involving an individual being trafficked across borders legally or illegally, irrespective of the victim's immigration status) or domestic (all stages of trafficking take place within Canada despite the victim's legal status) (RCMP, 2020).

⁸ The *Criminal Code of Canada* stipulates the 'trafficking in persons' offence, from which the above language and criteria are retrieved (*Criminal Code*, 1985, s. 279(1) – 279(4)).

A significant distinction between human trafficking and human smuggling, despite the common conflation of the two terms, is that the latter involves the illegal transportation of migrants into a country for financial or material benefit; smuggled migrants may also risk being trafficked thereafter if the exploitative practices continue (RCMP, 2020). Human trafficking, and by extension labour exploitation, is either framed as a phenomenon linked to organized crime groups or a corporate crime wherein the private industry and the supply chains of businesses enable and perpetuate concealed exploitative practices (Davies & Ollus, 2019, p. 87).

Scholarship on the Canadian context of modern slavery and corporate accountability notes that human trafficking is discussed within the political sphere as a social problem that necessitates a criminal justice and law enforcement intervention (Beatson et al. 2017, 140-141; RCMP, 2020). This is coupled with a recent effort between law enforcement and support groups in Canada to raise awareness of the humanitarian and criminal justice fronts of the issue. Literature indicates movement by the federal government and several provincial and territorial governments to assess and understand the reality of modern slavery in their jurisdictions (RCMP, 2020). However, while the Canadian government does publish statistics on police-reported human trafficking convictions and identified cases in Canada,⁹ the true number of trafficking victims remains virtually unknown because of the hidden and complex nature of the crime and the hesitancy of victims to come forward to the authorities for fear of consequence and penalty.

With the emerging scholarship on globalization, the rise of outsourcing and offshoring motivates academics to focus on the uncertainty and volatility of corporate supply chains. Competition drives a capitalist global economy and includes maximizing profits by way of cheap

⁹ Statistics Canada estimates that in 2019, there was a total of 511 police-reported human trafficking incidents (whose victims comprised 95 percent women or girls), representing a rate of 1.4 incidents per 100,000 people and 0.02 percent of all police-reported incidents that year (Ibrahim, 2021, p. 3).

and forced labour in nations with little to no labour regulations. As a result, global trade drives modern supply chains, especially via technological innovation and economic deregulation, but has led to the advancement of an illegitimate division of labour, system of trade, and relations of production (Pope, 2011). These conditions highlight how global supply chains are a primary cause of exploitative labour worldwide as they possess little to no oversight further down the chain from the executive level at the top of the corporate hierarchy.

II: Modern Slavery, Human Trafficking, Forced Labour – Conceptualizing the Issue in Academia

The term modern slavery – in conjunction with human trafficking and forced labour – has emerged in academic and political discourse to make sense of the hidden and cross-border crime involving exploitative circumstances in which an individual is unable to refuse or leave. It includes phenomena such as human trafficking, sex trafficking, forced labour, debt bondage, descent-based slavery, child labour, domestic servitude, and forced marriage (Mehra & Shay, 2016, Michailova & Stringer, 2018; Rao, 2020). The literature looks at modern-day slavery as a construct that draws its analysis from the forms of exploitation existing in contemporary society. While slavery is considered a crime under international law, it nonetheless continues to be a lucrative business practice for multinational corporations (Banerjee, 2021). As lawmakers continue to follow suit and conceptualize human trafficking and modern slavery similarly, it enables an explicit depiction of a return to the use of people as property. The main elements of enquiry in this conceptualization are migration, technology, law, and measurement as key factors in understanding what modern slavery entails (Kara, 2017b; Gold et al, 2015).

Although much of the public and academic debate about modern slavery comprises trafficking and sexual exploitation, the majority of those contemporarily enslaved are in forced labour. Modern slavery is the revival of past forms of forced labour in modern society with labour trafficking. Common academic understandings of modern slavery consider it a global enterprise that uses “shadow labour markets” to operate under archaic structures of the colonial slave era, where vulnerable groups of society are treated as property in an attempt to uphold business profitability within the global economy (Kara, 2017b, p. 2). As such, the economic functioning of slavery is deeply tied to global supply chains. This phenomenon is upheld by a dominant neoliberal culture of independent responsibility and capitalist advancement and is a significant factor in the reproduction of past slave-based vestiges in modern-day global flows of labour. This approach to conceptualizing forced labour in contemporary society comprises situations where “one person has taken away another person’s freedom – their freedom to control their body, their freedom to choose to refuse certain work or to stop working – so that they can be exploited” (Fudge, 2018, p. 227).

Most academic definitions of human trafficking and labour trafficking fall into the broader category of modern slavery. In fact, the former has evolved into the third-largest criminal industry in the world as it has come to comprise transnational criminal elements (Pati, 2012, p. 135). In contemporary society, the latter is a result of the growing demand for unskilled labour, where migrants and other vulnerable groups are used to supply this shortage in the agricultural, tourism, construction, fisheries, and domestic service sectors (Beatson et al, 2017; Rao, 2020).

Important in the discussion of modern slavery is the scholarship that critiques the use of this term and the assumptions it promotes about exploitation. Such works argue that modern slavery is used as a “provocative and powerful label” that places a narrow focus on extreme

forms of abuse, which sets a high threshold for the type of activities that can be included within its scope and has the potential to “obscure other transformative framings” of the issue (Bunting & Quirk, 2018, p. 8, 27; Pavlou, 2018, p. 2-3). Additionally, the use of contemporary slavery or slave labour is also critiqued as posing a danger of trivializing or minimizing the horrors of historical slavery. In this light, there is concern from activists whose ancestors were victims of the transatlantic slave trade or other similar atrocities that the use of the word slavery today reduces or co-opts the suffering they experienced (Bunting & Quirk, 2018).

For the purpose of my study and to accommodate and respond to these critiques, modern slavery is used as an umbrella term that covers various specific legal concepts. To ensure an appropriate operationalization of this term within the Canadian legal apparatus, modern slavery comprises practices that are recognized and defined under the *Criminal Code*, relevant federal legislations, and – where referenced – international protocols and conventions. Indeed, applying this term by using what is currently known about it in Canada is a reflection that slavery is not an obsolete or archaic form of property, ownership and control, nor has it fully been abolished worldwide. It demonstrates that this term is part of a continuum of exploitative practices that are reproduced in the contemporary informal economy, where it persists in various “forms and contexts in modern business” structures (Crane, 2013, p. 49; Kenway, 2021). Historical slavery has continued to endure to this day but has since taken a new form driven by modern techniques of exploitation and violence. Informed by the typologies produced in the literature on slavery, exploitation, and trafficking, I am better positioned to identify and critique which issues the Canadian government takes up in its definition of and response to modern slavery.

III: Global Supply Chains, Corporate Harm, and Politico-Economic Ideals of Neoliberalism

With the emergence of globalization, companies largely do not produce their goods in-house; they often extend and distribute their system of production to international suppliers worldwide via global supply chains (Andersen & Skjoett-Larsen, 2009; Rühmkorf, 2015). Corporate supply chains are connected networks between individuals, organizations, resources, activities, and technologies involved in the production and sale of a product or service (Rühmkorf, 2015). As a result of this move away from a business model with strict boundaries, corporations may – intentionally or not – be involved in exploitative practices and may recruit and exploit those trafficked or benefit from the recruitment systems that supply them with workers (Planitzer, 2016, p. 319). Such transnational assemblages have made available the conditions necessary to exploit vulnerable sections of the population for profit.

Exacerbating the issue is the globalized market economy that has introduced multinational and fluid forms of globally interconnected goods, services, and information. Globalization's root in the capitalist market facilitates modern slavery using the cross-border movement of people for services and labour, and while scholars contend that a good part of corporations is law-abiding, the global spread of business persuades the use of cheaper labour in regions of the world where worker's rights are not heavily enforced (Greer & Purvis, 2016).

The hidden nature of the globalized market economy is enough for some firms to cross the line into criminal territory whereby their neoliberal profit-making and liberalized trading motives will protect them. Those neoliberal ideals make up an added cause of modern slavery and comprise a form of capitalism, which comes on the heels of the structural crisis of the capitalist system during the 1970s. This crisis saw the rise of neoliberal ideals in advanced industrial

nations, which motivated companies to outsource parts of their business models to countries with lax labour standards and human rights laws and which use harmful practices, like offshoring and cheap and forced labour (Fernández & Alberto, 2013). Using a corporate crime lens would suggest that labour exploitation is motivated to some degree by shared market factors and business procedures, which are tightly linked to improper regulatory oversight of exploitation in supply chains (Davies & Ollus, 2019).

While this happens, the dominant claims produced in law and policy remain protected by neoliberal beliefs about allowing corporations to create their means of regulation. Forced labour comes out of the dichotomy between the “right hand of the state”, which encourages an appearance of acknowledging and attempting to reduce issues like labour exploitation, while the “left hand” applies its commercial might to negotiate prices and trade deals (New, 2015). The state is responsible for controlling the amount of power that corporations hold via means of regulation and intervention as a measure to keep businesses in check and to prevent further harm to human life. Despite precedents that indicate this is possible, such as the laws targeting price fixing for oil and gas companies in Canada and the United States in the early 20th Century, the opportunity for it to happen today is uncertain given the neoliberal proliferation of corporate expansion and deregulated business practices that are complemented by the current political climate and the maintained view to protect consumers (who can impact a company’s reputation) rather than workers (New, 2015). When corporate deregulation is made prominent within the global economic arena, one must consider how the freedom offered from a lax hand of the state influences the willingness of companies to maintain ethical standards and abide by voluntary accountability measures.

Returning to a topic introduced earlier in this section, it is important to consider modern slavery as a phenomenon not only limited to criminals in the mainstream conventional sense, but also as a phenomenon that is deeply linked to societal structures, including the state, the corporation, the economy, and the labour market (Davies & Ollus, 2019). To best capture the harms produced by modern slavery, the extra-legal types of harm comprise an area of study that warrants further consideration in the corporate crime literature.

Corporate crime is best understood as a wrongful act by a corporation that is punishable by the state under administrative, civil, or criminal law (Clinard & Yeager, 1980, p. 16; Davies & Ollus, 2019, p. 89). Significant scholarship focuses on corporate crime about severe offences facilitated by corporations and their members, such as corruption, toxic oil spills and environmental harms, health and safety risks, and food fraud (Alvesalo & Whyte, 2007; Lord et al., 2017; Ruggiero & South, 2010; Standing, 2015). Broadening the definition of crime to capture more than what is defined in criminal law – the sole governmental action for “ordinary offenders” (Davies & Ollus, 2019, p. 89) – makes room for the consideration of ‘corporate harms’ produced by modern slavery, thereby creating a scope of wrongdoing that extends beyond the conventional thresholds required for legal intervention. Understanding social harms in the sense of acts of wrongdoing that breach the criminal-legal framework is a beneficial perspective through which to study the way corporate misconduct is framed by the state and reinforces a sense of impunity from the private sector.

The legal scholarship about corporate crime demonstrates three elements of the debate. It discusses the extent to which culpable actions of the individual can be applied to the corporation, critiques the legal requirements of individual *mens rea* and *actus reus* meant to determine guilt, and argues for the consideration of criminal decision-making to be applied to the organizational

context as well (Lee & Gailey, 2007). Corporate conduct is not often subject to criminal law, since corporate wrongdoing is usually addressed through regulatory agencies; the state does not often punish corporations as they are typically dependent on the investment and growth produced by companies (Tombs & Whyte, 2015). Companies may often use their legitimate business models to conceal their practices that hurt vulnerable workers within their supply chains. Exploitation in this sense is considered on a spectrum ranging from less severe to severe acts or omissions, including statements of denial regarding allegations of labour violations or failure to be transparent about known human rights abuses within the business's global supply chain since it remains largely concealed (Davies & Ollus, 2019).

The systemic practices of the state-corporate relationship reveal the reality of corporate impunity. Research that focuses on the link between business supply chains and exploitation in the wider political-economic context provides greater clarity on the issue of modern slavery and steps away from the assumption that exploitation is driven solely by individual criminals and organized crime groups.

Research on the effects of globalization on migrants and vulnerable workers demonstrates that modern slavery is fed by multinational corporations within an internationally linked production system. As a result, the globalized market economy increases the number of migrant workers and the frequency of exploitation (Gold et al., 2015; Rao, 2020). Modern slavery is obscured in the supply chains of multinational corporations because of the convoluted yet fragmented global web of producers, manufacturers, suppliers, buyers, and subsidiaries. To that end, corporate impunity, whereby corporate actors receive clemency or pardon on the part of the law, protects them from liability as a result of their seemingly well-intentioned actions for the greater good of the company. Important to note is the undefined line between “regulatory

infractions of employment standards and the criminal offence of human trafficking” (Sikka, 2013, p. II).

While there is generally a consensus in academia that human trafficking comprises, to some extent, organized criminal syndicates, additional research is needed to build a picture of what this looks like and to distinguish this conceptualization of the crime from labour violations within corporate supply chains. The uncertain global economy allows criminal organizations to flourish and remain concealed. Victims are smuggled into nations, like Canada, through seemingly legitimate means to profit from concealed migrant trafficking. There is a need for research on the different methods employed to understand where the difference lies between the prevalence of modern slavery within organized crime and the private sector, since the latter is less researched and less addressed by governments. Companies may unknowingly contribute to the perpetuation of exploitative labour practices through their supply chain operations and relationships with partners and suppliers that use forced labour. Though labour trafficking occurs in the supply chain through organized crime networks (comprised of the recruiter, transporter or smuggler, and final exploiter), there are also legitimate actors as well (for example, multinational grocery chains and clothing stores) (Smith & Betts, 2015). This causes more challenges for companies to ensure that their supply chains are free from forced labour because of the ambiguity and generalizability of labour trafficking – the source is very difficult to situate in supply chains.

Public concerns about where products originate and under what means they are produced are shaped by dominant beliefs in a capitalist society, because corporate market interests are heavily integrated into and motivate the economic objectives of governments (Fox & Ward, 2008, p. 533-534). Global supply chains networks inherently require regulation and business

management scholarship maintains a more democratic handling of corporate supply chains would in effect transfer the power to the consumer whose purchasing behaviour can supplement the company's self-regulated codes of conduct (Thiemann, 2016). There is consensus among researchers that anti-trafficking initiatives are only as effective as the information produced to help guide their development and implementation. Therefore, a key component of this cause is understanding who is most at risk of becoming victimized by modern slavery and what makes up a trafficking regime – whether an organized network or a corporate supply chain.

IV: The Issue in Context – Canada's Response to Modern Slavery

Since the early 1900s, there have been several attempts internationally to develop counter-trafficking measures. For instance, the ILO's 1930 *Convention on Forced Labour* (aiming to stop the use of all forms of forced labour regardless of the nature or sector of the work), its amended 1957 *Convention on the Abolition of Forced Labour* (supplementing its previous version, to suppress certain forms of forced or compulsory labour that constitute a violation of the Charter of the United Nations), the 2000 United Nations *Trafficking Protocol* (to prevent and combat trafficking in persons and protect victims of trafficking), and the 2014 ILO's *Protocol on Forced Labour* (to prevent trafficking for forced labour and protect survivors) represent the range of international responses to slavery, forced labour, and human trafficking (Aronowitz, 2017; Beatson et al., 2017; Ollus, 2015).

Since the creation of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)* in 2000, most Western nations have enacted domestic legislation in response to human trafficking. This protocol

outlines the requirement for signatories to work toward the response and eradication of the trafficking of people and the support and protection of victims of this crime. Among many obligations, the Protocol requires ratifying states to classify the crime of trafficking in human beings under national law using a prescribed definition, prohibit the trafficking of children and exploitative labour practices, facilitate the return of child victims of cross-border trafficking, ensure that trafficked people are not punished for any offences related to their having been trafficked and are protected from deportation if it would likely cause a security risk to them or their family, consider temporary or permanent residence for trafficking victims in exchange for testimony against alleged traffickers or on humanitarian grounds, and provide for criminal penalties to be applied to people found guilty of trafficking in aggravating circumstances (*Palermo Protocol*, 2000). The *Palermo Protocol* puts human trafficking on the international agenda and defines and attempts to regulate it by assigning a name to an often hidden and misrecognized phenomenon.

Much of what is public knowledge about modern slavery and human trafficking in Canada comes from the government and its federal departments and agencies, which creates a specific discourse about modern slavery. An annual document published by the United States, known as the Trafficking in Persons (TIP) Report, outlines the current global situation plagued by human trafficking and the actions taken by countries to combat the crime (Taylor & Isgro, 2018). The report uses testimonies from victims, law enforcement personnel, and others to highlight the many forms of exploitation. Considering some of the measures taken to eradicate modern slavery, some scholars posit that the state itself is also to blame for abusing the rights of victims as border control and immigration regimes cause victims to experience a double form of exploitation once in their destination country (Thiemann, 2016). Tighter controls at the border

may also force trafficking networks to operate underground, where more blatantly violent practices are used. Traffickers simply exploit the structural problem of victims' limited access to basic human rights via immigration constraints and a lack of labour protections.

As mentioned, labour trafficking, or human trafficking for the purposes of labour exploitation or forced labour, has not received as much attention as human trafficking for the purpose of sexual exploitation in the Canadian context because the focus on the latter hides or overshadows other forms of exploitation. Labour trafficking of migrant workers in Canada is as prevalent in licit employment sectors as it is in illicit streams or the private industry for that matter. However, the former tends to be hidden from public view, because of a widely accepted pretence of the country's legality, under the guise of legitimated services like Canada's Live-In Caregiver Program and the Temporary Foreign Worker Program (Beatson et al., 2017).

To combat human trafficking, the United Nations implemented the *Palermo Protocol*, supplementing the United Nations *Convention against Transnational Organized Crime*. To meet the minimum standards set by the protocol, Canada has implemented two legal structures that address the issue (Beatson et al. 2017). Section 118 of the *IRPA*, states it is an offence to bring people into the country by means of abduction, fraud, deception, the threat of force, and coercion (*IRPA*, 2001; Qadeer, 2003). The *IRPA* nevertheless is limited in its scope and in how it addresses trafficking in persons. Section 118 (1) of the legislation addresses trafficking with the following statement: "No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use of threat of force or coercion" (Qadeer, 2003). Sections within the *IRPA* that target trafficking and smuggling frame the issue as a matter of law enforcement with associated penalties for traffickers who engage in the various

aspects of human trafficking and smuggling, including document fraud, subjecting persons to mistreatment or exploitation, or profiting from criminal activities.

In addition to this model being mostly oriented toward sexual exploitation, there is little attention placed on the corporation whose business model uses forms of forced labour. Moreover, there continues to be a large misunderstanding of the term human trafficking (which is often confused with human smuggling), which is problematic because statistical information about estimates of human trafficking in Canada may be largely unreliable (RCMP, 2020).

Moreover, the *Criminal Code* also defines trafficking in persons as a crime in four instances under sections 279.01-279.04: trafficking of a person; trafficking of a person under the age of eighteen years; materially benefitting from human trafficking; withholding or destroying travel or identification documents; causing a person to provide labour or a service by threatening their safety or the safety of someone they know (*Criminal Code*, 1985, s. 279(1) – 279(4)). These indicate the harbouring or control of a person’s movement for the purpose of exploitation. Some research has indicated that the term exploitation here is left general to encompass a wide variety of forms; although sexual exploitation appears to be applied the most as compared to other forms.

Generally, few prosecutions of labour trafficking have been laid under these sections given the hidden nature of labour trafficking in Canada and the fact that victims are reticent to come forward to police out of fear of prosecution or deportation (Beatson et al., 2017). Furthermore, proving exploitation requires evidence that objectively establishes the victim was afraid and the fear was considered reasonable (considering such factors as whether the accused used or threatened the use of force, deception, or abused a position of trust or authority) (*Criminal Code*, 1985, s. 279(1)(2)). All these factors make the offence of exploitation or trafficking often

difficult to prove and result in charges being dropped or being laid under related crimes as kidnapping, assault, sexual assault, sexual exploitation, forcible confinement, and extortion.

There is a large consensus for this claim among scholars because the Canadian penal definition of trafficking fails to indicate the different forms of exploitation, such as labour and sexual exploitation, forced marriage, and domestic servitude. In addition, the *Criminal Code* leaves the term trafficking for labour exploitation general to capture a wider net of culpability. These definitions can exclude certain victims of coercion, such as domestic service migrants who are exploited in Canada's federally mandated Live-In Caregiver Program and can be difficult to define fear if the victim is reluctant to disclose details of their case. The current makeup of Canada's legal framework against labour trafficking is closely linked to the general legal construct of human trafficking, which continues to be defined and enforced in a manner that ties its organized crime (and mainly sexual exploitation purposes) disregards legitimate businesses whose practices involve labour exploitation in some form. Therefore, scholars do highlight the need for improved measures to address labour trafficking, while understanding that current assumptions about trafficking should be widened beyond sexual exploitation and organized crime (Beatson et al. 2017, p. 156).

Despite these limitations, there is traction in Canada to find policy and program solutions to labour trafficking. In 2012, the Canadian government introduced a National Action Plan to Combat Human Trafficking. This plan creates strategies that offer provisions to organizations that help victims and protects foreign nationals from being subjected to illegitimate or unsafe work. There is continued commitment from the current federal government to engage further with the matter of combatting human trafficking with the publication of the 2019-2024 National Strategy to Combat Human Trafficking (Public Safety Canada, 2020). It aims to support victims

and improve information-sharing strategies in the prevention and prosecution of forced labour in Canada, while also advancing a ‘whole-of-government’ approach for collaboration among all federal departments and enforcement agencies.

Supplementing this document, a private member’s bill was introduced in Parliament called Bill C-423: *Modern Slavery Act*, which aims to further Canada’s international commitment to eliminate modern slavery – claimed to be committed to the prevention of trafficking, protection of victims, prosecution of offenders, and partnerships with national and international stakeholders – by establishing a disclosure regime for companies to follow (*Modern Slavery Act*, 2018). The third attempt of the bill (Bill S-216, preceding Bill S-211), which is largely similar to its predecessor, would mandate certain private entities to report their measures taken to prevent and reduce the risk that forced labour or child labour within their supply chains (including anywhere in the manufacturing, production, growing, extraction or processing of goods in Canada or elsewhere, or imported into Canada by the entity), in addition to amending the *Customs Tariff* to prohibit the importation of goods produced using forced labour or child labour. (*Modern Slavery Act*, 2018). The Act provides for an inspection regime and gives the Minister the power to require an entity to provide certain information.

These bills come after a report was published in 2018 by the House of Commons Standing Committee on Foreign Affairs and International Development, entitled, *A Call to Action: Ending the Use of All Forms of Child Labour in Supply Chains*, highlighting the fact that child labour remains widespread worldwide (House of Commons, 2018). The report, having studied firms’ use of forced labour in their supply chains, positions Canada as the next country to develop legislation that responds to modern slavery in global supply chains, following the request for input from Canadian civil liberties groups, industry organizations, non-governmental

organizations, and government officials. The committee's report tables recommendations in response to findings, such as: making the elimination of child labour and forced labour a priority in Canada's international assistance, improving access to proper education, implementing supports for law enforcement and judicial systems, building the capacity of Canadian businesses to monitor their supply chains, promoting initiatives to motivate companies to eradicate child and forced labour from their supply chains, and examine Canada's import and procurement policies (House of Commons, 2018).

Critics argue that the Canadian government's proposed modern slavery law does not compel companies to change their behaviour. It does not mandate companies to address (prevent, reduce or redress) the risks that are identified in their reports, nor does it impose an obligation for them to conduct modern slavery due diligence activities to identify risks of human rights violations in their supply chains. The company can merely indicate that it does not do so in its reports (Clarke et al., 2021; Dwyer, 2020). This bill aims to foster greater transparency around the issue of modern slavery to provide consumers with sufficient information about possible disclosed risks to help them make an informed purchasing decision. However, there is little to no evidence to support that solely reporting requirements can curb corporate harms. The bill is also seen to provide very little to prevent exploitation and human rights abuses within the global supply chains of Canadian corporations or assist victims of exploitative labour (Clarke et al., 2021). Finally, the bill focuses on the two primary forms of modern slavery (forced and child labour) to implement Canada's international commitments, despite the existence of many other cases of abuse in Canadian global supply chains, such as the violation of the rights of Indigenous peoples, sexual exploitation, and environmental devastation (Clarke et al., 2021; Dwyer, 2020). While human rights concerns in the Indigenous community in Canada are well-known,

the extent to which Indigenous people are victimized by trafficking is not. Sexual exploitation is one of the more common forms of trafficking offences for which successful convictions are laid in Canada. In terms of environmental devastation, the poor working conditions that vulnerable people are subjected to in unsafe extractive production operations worldwide are gaining momentum in the political sphere through corporations' criminal involvement is in the burgeoning stages of examination.

Therefore, the Canadian government acknowledges the need to confront and prevent the harms caused by forced labour; however, the extent to which its legislative response captures the true breadth of actors committing or perpetuating this crime requires further examination. The political discourse surrounding the chosen strategies is taken up and examined in this research to identify which knowledge claims about the issue lead particularly to a corporation's absolution of criminal liability for labour exploitation and modern slavery.

V: International Corporate Accountability Laws as a Comparative Tool

Other international jurisdictions such as California, the United Kingdom, Australia, and France have implemented or are in the process of implementing modern slavery and supply chain disclosure laws, while Canada lags in this effort. Mandated disclosure legislation for the private sector have recently seen greater attention in the political sphere with respect to counter-trafficking measures. Legal and policy advancements that target supply chain regulation in other jurisdictions around the world inform Canada's approach.

The *California Transparency in Supply Chains Act* (2010) mandates large retail and manufacturing firms with a gross revenue of over \$100 million to publicly disclose their efforts to eliminate slavery and human trafficking from their supply chains (Lupo et al., 2012). In

specific, companies must disclose to what degree their company verifies its supply chain to ensure there is no evidence of human trafficking. The policy, which made California the first government in the United States to codify supply chain disclosures, also mandates an audit of the company's suppliers to ensure they are complying and the certification from suppliers that their system of production aligns with their local anti-slavery legislation requirements (Greer & Purvis, 2016; New, 2015). The aim of this law is to give the public access to information that will help them make conscious and responsible purchasing decisions and ultimately educate consumers about purchasing products that are ethically sourced through responsibly managed corporate supply chains. In the wake of this legislation's enactment, overall compliance of company disclosure remains relatively high, despite a negative market reaction to the implementation of the law as investors fear a threat to the legitimacy of their company due to greater social and political exposure and a substantial increase of costs¹⁰ to implement disclosure compliance that comes with it (Birkey et al., 2018). This compliance is measured using audits of company websites for disclosure statements and is assured by the fact these statements are public and can shape consumer and investor behaviour.

Additionally, the United Kingdom's *Modern Slavery Act* (2015) explicitly names 'modern slavery', rather than human trafficking, as an acknowledgement of the vestiges of historical slavery that are seen today in exploitative labour practices. In the development of this policy, there was a two-phase process that saw interest groups, like human rights organizations, private industry, politicians of all stripes, and academics problematize modern slavery in distinct ways (Broad & Turnbull, 2018). The goal in the development of the legislation had always been to ensure that it encompasses a wide spectrum of exploitation in its current and future forms to be

¹⁰ In fact, the legislation does not require companies to change any practices related to their supply chains, but instead only to report their efforts associated with them (Birkey et al., 2018).

clear for the public, victims and the criminal justice system upon application of the law. This meant that the use of modern slavery should cover a wide set of global scenarios and expand on the definition of slavery in the 1926 Convention to Suppress the Slave Trade and Slavery (an international treaty created under the League of Nations): “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (Aronowitz, 2017; Rao, 2020). The UK’s law requires businesses with a gross revenue of £36 million to publish annual reports (which are compiled in an online government-based public repository) that state their measures taken to ensure human trafficking and slavery do not occur anywhere in their supply chain (Broad & Turnbull, 2018; Rao, 2020).

Australia’s *Modern Slavery Act* (2018) lays out a supply chain disclosure regime requiring private entities with a gross revenue of \$100 million within the Australian market to publish annual reports (Rao, 2020). The reports are to describe the way the company is addressing in its own operations and supply chains the mandatory criteria, such as the modern slavery risks, the actions taken to respond to those risks, the assessment method of the effectiveness of their actions, consultations with subsidiaries, and any other relevant information (Rao, 2020).

The French National Assembly has also enacted its own *Due Diligence Law* (2019), making France-based businesses with over 5,000 employees to develop a due diligence plan of human rights and environmental protection for their operations. Failure to do so will result in a fine of up to £10 million (Dueck et al., 2017, p. 12-13).

At the centre of these laws is the objective to provide consumers with as much information as possible to make an informed decision, while enabling businesses and suppliers to make responsible decisions for the ethical corporate governance of their supply chains (Rao, 2020). Disclosure policies aim to develop socially sustainable supply chains in responding to forced

labour, while remaining competitive in the market (Benstead et al., 2018). This demonstrates the profitability of complying with transparency legislation, despite the wide assumption that such measures are costly to a business's bottom line.

There are several criticisms of these recent legislative efforts. A company's duty is first to its shareholders. It is more likely to comply from a reactionary response to public exposure on the issue of supply chain transparency and out of concern that non-compliance will hurt its profitability (Greer & Purvis, 2016). If a corporation can be sure its behaviour will not be exposed, there is also some cause to question the overall impact of potential rewards and sanctions like modern slavery legislation. The extent to which the strategic legitimacy of the company influences the disclosure response and respect for sustained compliance is a factor for further consideration.

Another significant critique from the literature covering anti-slavery laws – particularly in the case of the U.K. and Australia – is the lack of concrete efforts to establish new public labour standards (LeBaron & Rümke, 2017) and the lack of criminal penalties for non-compliance, which may allow certain corporations to skirt the regulations required of them. Simply mandating companies to report using financial penalties assures de-facto compliance because fines can be paid off by global conglomerates; liability can be written off. Also, it positions the corporation as having the sound capacity to engage in ethical business practices. Detecting criminality is not conducive to transparency regimes because they are not designed for that purpose. They do not establish provisions of criminal enforcement and sanctions for entities that are found to use exploitative practices in their supply chains. Furthermore, while reports demonstrate a positive trend toward compliance with the French law which has more teeth with civil litigation as a penalty against non-conformant companies, it is difficult to assume that

private industry has provided their full willingness to the counter-slavery cause (Kjellberg, 2019, p. 37). Additionally, the very lack of criminal sanctions as penalties for these laws also indicates the image of the corporation held by these states. In all, examining the successes as well as drawbacks of modern slavery legislation around the world that ties in corporate accountability demonstrates a significant tool for Canada to become better informed by their best practices and resulting lessons learned.

VI: Corporate Social Responsibility and Disclosure Policies

Another critique in the literature speaks to the way corporate disclosure policies are largely based on the principles of CSR (Griffin, 2000; Smith & Betts, 2015). CSR initiatives established within the private sector are geared toward upholding corporate self-regulation and contributing to philanthropy, societal goals and ethically sustainable practices that can foster disclosure and transparency (Planitzer, 2016). Importantly, however, CSR literature is split into two camps, the latter of which best complements this research.

First, proponents of CSR assume corporations are autonomous and can rationally make decisions to improve their business standards (Koch et al., 2019; O'Brien et al., 2020; Żychlewicz, 2015). These scholarly pieces offer strategies for businesses to detect and avoid situations tied to the crime. The 'unencumbered business model' is argued to be successful and ethically sound because it is not bogged down in external regulation or government overreach. In this view, the company fulfills its functional and ethical duties simultaneously because it can use its financial capital to promote social development while also turning a profit and generating a reputation that appeals to ethically aware consumers. To minimize the risk of modern slavery within their supply chains, companies may exercise CSR to influence their suppliers and

business partners to become active social actors in combating human rights violations (Bang, 2013; Smith & Betts, 2015).

CSR research indicates a trend toward business management initiatives that focus on measuring profitability, business efficiency, and stakeholder perceptions (Farrington et al., 2017). Disclosure policies require companies to be more transparent about their efforts to eradicate exploitative labour from their business model. In the wake of large cases of corporate scandals and unethical practices, like WorldCom and Enron, despite calls to make companies more transparent in their financial reporting to restore public confidence, efforts that followed were ineffective (Bernardi & LaCross, 2005, p. 34). Actions to eradicate labour trafficking from corporate supply chains require the involvement of the business community, however, this role has often become conflicted.

In the second camp, opponents of CSR contend that the market-driven socio-political-economic structure maintains the problematic status quo of unchecked criminogenic business behaviour that would prevent CSR from functioning properly (Klonoski, 1991; Lee et al., 2017; Toft, 2020). The argument from this critical literature speaks to CSR's voluntary nature and whether corporations use their clout to continue harmful practices or fight for human rights (Thiel, 2016). Corporations enable the profitability of services connected to exploitative labour, whether in sweatshops, child labour operations, or other locations where slavery is used for commercial exchange and monetary gain (Bang, 2013; Smith & Betts, 2015).

Such motivations are likely to be supported by economic and political developments of neoliberalism given a largely unencumbered progress-driven mentality within mainstream politics that often favours economic growth at the detriment of the ethics of business practices. This trend marks the need for further research about the political interventions that come into

play because of a lack of commitment from the business community to properly undertake self-regulatory transparency measures.

The measures set out in CSR initiatives make companies appear to be working to address social problems with very little evidence of productive or concrete outcomes (Banerjee, 2021). In this view, CSR is merely another form of self-regulation, which is telling because business leaders ultimately decide which “domains of CSR the company will emphasize and implement” (Thiel, 2016, p. 18). It is a strategy for companies to secure a social license and avoid more stringent laws and regulations, emerging as a corporate approach to address a gap in existing regulations rooted in neoliberalism. These measures give the appearance that firms and suppliers are working to address problems with little evidence of outcomes.

This critical CSR literature questions whether corporate activities promote community interests and investigate whose values are most represented in corporate decision-making processes and how those representations in turn shape and sustain relations of domination (Deetz & Kuhn, 2008; Thompson, 1984). The capitalist and corporate-leaning ideology of neoliberal society preserves the values that are embedded in language, actions, routines, and social positions that favour dominant groups (Deetz & Kuhn, 2008; Fleming & Jones, 2013; Van Dijk, 2006). This dominant discourse as it relates to the rise of CSR and its legitimation in society becomes co-opted into the engrained corporate goals of profit maximization and risk avoidance as a normative objective of corporate governance.

As the corporation and its practices are reified or naturalized as a social formation that facilitates – without being explicitly known to the public – the reproduction of a common-sense belief that companies and what they deem to be of significant societal value, it is perceived as a “natural element of the social scene” which normalizes and legitimates its social influence

(Boatright, 1996, p. 236-237; Djelic & Etchanchu, 2017; Michael, 2003). As a result, the underpinnings of CSR – corporate goodwill, government deregulation, and consumer choice – do little to foster meaningful decisions that unify corporate economic objectives and social good. They are seen as techniques meant to conceal a corporatist agenda that perpetuates a status quo mentality – to continue “business as usual” (Deetz & Kuhn, 2008, p. 5).

The CSR critique, therefore, brings into question the credibility and value of voluntary corporate displays of transparency, responsibility, and self-regulation. For multinational firms that claim to take on causes of public good, their ability to simultaneously interact with the political and economic systems enables an attempt to shape policies in their favour to enhance their reputation (Wei et al., 2020). The division between public and private actors is blurred, and while it allows businesses to engage in CSR with the community on local causes, further research is needed to understand the extent to which the decision-making process, including disclosure policies, is overtaken by a corporate risk management motivation.

Conclusion

Research about modern slavery now finds itself among corporate crime and business management literature and demonstrates a significant area of scrutiny; however, both bodies of literature lack cohesion between each other and require further cross-disciplinary, theoretical, and empirical integration (Caruana et al., 2019; Davies & Ollus, 2019). Therefore, in connecting labour exploitation and corporate crime research, this study can search for understandings of exploitation that are not isolated to phenomena perpetrated by the traditional ‘criminal’ set out in the codified law; but rather identify its close ties to developments in the economy, labour markets, and the capitalist social structure (Davies & Ollus, 2019).

This chapter identified several themes from the literature on modern slavery in supply chains and related law and policy: the history of modern slavery in supply chains, conceptual frames (including modern slavery, human trafficking, and labour exploitation) within academia and political interventions and legislations, the neoliberal underpinnings of economic and political influences for corporate supply chains, the Canadian legislative response to this issue, other jurisdictional examples of supply chain accountability and anti-slavery legislation, and the constructs and problematic assumptions about corporate social responsibility and disclosure policies.

The existing literature on supply chain modern slavery and corporate accountability legislation is diverse and comprehensive. There is clear support within a growing body of scholarship to examine the influence that neoliberal hegemony and deregulated market ideals have in the development of formal regulatory regimes for corporations and indeed in the reliance on informal self-regulated corporate CSR initiatives.

The literature also presents certain limitations and gaps in research that this study seeks to address. This review of academic discourse and debate has demonstrated a need for more research contributions in the Canadian response to modern slavery and exploitative labour as they relate to corporate supply chain accountability. Given that this research intends to study the Canadian response to the corporate impunity of exploitative practices, the literature that focuses heavily on American and European contexts and academic conceptualizations informs Canada's approach, but also demonstrates a need for more Canadian data. Likewise, the construction of policy that addresses a social issue, is highly influenced by its research narrative. As corporate harms within global supply chains continue to go unnoticed and under-researched, the complete set of organized structures that fuel modern slavery remains untested.

With greater attention being placed on Canada's implication in global trends of corporate-induced modern slavery, the recent developments from the Canadian government to enact supply chain transparency legislation is a fitting case study from which to examine the dominant discourse that is accepted to respond to this global issue. This demonstrates an optimal opportunity to explore and contribute to the existing body of knowledge and research on the state-corporate relationship and its ties to global capitalist objectives. Accounting for the role of discursive practices within global capitalism, a critical discourse analysis will help guide the examination of dominant conceptualizations of corporate regulation that are shaped by prominent discourses meant to sustain or challenge them. A Gramscian-neo-Marxist theoretical framework supports this work to shed light on the influence of discourse in the preservation of neoliberal hegemonic principles. The following chapter details the Gramscian-neo-Marxist theoretical framework employed for this study.

Chapter 3: Theoretical Framework

This chapter describes the theoretical perspective employed for this study. Concepts, such as cultural hegemony and ideology theorized by Antonio Gramsci and the broader neo-Marxist school of thought inform the analysis of the Canadian government's conceptualization of modern slavery in the corporate environment. The work of Gramsci is useful in gaining a better appreciation for the way that economic systems of the deregulated market economy are ideologically reproduced or resisted through discourse (Bittle & Snider, 2011; Tombs & Whyte, 2007). The neo-Marxist perspective helps to frame modern slavery within the broader context of global capitalism and provides insight into the neoliberal underpinnings that reinforce the state-corporate relationship (Quayson & Arhin, 2012).

Ultimately, this joint theoretical positioning combines critical understandings of power, knowledge, and hegemony. It offers insight into corporate deregulation, globalization and multinational flows of labour, which serves the study of discourses that 'shape' the federal government's prevailing notions of transnational corporate crime and accountability.

Gramsci's Theory of Hegemony

Antonio Gramsci is best known for his works entitled the *Prison Notebooks* (1925-1939), which outline the history of Italian nationalism and were written during his imprisonment by Benito Mussolini's fascist regime. The evolution of the socialist political movement in Europe – Italy in particular – informed and motivated Gramsci's texts, which were influenced by Marxism and its problematization of class conflict within the capitalist structure of society between the bourgeoisie (the ruling capitalist class who own the means of production) and the proletariat (the working class) (Bellamy & Schechter, 1993; LeBlanc, 1996; Marx & Engels, 1848/2012;

Schwarzmantel, 2009). The Marxist position challenged the capitalist motivation to maximize private wealth using exploitative labour practices, while also advocating for the rights of the working class to empower their role, value, and ownership of the means of production (Bittle, 2015; Hall, 1986; Leblanc, 1996). Where neo-Marxist theorists, like Gramsci, distinguish themselves from the Marxist perspective is their dismissal of the notion that the interests of the wealthy and the economic system are automatically or necessarily favoured by the state. In fact, achieving social change and cohesion must come from the state's ability to remain relatively autonomous from capitalist tendencies; herein lies the element of ideology (Gill 1993, p. 22-23; Martin, 1997; Pearce & Tombs, 1998). Hegemony can be best understood in that light: the ideological domination of one social group over others.

Gramsci's theory of hegemony considers the role of cultural ideologies in the reproduction of capitalist structures in society to identify the revolutionary social change of entrenched beliefs and assumptions that would be required to dismantle existing social structures (Bullock & Trombley, 1999; Gill, 1993). Concerning its etymology, the term hegemony is rooted in post-classical Latin and Ancient Greek eras signifying authority, rule, and political supremacy, and is later introduced in the political science discipline during the 19th Century to represent leadership and geopolitical imperial dominance by one state over other subordinate states (Hassig, 1994; Sassoon, 1991a; Schenoni, 2019). Gramsci's formulation of hegemony consists of the relationship between the state and civil society, which has led proponents of his work to apply his theory of cultural hegemony to the idea of consent produced within advanced capitalist societies (Martin, 1997). Gramsci (1971) defines hegemony as "the spontaneous consent given by the great masses of the population and the apparatus of state coercive power which legally enforces discipline on those groups who do not consent either actively or passively" (p. 12).

Leadership is constituted through consent in the civil society of modern capitalist states, rather than through coercive means of force and violence from the top rungs of the societal hierarchy. Taking his cues from Lenin, Gramsci expands this concept from the political leadership of the proletariat in a democratic revolution to understanding how the bourgeoisie creates and preserves its control (Hassig, 1994; Sassoon, 1991a).

Cultural hegemony theory accounts for the social norms and cultural institutions that form the superstructure, shape the social and economic class system, and are used to solidify the ruling capitalist class's cultural dominance and impose their system of beliefs upon other social classes in a capitalist society (Bullock & Tombley, 1999; Chernow & Vallasi, 1993; Comaroff & Comaroff, 1991; Holsti, 1985). Their worldview is seen as natural, beneficial, and inevitable for all members of society, which reinforces the social, political, and economic status quo and prevents other classes from identifying this structure as a social construct established to benefit and further empower the ruling class. The bourgeoisie, in Gramsci's view, forms a hegemonic culture using ideology rather than coercion or violence, which are more explicit (Gramsci, 1971, p. 311). Hegemony is realized once the rest of society considers the dominant values instilled in them by the ruling class to be in their interest as well, despite the negative impacts those values have on them when put into practice (Ciocchini et al., 2018). Martin (1997) considers this a form of social control where "the exercise of a degree of 'intellectual and moral leadership' over subordinates that diminishes the need for direct, coercive measures to ensure compliance" (p. 47). Therefore, the key lies in the dynamic of ideological control. Cultural hegemony acts to maintain implicit consent among the citizenry to uphold the capitalist order by disseminating its values, so they become legitimized common-sense norms, as opposed to the direct use of force to maintain societal order.

Althusser (2014) argues that the state is structured so that the will of the people is represented by elected political delegates who make up the ideological state apparatus, which develops a narrative that corresponds to a particular reality and can function because it grants the citizenry with the freedom to vote and other liberties that reinforce the perception of individual choice. Conversely, according to scholars who advance the theory of cultural hegemony, individuals in society are often unable to perceive the wider cultural hegemonic pattern, what with the appearances of social diversity, political freedom, and economic prosperity in society, because their lives appear to coalesce with the routine set out for every person. The slight changes that take place to maintain the socio-economic hierarchy of bourgeois culture are imperceptible to the individual and thus go unchallenged and are taken for “the way things are” (Gramsci et al., 1992; Hall, 1986, p. 28). Individuals do not always detect socio-economic oppression because they do not consider distant public issues, rather they are more likely to concern themselves with their personal matters.

Understanding the distinction between the concepts of hegemony and ideology allows for a critical interpretation of the power within the state-corporate relationship and the assumptions that go unopposed in society. Hegemony represents the way that state and civil society produce and maintain consent in the hierarchies of capitalist society and appears as the naturalized common-sense understandings of society, whereas ideology is the way the dominant ideas within society reflect the interests of a ruling economic class (Stoddart, 2007, p. 192, 200).

Gramsci’s theoretical framework accepts circumstances that would lead to a rupture of this naturalized social unity achieved by a capitalist hegemonic order. In his *Prison Notebooks*, Gramsci considers “organic crises” as the situation when several components of the social order refuse to achieve social cohesion – whereby “the old is dying and the new cannot be born” –

causing a rupture or disjuncture resulting from the ruling class's inability to resolve underlying social, political, and economic contradictions (Gramsci, 1971, p. 311; Martin, 1997, p. 47). Such crises of the ruling class's cultural hegemony often motivate a social transformation of the values that solidify the existing social order and can be applied to potential crises that arise from the hegemonic neoliberal order of modern society.

Understanding Modern-Era Corporate Harm by Way of Gramsci

This project uses a Gramscian analytical framework to scrutinize the political process in the creation and maintenance of a hegemonic project. This framework helps to critically analyze the role of Canadian lawmakers by discovering the internal contradictions of the political decision-making process. Such contradictions conceal a class bias within the law, however, employing a Gramscian lens avoids reducing the law to an instrumentalist understanding that simply focuses on the base-superstructure dichotomy (used primarily by classical Marxists¹¹); instead, it considers the role of politicians and other social actors (for instance, the private sector and advocacy groups) in the (re)production of or resistance to hegemony (Hall et al., 1978). In the same way that Ciocchini et al. (2018) argue that judges play a dual role in society as both “technicians of repression” and “moral and intellectual leaders”, Gramsci's framework helps make sense of a politician's role as similarly twofold (p. 75-76). A social actor in the political field finds themselves in the functional bureaucratic mechanism of the state by applying official interpretations and traditions of lawmaking, while also in a position where they can legitimate the values and beliefs of a dominant social order. The latter can also be extended to the ability to

¹¹ For instance, earlier Marxist approaches to law (such as in Quinney, 1980) use an instrumentalist approach focused on law enforcement as opposed to the role of judges and courts; succeeding examinations of law (such as in Chambliss & Seidman, 1971) transcend this instrumentalist approach and consider the law a result of tensions that emerge out of class struggle.

occupy a leadership role and endorse certain moral values, which may require expanding or subverting traditional legal assumptions, including the criminal responsibility of corporate actors. For instance, societal notions of crime and deviance and the meaning of corporate criminality go so far as their formulations in the *Criminal Code* and the legislation passed in government.

Understanding the proposed law using the Gramscian lens helps reveal that the social, economic, and political powers in the hands of the corporate elite are underpinned by an all-encompassing “market rationale” in their hegemonic role as they “shape common-sense understandings of the world” (Whyte, 2016, p. 178). Where the discussion involves political discourse to legitimate a cause in favour of the elite is Gramsci’s theory of hegemony and the idea that dominant claims support neoliberal beliefs that allow corporations to develop and implement their own means of transnational regulation (Pepper, 2010, p. 345-346). Claims describing the social benefits of free markets and fluid regulatory regimes eclipse concerns about the dangerous exploitative practices inherent in the production of private capital, which reproduces a culture of corporate governance and ensures impunity for supply chain violations.

Gramsci’s concept of hegemony is often employed as a political account of legitimation, while theorizing how economic classes become social agents that would shape political order; thus, legitimation is attained by political agents occupying positions of influence and can control the resistance against capitalist means and relations of production (Martin, 1997, p. 38). Under this framework, given that the political sphere can control the resistance against capitalist relations of production, the promotion of business-oriented transparency policies like corporate social responsibility, could ultimately act to serve the private sector (to foster a reputation of ethical awareness and remain outside of the gaze of the criminal justice system).

Lastly, Gramsci's position on common sense helps understand how corporations can secure their hegemonic standing. Dominant claims and ways of knowing are present in the general mindset of the public, so when company officials must present themselves to the public to deny wrongdoing, they are easily assuaged. Common sense understanding, such as "corporations are structures that are socially beneficial" (Whyte, 2016, p. 178), precludes corporate crime from being considered a 'real' crime. Corporate behaviour and practices are often situated in a position that dismisses private entities from criminal responsibility – a sentiment already accepted in the dominant ideology via an internalized market rule, and which is supported by overarching regulations and practices put in place.

The work of Gramsci is considered in large part neo-Marxist for its rejection of the deterministic assumptions that the state wholly serves the interests of the economic system; the dynamic between the state and civil society is nuanced and, as Gramsci argues, one must consider the cultural ideologies that feed into and support the formation of capitalist social orders (Gill, 1993; Pearce and Tombs, 1998).

The neo-Marxist era of scholarship emerges out of a theoretical shift from its predecessor, Classical Marxism, which was developed in the mid-19th Century by Marx and Engels. Neo-Marxism accounts for the deepening extension and state promotion of multinational capitalist ventures that reinforce modern slavery, as well as the decentralized shift of industrial production to the global periphery that ultimately encourages the recruitment of exploitative labour (Blim, 2000, p. 30; Rioux et al., 2020, p. 22). Neo-Marxists examine class disparity and the influence of the capitalist economic system, but also consider the role of ideas and culture in achieving widespread consent of the masses.

Applying a Critical Gramscian-Neo-Marxist Approach

My theoretical approach aims to investigate the dominant knowledge claims surrounding the issue of modern slavery and the role of the corporation. It helps make sense of the factors that shape the debates concerning modern slavery legislation. Examining the philosophical underpinnings of the ruling class as instruments of class domination helps uncover what discourses are given priority in the legislative measures taken up by the Government of Canada. Drawing on Gramsci's understanding of cultural hegemony, with the neo-Marxist application of the modern capitalist state and globalized multinational flows of labour, this project illustrates the factors that shape the Canadian government's legislative landscape around modern slavery.

Integrating the neo-Marxist perspective is valuable to this research because, as discussed earlier in this chapter, it offers a reminder that the state does not inevitably work at the behest of the private sphere's economic interests; interdependence creates a "symbiotic state-corporate relationship" (Tombs, 2012, p. 188). This lens avoids conceiving outright that the state's actions and decisions are automatically ruling in favour of powerful groups in society – because it prioritizes ideology as the means by which the interests of powerful groups may align with that of the state (Martin, 1997).

Using the concepts taken up by the Gramscian approach related to global capitalism and the dominance of neoliberalism (Gramsci, 1971; Martin, 1997), this lens allows me to examine the underlying assumption in my research positing that the global economy naturalizes modern slave labour. The way capitalist beliefs and policies are sustained or challenged through ideological and conceptualized negotiations is better understood through the concepts of power and general consent as tools meant to normalize economic and ethical relationships in situations, such as corporate wrongdoing.

The state and civil society are in a constant condition of push and pull and Gramsci's understanding of the capitalist state positions consent at the root of these two entities: the political society on one side (the arena of political institutions and legal constitutional control) and civil society (the private non-state sphere, including the family and the educational system) (Gramsci, 1971; Sassoon, 1991b). Maintaining consent between the powerful and the public is ultimately attained through capitalism, whose market-based devices work to appease the proletariat via the diffusion of widely accepted values and beliefs. However, processes that Gramsci has encouraged, such as negotiation, alliance, formation, and compromise are integral to consensus-building as they allow for multiple sources of authority with various ideological objectives in an arena of global governance (Fox & Ward, 2008). The Gramscian perspective proves useful in critically examining the hegemonic, taken-for-granted ruling system that ultimately regulates societal activity, such as corporate self-regulation and profit's dominance over human rights.

Existing corporate crime literature using Gramsci's theoretical framework observes the power relations between the state, capital, and labour in global production networks and supply chains within the garment, resource commodities (i.e., oil and mining), and agricultural and fishing industries (Arnold & Hess, 2017; MacManus, 2012; Thomas, 2013). For instance, researchers applied Gramsci's concepts of cultural hegemony and civil society to analyze the dominant discourses that conceal unethical work practices by suppliers and the impunity held together by corrupt state-corporate relationships.

The first study of interest speaks to Cambodia's goal of social upgrading and improving conditions for workers using a state-led, private and multi-stakeholder initiative, in its efforts to address labour issues in the global garment industry's supply chains. Coined the Better Factories

Cambodia program, this initiative was established in 2001 with support from the ILO. Using Gramsci's concept of "passive revolution" (Arnold & Hess, 2017, p. 2189), the researchers argue the path leading to and maintaining the status quo of this program was bought in using a top-down reform agenda focused on the state's aims to create unfettered access to its market and citizens from transnational corporations without adequate protections for workers and their wages. This study concluded that while Cambodia is advertised as having an ethical manufacturing industry, the state-society relations comprise a dangerous combination of neoliberal economic drive and authoritarian rule that creates the right conditions for the worst forms of exploitative labour (Arnold & Hess, 2017).

The second study examined the dumping of toxic waste from a ship owned by the commodity and oil trading company, Trafigura, in a small town in the Ivory Coast in 2006, which caused a health crisis affecting local residents. The waste was offloaded by a local company that Trafigura hired to dispose of it for much less money than the disposal fee at other seaports. Investigations later revealed that Trafigura asked the local company to create a false, revised invoice quoting a much higher disposal price to reflect the standard disposal rate. Trafigura agreed to pay the Côte d'Ivoire government more than CAD 255 million under a settlement agreement to clean up the waste without admitting wrongdoing, which granted Trafigura sweeping immunity from prosecution. A class-action civil lawsuit against the company was swiftly paid off by Trafigura, again with no criminal penalties. The study's use of Gramsci's theory of civil society as "an arena of struggle" (MacManus, 2012, p. 16) offered an understanding and assessment of the potential of grass-roots human rights organizations in defending people against criminal actions of the state and transnational corporations. Findings from this research indicated that civil society was in fact an agent of censure and sanction –

albeit with limitations – that led to a regressive and criminogenic state-corporate relationship (MacManus, 2012).

For these studies, the authors applied the Gramscian lens to offer an understanding of the complex relationships between prominent actors most involved in matters of corporate wrongdoing: the company, the state or government, and the civil society. With this information, hegemony in civil society is therefore understood as the social footing of the ruling class's political dominance in the state apparatus, which can in turn work to resist that dominance. Corporate crime scholarship employing the Gramscian perspective provides an insightful guide for the theoretical analysis of my research.

My study not only involves examining the words in parliamentary bills that address supply chain modern slavery but also identifying the meaning assigned to these words in the Canadian government's official legislative position on modern slavery. Gramsci's "philosophy of praxis," which considers that meaning originates from the relationship between human practical activity (praxis) and the historical, social process in which it is involved (Gramsci, 1971; Martin, 1997), informs this analytical approach.

As will be outlined in the Findings chapter, the Gramscian-neo-Marxist lens supports the analysis of the Canadian government's deliberation of anti-slavery legislation. This theoretical framework helped filter the many voices that contributed to this discussion and the final iterations of the modern slavery disclosure bills in Parliament into four main themes: understandings of the issues are limited to child labour and forced labour, modern slavery is a result of poor labour conditions and controls in underdeveloped countries, multinational businesses can enable international development by way of corporate social responsibility initiatives that inject capital into these struggling economies; and support for globalized free

markets and unregulated global supply chains serve to prevent modern slavery. In preparation for this analysis, the following chapter will further detail the study's research questions, methods and empirical data sources.

Chapter 4: Research Methods

This chapter details the methodological procedure, strategy and tools, empirical data sources, and analytical perspective in preparation for the discussion of research findings. Canada's anti-slavery legislative proposals are indicators of the driving factors that shape the federal government's response to corporate accountability in global supply chains. Various parties from a wide set of backgrounds and causes make up the debates, conclusions, and voices involved during parliamentary committee hearings, the development of parliamentary bills, and government responses. The political, economic, and social implications for transnational corporate regulation in Canada are a significant piece of these responses that will be explored further in the next chapter. These recent developments in Canada around the introduction of a modern slavery law play into the discourse about corporate responsibility of global supply chains and are the foci of the empirical strategy for this research. This strategy will be discussed further, following an outline of the research method.

Employing Critical Discourse Analysis to Observe 'Crises' in Hegemony

The proliferation of the global free market and loosely regulated private enterprise enables large multinational entities to tread into an arena of illicit activity if it means helping their bottom line while also evading the scope of criminal liability (Snider, 2000, p. 191; Whyte, 2016, p. 169). This is to say that societal actors with the most influence and power maintain their hegemonic rule over other groups that tend to uphold an unrecognized inequality. In specific, van Dijk (1993) defines dominance as "the exercise of social power by elites, institutions, or groups that results in social inequality, including political, cultural, class, ethnic, racial, and gender inequality" (p. 249-250). There is a greater likelihood for powerful groups in society, such as

states and large corporations, to be able to disseminate dominant knowledge claims. These groups operate under the capitalist system to defeat dissenting criticism using their position and larger access to communicate the common-sense discourse that favours their interests. The dynamic between discourse and access is also a key element of the societal relations of power. The privilege to access discourse and communication gives certain language communicators more freedom to use special discourse styles (van Dijk, 1993). Of the various voices heard by lawmakers on the issue of modern slavery, certain drivers – domestic economic well-being and international development – mould the political sphere’s conception of solutions (and repercussions) and allow the corporate sphere to evade or face little scrutiny. Corporations are largely seen as agents that can achieve those drivers (Banerjee, 2021; Chris Moran, Department of Foreign Affairs and International Trade, SDIR, 12 December 2017, p. 3; New, 2012).

Ruling groups maintain their position because they can often overcome dissenting voices, including those who confront the often-internalized neoliberal hegemonic order (Amoussou & Allagbé, 2018; Bittle, 2016; Snider, 2000; Tombs & Whyte, 2010). This amounts to the fluid relations of power in a society that sees certain ideologies advanced and others challenged to secure the comfort of hegemonic control of the powerful groups – namely transnational corporations and the Canadian government. It is therefore important to identify what claims win out in the debate around supply chain modern slavery and corporate accountability as well as the representations of the issue by lawmakers in current and proposed legislation and reports. One can identify such dominant claims by evaluating what is currently in effect.

A critical discourse analysis (CDA) of the approaches taken by the Canadian government, advocacy groups, and the business community toward modern forms of slavery in global supply chains fosters a greater comprehension of the underlying reproduction and resistance of

knowledge claims and relations of power within the capitalist environment in Canada.

Theoretically, this approach is characterized by a dialectical view of the relationship between structure and agency, and the relationship between discourse and other elements or “truths” of social practices and social events (Harvey, 1996, cited in Fairclough, 2013, p. 179). Fairclough and Wodak (1997, cited in Amoussou & Allagbé, 2018, p. 13) outline eight foundational principles of the CDA paradigm that set out basic criteria for its use in social science research. These principles are presented as follows: (i) CDA addresses social problems; (ii) power relations are discursive; (iii) discourse constitutes society and culture; (iv) discourse does ideological work; (v) discourse is historical; (vi) the link between text and society is mediated; (vii) discourse analysis is interpretative and explanatory; (viii) discourse is a form of social action. Thus, CDA is helpful in the study of legislative responses to modern slavery and corporate accountability. This analytical approach makes sense of the way relations of power and dominance are reproduced and resisted by social actors and examines which powerful discourses form modern slavery law in Canada.

Along the same lines, CDA concerns itself with the way dominant uses of language and discourse reinforce unequal power dynamics in society. This method differs from other forms of discourse analysis as it provides an explanation of why and how discourses work; therefore, it can “[focus] on social problems, and especially on the role of discourse in the production and reproduction of power abuse or domination” (Rogers, 2004; van Dijk, 2001, cited in Amoussou & Allagbé, 2018, p. 12). For that reason, CDA is a helpful research tool that goes beyond studying functionalist approaches to language and focuses on the manifestations of language in discourse that are socially reproduced within existing relations of control, power, and domination; language, therefore, becomes a social practice that can be made into an object of

study (Fairclough, 2015; Liu, 2016; Wodak, 2001). Unlike most linguistic approaches, Fairclough (1995; 2006) posits that CDA focuses on the meaning of language within the context it is found, which allows researchers to examine how societal power relations and domination are reinforced and challenged through language use and discourse (this includes tactics such as manipulation, exploitation and structural inequities in social fields like education and politics).

CDA is a useful approach to situating language and practices in a historical context. It is well suited to undertake this study's analysis from a critical, Gramscian, and neo-Marxist perspective because it takes into consideration the process of historical processes and ideological influence when examining the words employed in a text or speech (Gramsci, 1971; Martin, 1997). Where this research method becomes most significant for this project is the study of language and text production on use with its emphasis on uncovering an "unseen agenda which may be hidden from people" and revealing complexity by making opaque systems of legitimation and knowledge production known (Fairclough, 2001a, p. 4; Kendall, 2007; Locke 2004; Wodak, 2001). CDA examines several levels of communication and offers a whole host of indicators about the narrative that is built through text and speech, including vocabulary, sentence construction, structure, genre, and non-verbal communication. Below, I outline the strategy used in my study to unearth the dominant knowledge claims accepted into the Canadian government's approach to legislating corporate supply chain disclosure.

Amoussou and Allagbé (2018) describe the role of the researcher employing CDA as being able to "explore which structures and strategies of text and talk to address to discover patterns of elite dominance or manipulation in texts" (p. 16). Inequality may be expressed, enacted, legitimated, and reproduced through text and talk through different forms, and my objective in

employing CDA was to sort through the wide set of discourses available for study and identify those claims that produce or resist hegemonic inequality.

My aim as a critical analyst is to scrutinize existing power relationships between Canada's federal government and the private sector and detect inequalities embedded in society while remaining reflexive in my position as a researcher with access to this information. It is through my use of this approach that I can capture discursive practices set out in policy and identify which claims are accepted.

The study employs CDA to analyze certain patterns of hegemonic forces and power relations embedded in the policymaking process of Canada's modern slavery disclosure bill. The objective of using CDA for this study is to identify where regularities in discourse may emerge as well as explain the context wherein credible knowledge claims were supported by established discursive rules (Blaikie, 2000, p. 109; Gill, 2015). This approach was supported by using a Gramscian and neo-Marxist theoretical approach to best capture the dynamics of power situated within a global capitalist order of contemporary society. Using a Gramscian lens, hegemony can be understood as a "political account of consent" that promotes dominant ideologies favourable to the reproduction of capitalist relations of production (Simon, 2016, p. 51). Despite this virtually guaranteed power given to those groups with the most hegemonic power, the state and society are in constant friction with one another and the same is true for coercion and consent, as well as politics and the economy. Gramsci's concept of organic crisis helps make sense of instances where the hegemonic rule is thrown into doubt and its legitimacy questioned (Martin, 1997). With the rise of socially responsible consumer habits and the need for companies to portray a reputation as leaders of transparent and ethically sourced business models, Canadian consumers have become the driving force behind policymaking decisions about corporate

regulatory practices and robust labour laws and protections (Millar et al., 2022, p. 28). This trend toward corporate social responsibility can itself function as a crisis for the routine neoliberal hegemonic rule that often sees supply chains act as a hidden network for human rights atrocities in the name of advancing market competitiveness (Davies & Ollus, 2019, p. 9). Therefore, the ability to delineate the contextual meaning of discourse, language and knowledge claims makes CDA a valuable method of data analysis to best capture the hegemonic forces that bring to bear Canada's conceptualization of modern slavery legislation and can best identify where a crisis lies in the legitimized understandings of corporate accountability if it exists.

Research Questions and Objectives

This research project critically explores the Canadian government's proposed anti-slavery law by making sense of the claims about this legislation made and accepted within the political sphere. To study what influences Canada's response to modern slavery in supply chains, two research questions were employed: What knowledge claims shaped Canada's proposed corporate accountability legislation targeting modern slavery in global supply chains? To what extent do these conceptualizations address exploitative practices in corporate supply chains? The goal is to understand how meaning develops and changes throughout the legislative procedure. In this vein, this project will:

1. Provide an account of modern slavery and the current approach taken by the Canadian government to address this issue. This includes considering whether the Canadian approach is consistent with what is known about the issue and how it should be addressed.

2. Identify the political, social, and economic influences that play into Canada's legislative corporate accountability strategies as they relate to modern slavery. This includes examining what factors related to the free-market economy and global capitalist motivations influence the measures enacted by lawmakers to hold corporations accountable for their business practices.
3. Examine the claims advanced by the Canadian government, the private sector, and civil society groups on the proposed supply chain accountability law. Identify which conceptualizations of corporate accountability are most dominant within the current discourse and for what reasons these voices win out.

Data Sources: Objects of Discourse and Claims-Making

The empirical material for this study includes testimony given by several individuals appearing before Parliamentary Committee sessions, the transcripts of those sessions, a report published by the Committee about child labour and modern slavery, and three versions of a proposed bill in Parliament to combat this issue.

The first data source includes the transcripts of six sessions¹² from the Subcommittee on International Human Rights of the Standing Parliamentary Committee on Foreign Affairs and International Development, wherein witnesses provided testimonies to Members of Parliament (MPs) that produced six transcripts detailing around 10 hours of verbatim meeting evidence on child labour and modern slavery. The SDIR's then nine members represented three of Canada's six parties: Conservative Party of Canada (CPC; 2), Liberal Party of Canada (LPC; 6), and New

¹² The SDIR is charged with evaluating various international human rights-related subjects. The sessions held as part of the Subcommittee's study and subsequent report published in October 2018 on modern slavery and child labour in global supply chains began on November 23, 2017 and ended on June 14, 2018. Meeting evidence from other Parliamentary studies was excluded based on relevance.

Democratic Party (NDP; 1). The 19 witnesses included Government officials from the Department of Foreign Affairs and International Trade (DFAIT; 4) and Employment and Social Development Canada (ESDC; 2), legal firm representatives (2), an independent body representing companies and trade unions (1), an international humanitarian agency (1), and representatives from human rights and anti-slavery non-governmental organizations (NGO; 9). A complete list of MPs on the Human Rights Subcommittee and the witnesses who took part in these sessions can be found respectively in Appendices A and B. The Subcommittee tabled its final report, *A Call to Action: Ending the Use of All Forms of Child Labour in Supply Chains*, in the House of Commons in October 2018 and received a response from the federal government shortly thereafter. I included the final report and Government response in my analysis. These committee sessions, their transcripts, the report and the government's final response are available online using the Parliament of Canada database.¹³ The information collected from the Subcommittee sessions, as well as the two government publications, helped lay the groundwork for developing conceptualizations about modern slavery in supply chains.

The second source of information comprises the transcripts ('blues') of debates during question period in the House of Commons and Senate of the various iterations of Canada's proposed anti-slavery bill, as well as the text for each bill.¹⁴ First are the transcripts detailing the introduction of Bill C-423: *Modern Slavery Act (An Act respecting the fight against certain forms of modern slavery through the imposition of certain measures and amending the Customs*

¹³ Respectively located at <https://www.ourcommons.ca/Committees/en/SDIR/StudyActivity?studyActivityId=9618040>; <https://www.ourcommons.ca/DocumentViewer/en/42-1/FAAE/report-19>; and <https://www.ourcommons.ca/DocumentViewer/en/42-1/FAAE/report-19/response-8512-421-456>

¹⁴ Parliamentary requirements for bills that are unsuccessful on the Order Paper must be reintroduced with changes to be considered a different bill. Each iteration of Canada's anti-slavery bill contains slight differences to qualify for reintroduction and reflect evolving conceptions of the issue, either to their titles, definitions, or provisions, to ensure it may be reintroduced into a new session of Parliament (Bosc & Gagnon, 2017).

Tariff) in December 2018, where it underwent First Reading. The bill was introduced by Liberal MP John McKay in the House of Commons and since the passage of the motion for first reading conventionally involves no commitment, debate, or vote in the House, it was read the first time without discussion and placed on the Order Paper. This Private Member's Bill later died on the Order Paper when Parliament was dissolved for the 2019 federal election. Also included in this second information source are the transcripts in the Senate of Bill S-211: *Modern Slavery Act (An Act to enact the Modern Slavery Act and to amend the Customs Tariff)* and its revived version, Bill S-216 under the same name. Introduced by Independent Senator Julie Miville-Dechêne, Senate Public Bill S-211 had received First and Second Readings from February to 2020 over seven sittings but was not enacted as Parliament was prorogued as a result of the COVID-19 pandemic. Senate Public Bill S-216¹⁵ is the existing modern slavery bill introduced by the same Senator and had received First and Second Readings from October 2020 to March 2021 over three sittings. During this period, discussions and debates took place as several Senators provided response speeches supporting the bill, while there was no voting yet done on the bill. The transcripts of the House of Commons and Senate debates and the published texts for all three bills are available online via *Hansard* using the Parliament of Canada's database.¹⁶ The information produced from these three bills is important to this research because they not only provide public access to the procedural dimension of lawmaking but also display the priorities

¹⁵ As earlier indicated, Bill S-216 was referred to the Senate Standing Committee on Banking, Trade and Commerce on March 30, 2021. At the time that research was conducted for this study, the bill had remained at this stage (yet to be discussed at the Committee or advanced to Third Reading in the Senate). New developments have since seen the bill revived under a new name in November 2021 following the federal election (Bill S-211, *An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff*). This bill passed its second reading in the Senate and was referred to the Standing Senate Committee on Human Rights in December 2021.

¹⁶ Respectively located at <https://www.parl.ca/legisinfo/en/bill/42-1/c-423>; <https://www.parl.ca/legisinfo/en/bill/43-1/s-211>; and <https://www.parl.ca/legisinfo/en/bill/43-2/s-216>

being given to addressing modern slavery and corporate transparency in Canada and the ways that these issues are conceptualized in each iteration of the *Modern Slavery Act*.

Data Analysis Strategy

My data analysis strategy employed a comprehensive identification and examination of the dominant voices about modern slavery and transnational corporate accountability. I sought to identify the dominant discourses discovered in this research. They are the knowledge claims that: 1) appear most frequently in the conversation (either in the written documents or the verbal transcripts), and 2) are reinforced in the government's final approach (whether in its response to the Committee report or Bill S-216 itself). These dominant claims are taken up by the Canadian government in their law and policy on modern slavery in global supply chains.

The data analysis for this project consisted of different stages focused primarily on reading the documents and internet publications in question, whereby various elements of the material were closely examined, such as word choice and sentence formulation. This strategy considered the activities that speakers engaged in when making their statements and their aim for making them. Each reading cycle was accompanied by extensive notetaking, which would detail the recurring patterns (regularities) identified in the data sources relevant to my research questions. The identified significant pieces of information were also separated into a set of key codes that were developed to classify and make sense of the prevailing themes from each document, which would prove useful in comparing the dominant and dissenting themes from each of the datasets.

As a result, and following a direction of analysis aligned with CDA, the first stage of reading involved noting and colour coding the significant issues discussed in the material; the second stage involved comparing and contrasting these notes from data sources of the same topic

(such as the Subcommittee's report on modern slavery and child labour as well as the government's response to the report); and the third stage involved categorizing the regularities of knowledge claims identified within general themes to capture a broad narrative of the dominant claims that conceptualize Canada's approach to combat modern slavery. The remaining reading stages compared and contrasted the coded themes across the entire data.

In tandem with this notetaking process, a Microsoft Excel chart was created to organize the coding process of each written or spoken passage of interest from the data into the specific themes representing the dominant claims identified from the reading stages. My research led me to identify four main themes from the various sources analyzed. 1) Modern slavery is confined to child labour and general assumptions about forced labour. 2) Modern slavery is predominantly a problem in underdeveloped countries and therefore an issue situated outside of Canada. 3) Corporations can foster social change and international development and use their financial capital as drivers of democracy and goodwill. They can use voluntary corporate social responsibility initiatives to achieve this end. 4) The solution to modern slavery can be found in free markets and international trade, whereby global supply chains are a lifeline for the Canadian economy and would be threatened by overregulation.

Additionally, a separate tab was used for each data source (i.e., the Subcommittee proceedings, its subsequent study report on modern slavery and child labour, the government response to the report, and the three iterations of Canada's modern slavery bill along with the Parliamentary proceedings (readings and debates) associated with each bill. Scanning the data through the frame of analysis of the above criteria ensures information is coded appropriately.

Special annotations were also placed within each chosen excerpt in the chart as indicators for consideration. This practice was used to identify the speaker (for instance, a Conservative

Member of Parliament or a witness representing the non-governmental organization, Walk Free Foundation), the subject and object of the discussion (like a witness responding to a question from a Committee chair about the scope of human rights abuses that should be captured in the bill), recurring topics within each dominant theme (such as the topic of enforcement and punishment options under the larger discussion about formulating key elements for the law to include), and any additional notes of relevance to be flagged for subsequent analysis.

The following chapter discusses the findings of the thesis, analyzed using the critical discourse analysis method, to examine the dominant perspectives taken up or resisted by the Canadian government in its conceptualization of modern slavery and corporate accountability.

Chapter 5: Research Findings

Introduction

This chapter is divided into four sections that outline the dominant voices (or themes) that were present during the Parliamentary process to determine Canada's approach to supply chain legislation, from the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development's hearings and subsequent report into modern slavery and child labour to the introduction and deliberation of Canada's most recent iteration of its modern slavery bill. The Gramscian-neo-Marxist theoretical framework guided my understanding and analysis of empirical data and the identification of dominant themes. The dominant themes were identified from the data as being the claims that most often came up in the political discussion and were supported in the federal government's final conceptualization of the issue, whether in its response to the Committee report's recommendations or the final iteration of Bill S-216.

First, modern slavery is largely limited to child labour and general assumptions about forced labour. Second, modern slavery (specifically forced labour in most discussions) is mostly an issue in underdeveloped countries and therefore is situated outside of Canada. Third, corporations are entities that can foster social change and international development. They use their financial capital as drivers of democracy and goodwill (via investment and outsourcing), ostensibly employing voluntary CSR to achieve this good. Lastly, the solution to the problem of modern slavery can be found in free markets and international trade. Global supply chains are a lifeline for the Canadian market and, if overregulated, would harm the national economy and the larger flows of globalization.

I. Modern Slavery as Child and Forced Labour

To begin, at the heart of the SDIR's study and subsequent recommendations, statements, and debates in Parliament around combatting modern slavery, several voices shaped the Canadian government's final conceptualization of the issue. In this process, the official understanding of modern slavery ultimately showcases the state's framing of the forms of exploitation that should and should not be included as the subject of a legislative framework seeking to hold to account corporate supply chain activity.

As will be demonstrated, the first theme identified during the collection of data from these various sources is the reduction of modern slavery to definitions of child labour and forced labour. This reduction is used both to 1) ensure the modern slavery bill can produce 'achievable' results using narrowly focused criteria and 2) build on the existing government-wide initiatives to address all forms of exploitation. This theme is problematic because it confuses the lines of responsibility based on the type of harm being addressed and reduces the impact that the modern slavery bill could attain in terms of greater corporate compliance and accountability.

Achieving Results Through a Modest Scope

Bill S-216 targets and defines two categories of exploitative labour. Forced labour is referred to as:

labour or services provided or offered to be provided by a person under circumstances that could reasonably be expected to cause the person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide or offer to provide the labour or service (*Modern Slavery Act, 2020, s. 2*).

In addition, child labour is defined in much the same way, with a distinction that the labour or service provided or offered is “by persons under the age of 18 years” under circumstances that are “contrary to the laws applicable in Canada” (*Modern Slavery Act*, 2020, s. 2). These definitions encompass a great part of the violations often found in global supply chains, but the bill fails to identify outright and include within its scope all forms of modern slavery (including those that are caused directly as a result of transnational corporate operations). The government conceptualizes the issue as either forced or child labour as a way to make the types of violations on which companies must report measurable, despite the 2018 SDIR committee report supporting witness testimony for the need to include a larger spectrum of human rights abuses¹⁷.

Importantly, the SDIR had initially been tasked with studying the impact of child and forced labour. While there is little indication to suggest the reason for the focus on child exploitation in global supply chains, the study report states that a driving force for this research was to meet the international community’s prioritization of eliminating the worst forms of child labour, which in 2016 affected one in 10 children worldwide (House of Commons, 2018, p. 1). This includes “hazardous work likely to harm children’s health, safety or morals, but also slavery, forced labour and human trafficking” (2018, p. 1-2).

One voice representing the non-governmental organization, Human Rights Watch, in the SDIR sessions that had not fully been acknowledged in the government’s approach posits that most human rights violations, in addition to forced and child labour, are already internationally recognized, “especially in the UN guiding principles for business in human rights” and should be applied to Canada’s modern slavery act (Jo Becker, SDIR, 30 November 2017, p. 8). The

¹⁷ SDIR, 23 November 2017, p. 1 (Jo Becker): Witness testifies that some existing modern slavery laws around the world are limited in that they identify “narrow thematic issues”; identifying human trafficking in the “minerals” trade, while excluding “other important human rights and labour issues.”

proposed legislation targeting corporate supply chain activity and its contribution to modern slavery (as it is defined) makes clear that modern slavery must be the focus because it can be used as an umbrella term to encompass within the law other forms of exploitation, but it fails to name the host of human rights violations – including sexual exploitation, forced marriage, debt bondage, and others – that would enable a greater span of scrutiny and inspection across the spectrum.

In fact, former Director of Anti-Slavery International, Aidan McQuade, testified in his opening remarks that there had been a marked decrease of children in forced labour globally but no impact on the number of those in slavery (SDIR, 30 November 2017, p. 1). He contends that while meaningful attention is paid to child forced labour, which is indeed warranted, there is a persistent lack of action on the larger question of slavery.

To put the nature of these issues into perspective, Simon Lewchuk, representing UNICEF Canada, presented to the committee a set of findings produced by World Vision Canada in their research gauging the extent to which child and forced labour are present in the supply chains of goods that Canadians consume. More than 1,200 companies operating in Canada (from the garment sector to the food industry to retailers) imported over \$34 billion worth of goods that may have been produced by child or forced labour in 2016 (SDIR, 28 November 2017, p. 2). Given the roughly 40 million people living in modern slavery worldwide, the number of Canadian companies with ties to exploitative labour and the value of the associated goods they import would be exponentially larger if the scope of the government's approach was not limited to instances of child and forced labour.

A Siloed Approach to Address Modern Slavery

The narrow focus on child and forced labour in Bill S-216 and its previous iterations – while significant – omits a whole set of victimized groups and forms of exploitation that exist within corporate global supply chains. The implications for the way the issue is presented in law can also impact the wider societal perception about who is victimized, what sectors are most at risk, and the importance of confronting the issue with Canadian companies.

The committee report indicates that the government has been actively studying the development of supply chain legislation in other jurisdictions and has undertaken a “whole-of-government” approach in its effort to study modern slavery (House of Commons, 2018, p. 36-37). To facilitate this work, ESDC has led an interdepartmental working group “to study the issue of transparency or due diligence throughout global supply chains ... and explore how such measures could build on Canada’s current approaches” (Rakesh Patry, ESDC, SDIR, 12 December 2017, p. 2, as cited in House of Commons, 2018, p. 37). This working group includes members such as Global Affairs Canada, Public Services and Procurement Canada, the Department of Justice, Public Safety Canada, Natural Resources Canada, and Innovation, Science and Economic Development Canada. The Government of Canada, via this group of departments, implements its commitments to the international cause through development assistance and by including labour obligations and technical assistance in free trade agreements. Other areas include initiatives led by Global Affairs Canada to support various international assistance and policy engagements meant to eliminate the use of forced labour, as well as Canada’s continued support in the ILO’s work to locate, eradicate, and prevent child labour worldwide (House of Commons, 2018, p. 5).

The dominant claim in this regard pertains to Canada's existing interdepartmental architecture on the study of modern slavery and potentially viable options for a supply chain law. This reflects much of what witnesses, representing federal departments and agencies, had provided in their statements to the committee. The government programming currently in place must be able to support the development of legislation to meet the recommendations set out in the initial committee report. The findings and lessons learned from each initiative where Canada is a participant should themselves be used to inform its policy and its management of multinational corporate practices.

Speaking to the committee about the role of governments in addressing modern slavery in corporate supply chains, the Director of International Justice Mission Canada, Petra Bosma Kooman, testified that "governments and the public justice system hold what corporations do not: coercive power to hold accountable perpetrators of heinous crimes like child slave labour" (SDIR, 7 December 2017, p. 4). Governments can regulate the practices of companies with ties to Canada (whether based domestically or internationally); the only outstanding component is the willingness of lawmakers to take that step.

In its response to the committee report – and calls for Canada to meet its international commitments – the government positions itself as having taken a multi-pronged approach toward "eliminating trafficking in persons, forced labour, child labour and all forms of slavery, including modern slavery" (Government of Canada, 2019, p. 9). While the commitment to address all forms of slavery is welcomed, the government's response fails to mention how it will address the more subtle forms. As is argued by Ms. Becker in her committee appearance, we need only look to other international examples of supply chain disclosure legislation and the confusion created by employing a confined conception of the issue. It is unclear how a focus solely on child

labour or forced labour will account for situations where business practices dip into the informal economy – modern slavery should be the focus to encompass all forms (subtle and overt) (Jo Becker, Human Rights Watch, SDIR, 30 November 2017, p. 6). When asked whether the proposed legislation should focus on modern slavery as opposed to only a handful of exploitative practices, which could both limit its reach and conflate issues, she goes on to argue the following:

If you're going to ask companies to implement a due diligence policy, it ... is fairly easy to ask them to apply the steps of due diligence – identifying, preventing, mitigating – across a range of human rights abuses rather than solely limiting it to forced labour (SDIR, 30 November 2017, p. 8).

Yet, despite these calls to take more substantive steps to target the root of the issue, the nature of the government's approach to modern slavery is chalked up to niceties in official statements about fulfilling commitments as a participant in international fora, such as the OECD, the UN, the ILO, G7, and G20.

The government's response also echoes that it engages on the issue of forced and child labour in various policies and programs, using “existing platforms, networks, multilateral and bilateral tools to combat the issue in supply chains involving Canada” (Government of Canada, 2019, p. 2). This goal also focuses on working in partnership with multinational organizations, industry, civil society, developing countries, and other governments and provinces and territories. The report findings show the government also committed itself to addressing modern slavery by commencing a process in 2019 to consult on possible supply chain legislation (House of Commons, 2018, p. 2).

In its attempt to conceptualize the issue of modern slavery, the Canadian government opted for a more modest and, in its eyes, more effective approach by way of a modern slavery bill that is not broad-reaching or overambitious. The argument for the Canadian government's reduced scope (effectively creating siloes for the various forms of modern slavery and landing on child and forced labour) was to ensure the law can adequately address the problem in question without taking on too much. Despite several unrecognized calls for the government to avoid constraining the range of abuses targeted, the approach, in turn, reduces and muddles those perpetrated at the hands of transnational corporations (Harris & Nolan, 2022). The narrow focus indeed creates implications for how the public – and corporations targeted by the modern slavery bill – perceives the issue as framed by the Canadian state. It also demonstrates an unwillingness to address the problem in its entire and true form.

II. Modern Slavery as a Problem of the Undeveloped World

The Canadian government's discussions and debates on modern slavery and corporate supply chain accountability also sought to place an onus on the issue itself. While many different positions were raised, the most dominant endorsed by the state – representing the second dominant theme captured in the data analysis – was the casting of less developed nations as the producers of modern slavery. The perspectives supported by the government's approach to modern slavery were to 1) shift the blame onto the host country, 2) focus on the most prominent contributing factors of modern slavery, such as poverty and the lack of proper education, while reserving judgement for the involvement of transnational corporations in reproducing those conditions, and 3) concentrate not on Canada's involvement in contributing to the problem but its role as a renowned champion for human rights to 'democratize' and support underdeveloped

countries with lax labour standards and poor educational and social institutions. Essentially, the position that won out claimed modern slavery is not a Canadian issue but an issue of those countries where it is most prevalent; the Canadian government supported their social development to attain the same standards and ethical practices found in Canada.

Playing the Blame Game

In its current form, Bill S-216 is a proposed extraterritorial law because its scope encompasses instances of child and forced labour taking place within Canadian corporations' global supply chains. It is not limited to the domestic activities of Canadian companies. Despite this caveat, this means that there are possible implications for how the bill is formulated and the conceptualization of source nations of exploitative labour in the SDIR and debates. Accepting the interpretation of supply chain modern slavery as an endemic problem caused by another country risks shifting the blame to the host country rather than scrutinizing the role of Canadian corporations in creating conditions for modern slavery, thereby influencing Canada's priorities in its effort to combat the issue.

Two witnesses representing NGOs that support human rights protections for victimized populations shared their view of regulating businesses operating overseas in their earlier testimonies before the SDIR.

Aidan McQuade, Anti-Slavery International: In many parts of the world, forced labour is essentially legal because [it is] called something else or because the law is not enforced. The idea of precluding goods tainted with forced labour from Canadian markets [is] important because so many countries [where this occurs] have built their competitive advantage on low labour costs, including exploitation (SDIR, 30 November 2017, p. 8).

Petra Bosma Kooman, International Justice Mission Canada: Under-resourced, undertrained, and corrupt law enforcement officials cannot or do not arrest and charge criminals who traffic and exploit labourers, nor do they often gather evidence that could hold them accountable in courts of law (SDIR, 2017 December 7, p. 3)

This shared sentiment that companies can exploit the lack of standards and law enforcement in certain regions is partly echoed in the committee's report, with a statement that "[t]he Government of Canada has met resistance to the inclusion of [labour] obligations [in trade agreements] and enforcement can be difficult when partner countries lack enforcement capacity" (Government of Canada, 2019, p. 21).

The focus taken in the report is inherently outward-facing and fails to adequately include domestic instances of exploitation, even if it is not as explicitly prevalent as the former. As will be discussed in the next section, the conversation is overlaid by what are considered the primary contributing factors of modern slavery in the most afflicted regions of the world: poverty and the lack of proper education (Benjamin Smith, SDIR, 23 November 2017, p. 5; Simon Chorley & Simon Lewchuk, 28 November 2017, p. 8-9; Aidan McQuade, 30 November 2017, 3-6; Claude Beauséjour, 12 December 2017, p. 7, as cited in House of Commons, 2018, p. 11). These factors become the dominant conceptualization for understanding why and how practices of modern slavery can proliferate in underdeveloped nations across the world.

To better understand how child labour is used in supply chains, the SDIR requested testimony regarding high-risk supply chains in the garment, textile, fishing, and seafood industries. The committee report includes anecdotes of exploitative labour practices within global supply chains. These situations range from children who are vulnerable to trafficking in refugee camps in Jordan, child trafficking due to displacement following natural disasters or

disasters caused by human activity (such as the Rohingya fleeing persecution in Myanmar for Bangladesh), forced labour in the cotton-spinning sector in the garment and textile supply chains in southeast Asia, situations of debt bondage, withholding programs and the seizure of identity documents in the Thai fishing industry, to Cambodia where the majority of women work over 60 hours weekly (House of Commons, 2018, p. 14-16).

The committee, however, also heard from witnesses who called for greater responsibility in identifying all sectors that use modern slavery, including in Canada. Consider, for instance, the following statement from Ms. Bosma Kooman:

Dozens of industries are rife with trafficked, forced, exploited, and child labour. Major corporations bear the weight of criticism when trafficked labour is exposed. No one should question the responsibility of importers and retailers to identify their supply chains for slave-produced goods, but ... the nature of labour slavery is such that even the most scrupulous corporations will risk purveying slavery-tainted goods if national governments of source countries do not take responsibility for the problem (International Justice Mission Canada, SDIR, 7 December 2017, p. 3).

Modern slavery indeed occurs in countries struggling with poor and unstable social conditions, which can cause it to proliferate much more quickly. However, it is also found in developed nations, such as Canada. The federal government's position, which casts underdeveloped regions as the scapegoat for modern slavery, delinks Canada's direct involvement and responsibility in associated human rights abuses. Positioning blame on other countries only serves to stigmatize harder hit regions of the world and limit the cause for greater accountability within the corporate sphere for their involvement.

Poverty Equals Exploitation

Owing to the “othering” of underdeveloped nations, discussions in the SDIR leading up to the development of the proposed modern slavery bill focused heavily on weak labour laws and poor social institutions (such as the lack of education due to poverty) in countries where forced labour is most evident. The report produced by the SDIR speaks to chronic poverty as a factor perpetuating forced and child labour (House of Commons, 2018, p. 1) but fails to identify in detail the factor of corporate mishandling of labour in the regions where they source their goods.

Speaking to this distinction is Michael Messenger, President and Chief Executive Officer at World Vision Canada:

Poverty is the root driver, and we have to continue efforts to change the conditions that push children to work in the first place. We can’t just look at those push factors. Our submission is that we need to look at the [factors] that pull children into exploitative work. Some of those things are our own Canadian insatiable demand for new, low-cost goods and corporations’ desire for rapid production and cheap labour (SDIR, 28 November 2017, p. 2).

The consumer demand for products and the corporation’s proclivity to employ cheap labour to advance a profit-maximizing agenda is the type of nefarious activity that requires further attention by legislators. As Petra Bosma Kooman suggests, the labour that victims are forced into is “coerced, underpaid, or unpaid. Conditions are abusive and unsafe, and they are not free to leave the workplace” (International Justice Mission Canada, SDIR, 7 December 2017, p. 3). The conditions that companies allow these workers to be subjected to is another necessary factor for the Canadian government to acknowledge and investigate.

In large part, the final framing of the issue heavily focused on voices that spoke to the social systemic issues in source countries. The issue is described as being a result of “intergenerational” abuses at the level of the social structure in terms of caste, gender and displacement (Benjamin Smith, ILO, SDIR, 23 November 2017, p. 1; Cindy Berman, Ethical Trading Initiative, 5 December 2017, p. 1, as cited in House of Commons, 2018, p. 11-12). It is important to note that the committee report also acknowledges corporations must participate in the conversation. It employs Ms. Becker’s claim that exploitation “persists due to companies’ weak human rights policies, insufficient assessment and monitoring of risks in their supply chains, weaknesses in preventing or mitigating human rights abuses, insufficient monitoring, and lack of public reporting on the steps they’re taking to address these abuses” (Jo Becker, Human Rights Watch, SDIR, 30 November 2017, p. 2, as cited in House of Commons, 2018, p. 13). The issue is therefore identified as being instigated by lax human rights contingencies within corporations, recognizing the role of the private sector to detect and prevent exploitative labour – an action that a corporation can undertake within its business organization (Boatright, 1996; Smith & Betts, 2015).

However, the government’s final response to the SDIR’s report walks this back, simply encouraging “Canadian companies to implement responsible business practices that take into account children’s rights and child labour impacts as a complement to the internationally recognized responsible business conduct standards and guidelines endorsed in Canada’s updated CSR Strategy for the extractive sector abroad” (Government of Canada, 2019, p. 10). This demonstrates the government’s continued support for a corporation’s voluntary adherence to guidelines concerning responsible practices as opposed to issuing strong statements that identify new actions that will force companies to comply with a legislative anti-slavery regime.

In all, framing the problem as a “deviant exception” (Fudge, 2018, p. 233) that takes place only at the supplier level limits the attention toward the higher echelons of the network – the corporation and senior executives – because of a decentralized business model. The nature of neoliberal-led global capitalism creates conditions such as these by way of the globalized structure of multinational corporations, legitimating the assumption that the market can provide for social protections as it produces economic growth (Quayson & Tarhin, 2012; Soederberg, 2007). This item will be examined in greater detail with the next dominant theme.

Legislators advanced an agreed-upon conceptualization of modern slavery at the bottom of the supply chain because of poor education and social safety nets in source nations rather than giving full credence to claims suggesting the top also requires just as much scrutiny. While the abuses physically happen in the lower rungs (at the supplier and production levels), inspecting what strings are pulled at the top for those abuses to go unchecked is the other crucial element of the equation.

Upholding Canada’s Role as Champion for Human Rights

A final position for the theme that appears hyper-focused on correcting the supplier-nations of modern slavery is that Canada has a reputation to uphold on the world stage as an advocate for human rights. Lawmakers generally accepted the idea that Canada’s involvement in addressing the issue refers to providing international assistance in regions where modern slavery takes place. They were less likely to accept that this involvement also includes domestic networks of exploitative labour.

Dominant voices accepted in the government’s account for its responsibility to act accepts external calls for increased action in the form of policy development and the enactment of a

supply chain reporting regime enshrined in law. For instance, the director of the international human rights NGO, Walk Free Foundation, Christopher Evans, testified at the SDIR on this idea of the government's responsibility to act with the following:

Local enforcement is not sufficient to solve these problems. Sometimes it is down to weak regulation[,] lack of enforcement [or] plain corruption.... Without leadership from the developed countries, we're not going to solve these issues; we are not going to free those people from slavery or give those children a chance of an education and remove them from child labour (SDIR, 23 November 2017, p. 4).

The recommendations for what this responsibility looks like entail providing international assistance, educational supports in local communities, and building the capacity for business to monitor their supply chains (Government of Canada, 2019, p. 7-10), which demonstrates a voluntary rather than a mandatory role. In essence, the argument is that Canada, as a developed nation and a leader in the advancement and protection of human rights globally, can help develop those nations most explicitly afflicted by modern slavery.

Three out of the seven recommendations outlined in the committee report address the need for Canada to provide aid, whether financial or social, to states where practices of modern slavery are most prevalent and where governments are struggling to address and curb the issue. These three recommendations are: "prioritizing the elimination of child labour and forced labour in Canada's international assistance"; "improving access to quality education for adults"; and "supporting law enforcement and judicial systems" (House of Commons, 2018, p. 23). The dominant knowledge claim accepted into the government's response, thereby justifying this approach is twofold: 1) Canada has committed resources in several international fora to help foster social development in the global community, and 2) by assisting those affected countries

to decrease the occurrence of exploitative labour within their borders, Canada effectively helps prevent it from infiltrating its own – given transnational and unregulated supply chains and the exploitative activity therein (Government of Canada, 2019, p. 5).

By accepting the recommendations from the report, the federal government produced a claim that to address modern slavery, it must make the elimination of exploitative labour a “goal in its international assistance spending,” continue to work with international partners to increase the “quality and accessibility of education for those affected by forced labour,” promote programming to address the root causes of the issue among groups and regions “where progress has stalled,” and providing training and resources for law enforcement and “building capacity of judicial systems” to bring perpetrators to justice (House of Commons, 2018, p. 23).

As it is understood, extra-legislative strategies (such as social assistance, financial support for vulnerable populations, access to education, sound grievance mechanisms, and access to safe employment) are another significant area supported by the Canadian government to prevent the most at-risk populations from falling victim to exploitative labour in the first place.

The government’s response to the report further mentioned Canada’s pledge at the 2017 G7 to “work with the private sector, civil society, and other stakeholders to eliminate ... slavery from global supply chains to develop legislative, regulatory or policy frameworks, as appropriate, ...and to work to build a culture of consumer awareness” (Government of Canada, 2019, p. 3). Canada is also a signatory to the G20 Strategy to eradicate child labour, forced labour, human trafficking and modern slavery in the world of work (2018, p. 3). While these major inroads are noteworthy, the notion of being a ‘signatory’ to an international agreement is a hollow and symbolic gesture if no action accompanies it.

The notion that Canada can help develop a country struggling with such societal challenges as modern slavery in supply chains demonstrates a willingness on the part of the Canadian government to accept the belief that placing blame is productive in understanding the root of the issue. The committee report acknowledges Canada's ancillary work to provide international social and financial assistance as a means to an end. Neoliberal rhetoric disseminating the global benefits of capitalist systems for less developed regions of the world (Bull & Miklian, 2019, p. 447) becomes evident in the economic-based conceptualizations of corporate accountability and international development efforts expressed by the Canadian government.

Importantly, without strong legislative intervention to uphold Canada's duty as a signee to international agreements against exploitative practices and human rights violations, the proposed modern slavery bill does not address the issue adequately to match its objective. During the second reading debate in the Senate for Bill S-216, Senator Diane Bellemare takes issue with the bill's mandate:

The obligation [of this bill] is one of filing an annual report that is true, accurate and complete. However, no obligation is imposed to reduce or diminish the use of child or forced labour. (Senate of Canada, 8 December 2020)

Legislation is a foundational measure to support a nation's commitment, but Canada's modern slavery bill allows companies to use hollow and symbolic assurances of compliance in the reports they submit on modern slavery in their supply chains. It is rooted in the reproduction of the poor conditions within supplier regions of the world for the sake of corporate and economic interest.

As has been outlined in this section, the conceptualization of modern slavery by the Canadian Parliament is limited by its persistence in pushing blame onto countries most plagued

by modern slavery and potentially blind to the notion that Canada itself possesses touchpoints for international modern slavery. It is helpful to have a conversation about finding solutions to prevent the use of exploitative labour in corporate supply chains and establishing global interventions for Canada to provide social assistance in regions most affected. In fact, Bill S-216 states that its objective is to contribute to the cause against exploitative labour “as a party to conventions of the ILO on fundamental labour rights — including the Forced Labour Convention, 1930; the Abolition of Forced Labour Convention, 1957; and the Worst Forms of Child Labour Convention, 1999” (*Modern Slavery Act, 2020, Preamble*). However, the discussion loses focus on Canada’s direct involvement and the influence of the globalized market in driving an insatiable race to the bottom for cheap labour and greater profitability.

Accepting the solution of modern slavery primarily as the provision of social assistance, worker training, and education for victimized groups without looking inward at Canada’s deficiencies creates a situation where Canada simply passes the buck down the supply chain to supplier-nations (Nolan & Bott, 2018, p. 54). This portrays these countries and their governments as regressive in a situation where Canada should remain a steadfast partner and ally in a unified goal to eradicate modern slavery wherever it may exist. The subtext to this depiction conveys an assumption that Canada “[as] a long-standing champion of [the rights of human beings]” (House of Commons, 2018, p. 3) is advanced whereas host countries with pronounced instances of modern slavery are ‘backwards’ and can only become ‘developed’ like Canada with its intervention. Modern slavery is seen as a problem of the host country and not of Canada. The onus is relegated to the Global South when it should be geared to the actors that allow the conditions for modern slavery to persist: the deregulated corporate sphere.

III. The Corporation as an Agent of ‘Financial’ Social Good

The very nature of a corporate supply chain accountability legislation places responsibility on the private sector. However, government proceedings studying modern slavery and observing the need and scope of such a law reveal disparate views when it comes to targeting the corporation as a transgressor of human rights abuses. As will be discussed, corporations were generally accepted by the Canadian state as having the capacity to foster social change and international development using their financial capital as promoters of democracy and goodwill (via investment and outsourcing). This notion is taken up under three widely accepted positions: 1) companies have a “moral obligation” (Senator Mary Coyle, Senate of Canada, 12 March 2020) to society (including their consumers and their employees) to uphold common values and human rights, 2) voluntary or transparency-led reporting regimes allow for corporations to work under the principles of CSR to make responsible business decisions, and 3) legislating disclosure puts all companies on the same playing field when it comes to transparent business practices. These sub-themes generate questions around the framing of the corporation’s role (as a responsible entity as opposed to a culpable offender) and the extent to which the proposed modern slavery bill proscribes enforcement and corporate criminal liability.

Ethical versus Functional Duty of the Corporation

The idea that the responsible actions of ‘global corporate citizens’ acting to improve qualities of life around the world by delivering foreign capital into emerging economies reinforces a belief that societies can use and move through economic innovation and growth to their advantage (Rothe & Friedrichs, 2015, p. 71; Tombs & Whyte, 2003, p. 10). The involvement of corporate activity in regions of the Global South brings with it implications of

underhanded trade deals and the manipulation of weak social, political, and law enforcement structures enabling cheap labour for maximum economic gain – all cloaked from the consumer audience in the West at the final step of the supply chain process (Baram, 2009; Pope, 2011; Soederberg, 2006). The corporation’s ethical duty and functional duty make up two sides of the debate set out by the Canadian government in its search for a greater role for Canada in supply chain transparency.

The SDIR report speaks to cases where private enterprises have been leaders in ethical responsibility without the need for legislative pressure. “Some pioneers such as Mondelez International, are working to improve the integrity of their supply chains, ... [by supporting] local workers to ... address issues in the deep-down tiers of the supply chain” (Simon Lewchuk, World Vision Canada, SDIR, 28 November 2018, p. 5, as cited in House of Commons, 2018, p. 28). Furthermore, the report alludes to a statement given by a witness representing UNICEF Canada: “companies are attempting to fill gaps left by the absence of legislation.... [in] the Democratic Republic of the Congo, where civil society pressure has resulted in companies beginning to map their complex supply chains” (Simon Chorley, SDIR, 28 November 2018, p. 4, as cited in House of Commons, 2018, p. 9). In both narratives, the duty of the corporation is likened to the ethical responsibility expected of businesses in society. Senator Yvonne Boyer stated the following in the Senate debate of Bill S-211, “Along with making profits for their shareholders, have a civic responsibility to Canadians and the citizens of each country they do business in” (Senate of Canada, 10 March 2020). In this light, companies are understood as being able to recognize a sense of civic duty using the tools they have or developing creative approaches to contribute to society.

Conversely, the unwillingness or ignorance of corporate executives to recognize societal issues where their companies are located demonstrates the risks of the functional or fiduciary duty of a corporation (Whyte, 2016, p. 169). In his testimony, a representative from World Vision Canada posited that “the majority of companies operating in Canada are disclosing very little, if any, meaningful information about the policies, practices, and due diligence that they have in place to ensure that their supply chains are free of forced labour” (Michael Messenger, SDIR, 28 November 2017, p. 2).

Despite this reality, there are examples of corporate endorsements of goodwill as described by Kate Kennedy, representing the Freedom Fund – an international non-profit organization whose mission is to identify and invest in frontline efforts to eradicate modern slavery in global regions and sectors where it is most prevalent (Freedom Fund, 2021, “Vision, Mission and Values”). She detailed the work of Canadian company, Lush Cosmetics, to ensure transparency in the supply chain and visiting local sites in South Asia where some of their products are supplied. She contends that companies like Lush, which maintain the “highest ethical purchasing standards, can often be put into an unfair playing field if other companies aren’t operating in the same way.... Other companies, unlike Lush, are going to be motivated by a penalty or compulsory reporting to begin to address these issues”. The significance of this conversation lies in the duty of the corporation and the need for legislation to bring the private sector under one regulatory regime. The voice from NGOs demonstrates the corporation’s functional duty and its ethical duty can work in tandem, ensuring the rights of workers are respected while maintaining business profitability and competitiveness.

World Vision Canada’s Michael Messenger testified at the committee that companies most directly engaged with the issue of modern slavery and effective change, such as Amazon, IKEA,

Marks, Spencer, and Tesco (SDIR, 28 November 2017, p. 6)¹⁸, recognize they have an interest in contributing to social development initiatives because the communities from which they source their products must be sustained for the supply chain to remain viable (the grounds for this claim are large multinational corporations will take advantage of their global reach to effect widespread change). This claim is accepted into the government's narrative on supply chain transparency, but it is important to reiterate that employing a reporting regime, such as the modern slavery act, for corporate accountability also presents the risk that monetary penalties will do little to ensure companies develop ethical business standards (Kolk & van Tulder, 2002).

In the end, the committee discussed the extent to which a company must hold ethical business standards in its operations, echoing the claims of economist, Milton Friedman:

Aidan McQuade, Anti-Slavery International: The only ethical responsibility of business executives is to maximize profits for stakeholders within the law. But if the law is inadequate in terms of protecting the human rights of workers, then the risks of abuses become much higher, and therefore one would need to shift their perspective on their ethical responsibilities (SDIR, 30 November 2017, p. 6).

MP Scott Reid: It would rather be the responsibility of government officials, not the company, to design policy (SDIR, 30 November 2017, p. 7)

This exchange led to the understanding that it would ultimately be the government's regulatory environment that is chosen for Canadian companies that would have them reinvest in their supply chains to ensure ethical practices. What this looks like, however, remains in the hands of the corporation's executives and would likely mirror the needs (appetite) of shareholders.

¹⁸ The use of these examples puts the credibility of this statement into question given the history of dubious business operations, deteriorated working conditions, and misrepresentation of financial statements by some of these large corporations (Mohapatra & Kumar, 2021; Sprague & Sathi, 2020)

Identifying the responsibility of the corporation for modern slavery in global supply chains is considered on an ethical and functional basis. While the two demonstrate differing motivations for the corporation, the final judgement in the government response signifies a need to merge the two in a way that enables a comprehensive mindset from companies to contribute to societal causes while also returning some authority to the company to take on new operational standards of their own. This conclusion is nevertheless problematic because it assumes that governments can assure full compliance from the private sector and ignores the crucial argument that criminality should be included in the discussion that deals with wrongful conduct committed by corporations (Kaeb, 2018; Lee & Gailey, 2007; Pearce, 1993; Tombs & Whyte, 2015).

Corporate Social Responsibility: The Art of Smoke and Mirrors

In the government's development of its position on the role of corporations in the eradication of modern slavery in global supply chains, dominant views promoting CSR were supported in a way that assumed companies can act as drivers of social and international development when they build factories or establish contracts with suppliers or employ workers around the world. While other competing views concerning the limitations of CSR initiatives were also acknowledged, CSR is seen as a vehicle to achieve this development through voluntary and ethical practices developed by the corporation. For instance, consider the testimony provided by Chris Moran, representing the Department of Foreign Affairs:

Companies have an incredible opportunity to use the leverage of their business relationships to engage with their suppliers, raise awareness, provide training, and improve their suppliers' operations, as well as gain a better understanding of their own business model. (SDIR, 12 December 2017, p. 3).

In keeping with this position, the committee report suggests the federal government encourages Canadian companies to implement responsible business practices. Specifically, supporting the international “responsible business conduct standards” endorsed in Canada’s “Corporate Social Responsibility Strategy for the extractive sector abroad ... and encourages Canadian companies to use them as a tool for guiding the actions they can take to respect and support human rights” (House of Commons, 2018, p. 28). The government response to the committee report also describes current measures designed to provide tools to companies, such as the “CSR Toolkit that includes a section on sustainable purchasing, as well as the publication of a Corporate Social Responsibility Implementation Guide for Canadian Business, providing practical advice to companies” (Government of Canada, 2019, p. 9). There is movement in Canada to build a business case for carrying out CSR objectives and subsequent performance measurements. However, encouraging CSR-related activities in the private sector can conceal the issue even further.

Conversely, the SDIR report indicates that “the voluntary nature of CSR initiatives allows companies to remain non-committal or to fail to meet their public commitments without consequence; ... socially responsible companies are almost penalized for their choice” (Christopher Evans, Walk Free Foundation, SDIR, 23 November 2017, p. 4; Jo Becker, Human Rights Watch, 30 November 2017, p. 5, as cited in House of Commons, 2018, p. 28). This reaffirms a witness’s claim that companies use voluntary initiatives to adopt policies that “look good on paper” or develop “industry associations that give them a fig leaf to make them look like they’re doing something” (Jo Becker, Human Rights Watch, SDIR, 30 November 2017, p. 6). Importantly, the knowledge claim accepted on the part of the government is that responsible business requires government legislative intervention to prevent undercutting by unethical

competitors. Ms. Berman uses the phrase “a race to the bottom” (Ethical Trading Initiative, SDIR, 5 December 2017, p. 7, as cited in House of Commons, 2018, p. 28) to describe the corporate sphere lowering their social and labour standards and, in effect, the price of goods to attract more business. A company that forsakes capital in favour of benefits to society risks losing its profitability and competitive edge.

In this case, the SDIR report acknowledges “progress made by the Canadian government, the private sector, and the international community in reducing the rate of exploitative labour” (House of Commons, 2018, p. 27), while also noting witness remarks about limitations of current initiatives. In part:

International human rights standards, such as the United Nations Guiding Principles, are not legally binding.... [S]ome companies take them seriously, but many do not, and corporate social audits usually extend only to the first tier of production, while forced labour tends to be present further down the supply chain (Smith, SDIR, 23 November 2017, p. 2; Chorley, 28 November, p. 7; Becker, 30 November 2017, p. 8, as cited in House of Commons, 2018, p. 27).

Here, the government accepts a claim positioning partial responsibility of the corporation but does little to explain why self-regulatory measures by companies do not delve into the lower rungs of the supply chain where modern slavery is most pronounced.

The ability for businesses to fulfill promises for responsible corporate practices without monitoring for compliance is upheld in an environment where corporate social initiatives are promoted for their financial appeal (Bittle & Snider, 2013, p. 189; Tombs & Whyte, 2015, p. 122). Measuring business self-regulation is conflicted by the enduring debate around whether a

corporation can be considered a conscious actor responsible for its actions or a criminogenic entity whose very nature requires external legislative enforcement.

Christopher Evans, representing Human Rights Watch, described to the SDIR his organization's engagement with multinational tobacco and jewellery companies to look at their supply chains. "We've also looked at industry-led initiatives to try to address child labour and other human rights abuses.... [S]ome are meaningful, but many are not." Mr. Evans admits that an executive of one of these companies claimed "he could get a certificate on anything today. He could pay off his guilt, but it doesn't mean anything." Another witness supports this anecdote, describing the reality that "companies will [seek and accept] assurances from their direct suppliers ... [without demanding] credible evidence" (Jo Becker, Human Rights Watch, SDIR, 30 November 2017, p. 4). This situation portrays the challenge of industries being able to police themselves on matters addressing human rights violations and ensuring they procure goods from their direct suppliers and sub-suppliers that are ethically sourced.

The belief taken by the Canadian state accepts a role for CSR, which in turn is supported in the lax provisions for enforcement set out in its modern slavery bill, despite having received testimony from witnesses on the matter describing its limitations and problematic implications for those most victimized in corporate supply chains. As one witness explains, "[i]t is impossible for Canadian consumers to know what these companies are doing to mitigate these risks. The lack of public information ... makes constructive dialogue and accountability about these issues next to impossible (Michael Messenger, World Vision Canada, SDIR, 28 November 2017, p. 2).

Scholarship on the issue supports this notion as well. CSR often gives the appearance of companies taking coherent action and promoting philanthropic causes; it merely insulates the narrative that they use (mostly weak) policies, standards, and codes of conduct. This, in turn,

drives attention away from the fundamental causes of exploitative labour in global supply chains (Banerjee, 2021; New, 2015). Understanding corporate responsibility in this light means making sense of the techniques set up by private enterprises to uphold their duty to society in conjunction with their fiduciary duty to their shareholders.

Nudged onto the Same Playing Field

A sentiment echoed by many witnesses at the SDIR is that transparency “is critical” as it can “generate accountability,” making supply chain legislation the best tool at the government’s disposal to achieve this end, lead to greater action, and support dialogue on the issue (Benjamin Smith, ILO, SDIR, 23 November 2017, p. 7; Michael Messenger, World Vision Canada, 28 November 2017, p. 2; Simon Lewchuk, UNICEF Canada, SDIR, 28 November 2017, p. 7; Kate Kennedy, The Freedom Fund, 7 December 2017, p. 4). The government was forced to consider the position that an absence of serious measures of accountability for transnational corporations only “penalizes the companies that want to do the right thing” and establishing “mandatory expectations” by way of legislation means all companies have the “same expectations” (Jo Becker, Human Rights Watch, SDIR, 30 November 2017, p. 5).

The committee report recognizes this view, supporting the notion that legislation – which falls under the purview of the government – acts as a tool to establish a fair and “level playing field” with “clear rules of the game” under which companies would align (Cindy Berman, Ethical Trading Initiative, SDIR, 5 December 2017, p. 6; Jo Becker, Human Rights Watch, SDIR, 30 November 2017, p. 5, as cited in 2018, p. 35). The compulsory element of legislative supply chain reporting regimes is perceived to enable corporations – both those who are actively engaged with ethical business standards and those who are motivated by profit over human rights

– to fall in line. However, the compulsory element is more aligned with the requirement to report and speaks less to robust assessment mechanisms with which companies must comply or a penal regime in the event a company is found to have employed exploitative labour. By simply employing a “tick box approach” (McCorquodale & Nolan, 2021, p. 470) for reporting, the proposed legislation as it is written also does not provide for a body external to the company to monitor its activities and proscribe penalties for non-compliance. The limitation lies in the omission of corporate criminal responsibility in the legislation in favour of a liability offence for which corporations have the financial wherewithal to ‘pay off’.

In this view, supply chain legislation would “formalize the expectation that companies make efforts to monitor” their supply chains, thereby motivating larger companies to become aware of their own suppliers’ practices at all tiers of their supply chain (Simon Lewchuk, World Vision Canada, SDIR, 28 November 2017, p. 5, as cited in House of Commons, 2018, p. 27-29). Distinctly, the motivational piece comes in stark contrast to the enforcement piece. Much of the messaging chosen by the Canadian government around the need for legislation is framed to encourage companies to make a positive impact, as opposed to a need to drive companies to comply as a result of the urgency to combat modern slavery.

At the committee, witnesses also argued that legislation is a way to standardize the adjudication and enforcement process for transgressions that occur within corporate supply chains. For instance, the director of UNICEF Canada, Simon Chorley, testified that “legislation would avoid some of the cases we’re seeing at the moment [involving] extraterritorial jurisdiction, whereby ... community groups [must] bring their cases to Canada for alleged abuses overseas by Canadian-headquartered companies” (SDIR, 28 November 2017, p. 9).

Following this line of thought, witnesses explain that the general authority from a federal modern slavery law (and its federal trade and commerce power) “could constitutionally apply” to all private enterprises in Canada, including “those that carry on business entirely within a province” (Michael Messenger, World Vision Canada, SDIR, 28 November 2017, p. 10). To acknowledge this view, the committee report also describes testimony from ESDC that legislation is a joint responsibility of the federal and provincial governments, but Canada’s “constitutional division of powers” would make the law’s mandate more universally binding across the country and avoid fragmentation and gaps in legislative and enforcement coverage (House of Commons, 2018, p. 3). This position was accepted in the committee’s final report; however, it is nowhere indicated what the federal responsibility to ensure accountability across the private sector would entail or whether it would standardize or burden those cases of Canadian corporate transgressions taking place overseas.

A final claim identified under the theme that legislation is a tool to bring private enterprises under the same regulatory framework is that various Canadian companies are “already facing requirements in other jurisdictions to monitor their supply chains;” any Canadian company, for instance, “[engaged in business worth \$60 million] in the United Kingdom is caught by the provisions of the U.K. Modern Slavery Act” (Peter Talibart, Seyfarth Shaw LLP, SDIR, 5 December 2017, p. 3).

In theory, supply chain accountability legislation works its way down through the supply chain; reporting is performed by company representatives at the top, but it requires accountability and transparency down the chain. As witnesses indicate, there should be no hesitation from the government over concerns that legislation would burden business or stifle growth. However, the dominant view captured in the introduction of Bill S-211 (the second

iteration of the modern slavery bill) in the Senate claims legislation would place companies on the same footing transparency and “reduce unfair competition from those who cut corners on human rights” (Julie Miville-Dechéne, Senate of Canada, 18 February 2020), the intention for this position appears to favour a trust in the private sector. It is a trust in corporations to seize the opportunity to be more transparent as opposed to stating outright that companies require government legislative intervention to make their business practices more ethical. This prevailing view taken up by the federal government is problematic because it inherently assumes that corporations are largely rational, ethical, and law-abiding (Bittle, 2016, p. 285), with only a few bad apples flouting labour standards and creating and permitting unethical and dangerous working conditions within their supply chains. It accepts that regulatory action will assure compliance and liability without involving serious criminal sanctions for those businesses that circumvent the law or engage in practices of modern slavery.

Bill S-216 mandates entities to provide a report to the Minister of Public Safety and Emergency Preparedness within “180 days after the end of each financial year” that outlines the abovementioned reporting obligations (2020, s. 7(1)). Entities must also make the report publicly available and publish the report in a “prominent location on its website” (2020, s. 7(4)).

Additionally, the following information must be included in the report:

The entity’s structure; the goods that it produces in Canada or elsewhere, or that it imports into Canada; its policies about forced labour and child labour; its activities that carry a risk of forced labour or child labour being used and the steps it has taken to assess and manage that risk; any measures taken to remediate any forced labour or child labour; and the training provided to employees on forced labour and child labour (2020, s. 7(2)).

By and large, the reporting requirements stipulated in Bill S-216 are very similar to the requirements set out in voluntary CSR remedies employed by companies as a show of social action. Critically, the penalty proscribed within this bill is strictly for not reporting; it is not a penalty associated with any adverse outcomes or human rights violations that might be found within their supply chain or in the event of a disaster within their supply or production network (LeBaron & Rühmkorf, 2017). The reporting obligation differs from a legally binding requirement to avoid, investigate, and ensure supply chain labour trafficking is addressed and eliminated (Flynn, 2020; Kolk & van Tulder, 2002). The lax reporting regime of this bill represents the incorporation of private governance into public legislation (LeBaron & Rühmkorf, 2017; New, 2015), which can undermine the overall need to ensure corporate compliance can ensure full accountability for human rights abuses.

Company executives and employees can also be held liable under the bill. The bill states: “Any officer, director or agent of the person or entity who directed, authorized, assented to, acquiesced in or participated in its commission is a party to and guilty of the offence” (*Modern Slavery Act, 2020, s. 17*). This portion of the bill demonstrates that senior management officials are not immune to scrutiny under this law, though it does not identify criminal liability nor punishment.

The Canadian government’s accepted view of the corporation is underpinned by the larger narrative of neoliberal ideals and deregulated market capitalism. As discussed, this causes confusion about the ethical and functional duties of the corporation, promotes CSR and corporate self-regulation as solutions to curbing conditions allowing for modern slavery, and reproduces the idea that disclosure policies allow for all companies to play by the same rules. The longstanding fascination with the corporate social responsibility fix solidifies and protects the

capitalist profit-making ambition and is naïve to real corporate human rights violations. This view, baked into every iteration of Canada's proposed modern slavery bill, employs an understanding of accountability that gives companies room to disclose their steps taken to eliminate modern slavery with no obligation to report (or be held criminally liable for) instances of modern slavery in their supply chains. It is a position that puts trust in corporations to act responsibly and views private entities as ethical and rational. Based on what the government's proceedings on the modern slavery file demonstrate, the transnational corporation can therefore be likened to a positive force of financial social good because of its ability to make those conscious decisions to curb exploitative practices.

IV. Global Supply Chains and Free Markets as Solutions to Modern Slavery

The final theme is that the solution to the problem of modern slavery in supply chains can be found in free markets and international trade. As will be explored, the state position supports the view that 1) global supply chains are a lifeline for the Canadian market that falls under the purview of responsible government, and 2) if hindered or overregulated, would harm the flows of globalization and the national economy.

Supply Chains as a Lifeline for the Canadian Economy

In developing its modern slavery bill, the Government of Canada wrestled with conceptualizing global supply chains, their value, and their implication in the reproduction of exploitative labour. Its final framing of the issue does not seek out or fulfill an understanding of the complicity of the Canadian economy and domestic market in perpetuating exploitative labour. This creates a perceived dependence on free-functioning global supply chains to move

goods and services productively and to effectively insulate the national economy. Counterexamples in the discussions had in Parliament, however, point to a stark reality and required the intervention of global supply chains.

Research undertaken by World Vision gauges the extent to which forced labour may exist in the supply chains of goods that are consumed in Canada. The data, presented at the SDIR and included in the report, concludes that “1,200 companies operating in Canada imported goods at risk of being produced by child labour or forced labour in 2015, worth a total of approximately \$34 billion ... [which] represents a 31% increase since 2012” (Michael Messenger, SDIR, 28 November 2017, p. 1, as cited in House of Commons, 2018, p. 15).

Moreover, global supply chains are complex, interlinked, and transnational. As such, Senior Policy Advisor at UNICEF Canada, Simon Lewchuk, contended, “a Canadian company is thus not just a Canadian company; it is linked to suppliers in the global south or East Asia” (SDIR 28 November 2017, p. 9). In his view, the direct role of the Canadian government is to identify those companies at the top of the supply chain – specifically, those that are Canadian or with ties to Canada – and mandate regulations in their operations to trigger subsequent changes in the lower rungs of their supply chain.

In support of this claim, Michael Messenger, President and CEO of World Vision Canada testified that:

Global supply chains are a Canadian issue – [including] the challenges faced by consumers and civil society – and our recommendation ... [is] that the Government of Canada should commit to legislation that would require large companies at a minimum to annually and publicly report on what steps they are taking to prevent and address child labour and forced labour in their global supply chain (SDIR, 28 November 2017, p. 1).

Although the federal government admits this position in its grand narrative, there is little supporting evidence to suggest that a reporting requirement will facilitate transformative change of companies are simply asked to indicate whether they have identified instances of modern slavery in their global supply chain (Flynn, 2020).

The committee report on child and forced labour also fails to adequately recognize the influence of global capitalism as a contributing factor to growing instances of modern slavery in corporate supply chains. In fact, there is no mention of the impact of globalization or market deregulation in the report or the government's official response to it. This is despite dissenting testimony such as the remarks provided by Christopher Evans:

Globalization and the opening up of trade and economic activity among all nations has brought benefits not only to the wealthier nations but to the poorer nations as well in terms of economic development and jobs. But there is an increase in inequality. The benefits of globalization have not been shared as much as they should have been. They've not been as inclusive, fair, or sustainable as they should have been (Walk Free Foundation, SDIR, 23 November 2017, p. 3).

In line with a key argument of this study, the boom in international trade and transnational flows of goods and services have caused a widened disparity in the access to safe work conditions based on the global region where the production 'link' of a corporation's supply chain is situated.

Mr. Evans continued: "There is forced labour and trafficked labour in those supply chains of Canadian companies operating or using suppliers from around the world. It's true of all those G20 countries" (SDIR, 23 November 2017, p. 3). Supply chain modern slavery also exists in the most advanced economies in the world, but the above-mentioned disparity allows for the chains connecting to transnational corporations of developed nations to be legitimized and hidden from

scope or scrutiny. In turn, this deflects from the gap in the legislative coverage required to hold companies criminally accountable for human rights abuses, either domestically or abroad.

The Detriment of State Overregulation

Most societies today operate under the neoliberal reasoning that stresses the virtues of private wealth dominate mainstream capitalist practices, including how profit-seeking activities by private enterprises are held to account (Bittle, 2016; Soederberg, 2007). In this vein, policies are perceived as disruptive to transnational flows of capital. They act as “political barriers” to free trade or burden productive economic business activity (Tombs & Whyte, 2015, p. 19). This view is implicitly expressed by the Canadian government in the way it conceptualizes and addresses exploitative labour in corporate supply chains.

While the Canadian government recognizes the need to consider all options for supply chain legislation, it was unclear what option its modern slavery bill would take. Proponents argued companies must be liable for their actions and trace and reduce modern slavery in their business, while opponents feared the regulations would suffocate market progress and profit.

Most witnesses agreed that consumer habits could influence the reputation of a company’s brand, but states have a duty to their citizens and the global community to address and take steps to eradicate modern slavery in corporate supply chains using the authority they are granted. This perspective is summed up in the response given by the Director of the International Justice Mission to questions related to the purpose of government involvement in modern slavery.

While corporations have a strong role to play in reversing the incidence of trafficking in global supply chains, the UN’s Guiding Principles on Business and Human Rights places the responsibility squarely upon governments to protect individuals from slavery. States

must protect against human rights abuse within their territory ... by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication (Petra Bosma Kooman, SDIR, 7 December 2017, p. 3).

Responsible government is echoed again by a representative from Human Rights Watch, whose statement reads: “The primary responsibility for upholding human rights lies with governments. We’ve seen that when states impose mandatory human rights due diligence, company transparency has improved” (Jo Becker, SDIR, 30 November 2017, p. 2).

While reporting and due diligence regimes both place significant power in the role of civil society and consumers to “reward socially responsible behaviour” (Benjamin Smith, ILO, SDIR, 23 November, 2017, p. 5, as cited in 2018, p. 35), the latter is argued to have more teeth in that they present an enforcement and remedy option when rights have been violated in a company’s supply chain (Cindy Berman, Ethical Trading Initiative, SDIR, 5 December 2017, p. 6). Critical scholarship contends they do not ensure compliance and accountability if companies are simply required to report on whether they are addressing modern slavery in their supply chains (Flynn, 2020; Kamalnath, 2021). Observing the current global supply chain legislative evolution, Peter Talibart from Seyfarth Shaw LLP testifies:

California [began] with the lightest touch, which was a website statement confined to a couple of sectors.... The U.K. advanced that needle by applying this supply chain transparency statement requirement to all industries and having directors [approve].... The Dutch law provides financial penalties and possible imprisonment.... France has gone half a step farther [with fines and civil liability] (SDIR, 5 December 2017, p. 4).

Due diligence regimes, while presented as tougher on corporate practices because they require companies to develop and implement a plan to identify risks and prevent severe violations (Millar et al., 2022, p. 34), are limited in that they provide for financial and civil liability.

Despite the information received and hindsight provided by evidence of enacted laws in other countries, the federal government fixated on drafting a law mandating companies to report on efforts to eradicate modern slavery from their supply chains but falls short of criminally penalizing companies who are found to have engaged in such exploitative practices. Bill S-216 was itself introduced in the Senate by Senator Julie Miville-Dechéne as “having teeth” with its proscribed oversight mechanisms (Senate of Canada, 5 November 2020), including the annual report that the Minister of Public Safety must present before Parliament (and also published on the Department’s website) summarizing the activities of entities that provided a report under this Act that carries a risk of forced labour or child labour being used; the steps that entities have taken to assess and manage that risk; and “if applicable” measures taken by entities to remediate any forced labour or child labour (*Modern Slavery Act*, 2020, s. 19(1) – 19(2)). The approach taken with this bill avoids over-regulation and under-penalizes company executives for violations that take place within their corporation’s global supply chains.

The fourth dominant theme evidenced in the voices accepted by the Canadian state in its approach to modern slavery advanced two misconceptions about the nature of global supply chains: they are a benefit to the Canadian economy (without a true accounting of the hidden exploitative practices that allow both to flourish), and they should not be overregulated as it could stifle economic growth that heavily driven by transnational commerce and global corporate transactions. Protecting supply chains using the economic well-being of the country as a rationale demonstrates the Canadian state is not yet in a position to outwardly punish

corporations for their human rights violations. In addition, this position does little to address the issue because it is motivated by global capitalism and is shaped to suit the interests of corporations. It secures impunity for corporations that continue to operate using exploitative labour practices.

Conclusion: Summary of Findings

Applying the Gramscian-neo-Marxist theoretical framework in the analysis of source data, this chapter examined the political, economic, and legislative implications that shaped and framed the discussions around corporate accountability in the search for the Government of Canada's legislative response to modern slavery in global supply chains.

The first dominant theme identified from the data sources is the focus of the SDIR's study and the subsequent modern slavery bills on child and forced labour in global supply chains. The scope is issue-specific and applies to a narrow range of human rights concerns, which is accepted to ensure the law is realistic and will achieve marked results in eliminating exploitation from supply networks. As is argued by voices overlooked by the government's approach, this narrow focus shields corporations from full scrutiny for the whole host of "business-related adverse human rights impacts" (Millar et al., 2022, p. 32) that may occur within their supply chains and dilutes the impact it has for protecting all victims of exploitation.

Second, the Canadian government limits the grasp of its legislative response by favouring a 'blame game' approach which sees supply chain exploitative labour largely as a problem of host and underdeveloped countries without appropriately looking into major driving factors of modern slavery perpetrated in Canada or by Canadian companies. The dominant knowledge claims accepted in the government's response supported its existing hegemonic understanding of

the issue – that Canada’s provision of social and financial aid to developing nations is a priority solution to bolster education and reduce poverty in those areas. The counterarguments about transnational corporate involvement in reproducing such conditions were largely overlooked.

The third dominant position accepted by the Government of Canada, while having heard from a plurality of voices on the issue, trusts that corporations are rational and capable of self-regulation through voluntary initiatives of corporate social responsibility to be transparent about their business activities overseas. CSR was a driving factor behind this stance as it was used to facilitate a common assumption that transnational corporations – with their decentralized and globalized business models – can act as agents of social development by way of their financial investment in regional suppliers and outsourcing activities to other countries. This demonstrates the influence of the global capitalist routine at play. There remains a need to sustain the economic viability of the corporation by supporting a neoliberal profit maximization agenda.

The final theme is the widely held belief in the value of global supply chains and their ability to foster market growth and secure investment into the Canadian economy, while strict accountability laws would stifle economic progress. It follows a hegemonic belief in the private sector that leaves room for “a soft approach to enforcement which is outsourced to the market” (Harris & Nolan, 2022, p. 225). Bill S-216 is claimed to allow corporations greater flexibility to understand the hidden aspects of their supply chain and to act accordingly to find solutions. Opting for a reporting regime that mandates little in the way of criminal penalties for corporations employing exploitative labour in their business practices is evidence of this accepted position. This is despite being informed by existing modern slavery disclosure laws in other jurisdictions and calls for a more impactful due diligence structure which is toothless without criminal sanctions or strong language for clear interpretation by the judicial system.

Given the lack of substantive improvements in all iterations of Canada's modern slavery bill, it is important to account for the accepted, hegemonic views that won out, but also the unacknowledged voices in the conversation. As has been informed by the Gramscian-neo-Marxist lens, these voices shaped the perspective employed to conceptualize modern slavery and transnational corporate involvement, what those in positions of power do with the information they are provided, and what outside factors shape the themes developed to understand the issue. The positions not accepted into the government's framing of modern slavery and its approach to addressing it within corporate supply chains acted to resist the wider cultural hegemonic pattern enabling global capitalist motivations that preserve the impunity of transnational criminal activity often made imperceptible and taken for "the way things are" (Gramsci et al., 1992; Hall, 1986, p. 28). In the end, the accepted knowledge claims that legitimized corporate-leaning strategies of accountability capture the neoliberal tenacity that reproduces deregulatory and capitalist motivations, including at the level of the state.

Chapter 6: Conclusion

Examining State Conceptualizations of Modern Slavery and Corporate Accountability

At its foundation, the purpose of this study was to examine the Canadian state's response to modern slavery in its conceptualization of supply chain disclosure legislation. The research objectives set out for this project included: 1) provide an account of modern slavery and the current approach taken by the Canadian government to address the issue; 2) identify the political, social, and economic influences that play into Canada's legislative corporate accountability strategies as they relate to modern slavery; and 3) examine the claims advanced by the Canadian government, the private sector, civil society groups, on the proposed supply chain accountability law. My study has achieved all its objectives in considering whether the Canadian approach is consistent with what is known about modern slavery and how it should be addressed, examining the factors related to the free-market economy and global capitalist motivations, and identifying which conceptualizations of corporate accountability are most dominant within the current discourse.

As was explored, the private sector has received growing criticism from the public, the juridical and political spheres, and academia in response to several prominent cases of human rights abuses at the hands of corporations on a global scale (Braithwaite, 1985; Garrett, 2011; Pearce & Tombs, 1998; Piquero et al., 2008). However, there is a continued lack of serious attention to the notion that a corporation, with its profit-seeking ends, can itself be criminal and possess criminogenic behaviour and propensities (Pearce, 1993; Steinzor, 2014; Tombs & Whyte, 2015). The view of the corporation as being responsible for otherwise transgressive actions is yet to become a mainstream and accepted concept among society and within the more powerful echelons of the social field, including governments and the corporate elites themselves.

This discussion is limited only to high-profile corporate abuse cases and the corporate crime scholarship, demonstrating the problematic reality exposed in this study: the Canadian state's misaligned and misinformed conceptualization of modern slavery and labour exploitation in corporate supply chains.

This thesis uncovered the dominant beliefs that influence the definitions favoured most by legislators concerning what is viewed in society to be a crime and who is considered a criminal. It is more so the contributing societal factors perpetuating, insulating, and shaping crime as opposed to the cause of crime itself that hits at the core of both this study and the foundational teachings of the discipline. The use of critical discourse analysis herein helped make sense of the discursive processes that legitimate the wrongful activities of multinational corporations (those fully acknowledged and those neglected) that are ultimately deemed not criminal (Bittle & Snider, 2015; Snider, 2000).

As its theoretical base, this study employed the Gramscian concept of cultural hegemony and the neo-Marxist perspective of global capitalism to identify the dominant claims raised during the discussion by the Canadian government about corporate accountability for instances of modern slavery in their supply chains. This joint perspective facilitated the analysis of the reproduction of dominant neoliberal discourses that reinforce the interests of the ruling class – in this case, the deregulated market interests of the owners of production (multinational corporations).

While the overall discussion was characterized by a general concern for the protection of victims of modern slavery, overarching regulations and mandated legislative reporting requirements, some lawmakers saw this measure as potentially damaging to corporations' financial and market value, arguing it has the possibility to choke their economic performance,

consumer reputation, and ability to produce overseas. This view understands existing regulations, targeting financial, workplace safety and environmental laws not as productive, but as an inefficiency that interferes with the smooth flow of capital engendered by neoliberal capitalist motivations (Snider, 2000). As a result, anxiety about the economic survival of the private sector and the sustainability of each production sector reinforced the Canadian state's complicity in the wrongful practices of Canadian companies abroad.

What is more, this discourse allows the private sectors and politicians to virtue-signal the perks of corporate social responsibility by embellishing the neoliberal principle about the deregulated global expansion of corporate activity – including regions that currently employ forced and child labour – claiming greater provisions of social welfare, investments in financially unstable local economies with poor access to education, and advances international development worldwide (Baram, 2009; Soederberg, 2007; 2010). Consequently, this neoliberal ideal sustains the perceived credibility of multinational corporations' capabilities to self-regulate and the claim suggesting the use of existing company-led voluntary compliance initiatives over more strict regulations mandated through law. This perspective risks losing sight of crucial issues, like the need to improve working conditions and associated labour standards for those employed within a company's supply chain, including overseas supplier factories. Corporations might have good intentions when expanding their operations abroad but also have a duty to those they indirectly employ to ensure their order is produced ethically and safely.

Heeding a Call to Action: Who is Responsible Anyway?

The Canadian government directed its committee study and subsequent bill proposals concerning modern slavery and corporate supply chain accountability in a manner that would

satisfy its initial objectives and overarching agenda to address the issue while insulating the private sector from what it saw as potentially undue scrutiny. This process was spurred by the increased calls from civil society and Members of Parliament to address this issue, and the outcome was led by an acceptance of specific knowledge claims among a range of views that framed modern slavery and the role of the corporation.

The consensus from the SDIR's report, the subsequent government response to the report, and the proposed Bill S-216 *Modern Slavery Act* is that modern slavery is a pressing issue for Canada today and recognize the country's important role as a leading promoter of human rights worldwide and signatory of international agreements to address the mistreatment of people.

My study's data analysis revealed the different voices that surfaced in relation to the four different themes, which in turn highlighted those voices that 'won out' as a result of receiving more attention by committee members, being treated as more prominent and credible, and is included into the assumptions made in the government's report. The dominant themes identified from this research comprise the following:

1. Modern slavery is confined to child labour and general assumptions about forced labour to ensure a narrow scope generates achievable results and realistic objectives.
2. Modern slavery is a problem predominantly in underdeveloped countries due to conditions of disenfranchisement, poverty, and lack of strong labour standards and educational supports. It is an issue outside of Canada but one for which Canada is willing to provide social and financial aid.
3. Corporations have the capacity to foster social change and international development with the use of their financial capital as drivers of democracy and goodwill (via

investment and outsourcing). They can use voluntary CSR to achieve this supposed good.

4. The solution to the problem of modern slavery can be found in free markets and international trade. Global supply chains are a lifeline for the Canadian market and, if hindered or overregulated, would harm the flows of globalization and the national economy.

Gramsci's concept of hegemony, in conjunction with the neo-Marxist lens, helped make sense of instances where measures of accountability led by the corporation are introduced into the discussion and legitimized by the political sphere to offset or undermine concerns related to corporate greed and a wild west of globalized market flows of capital, goods and services (Gramsci, 2000, p. 247; Soederberg, 2006, p. 49). CSR strategies are thought of as the catch-all solution for companies to commit to ethical business practices, so much so that the Canadian government puts a great deal of trust in corporations to implement policies of their own to reduce harmful practices from within their business model (Government of Canada, 2019, p. 10). The hegemonic legitimacy that is granted to self-regulation takes attention away from the viability of thorough and comprehensive binding legislation – the efforts are essentially split and have less of an impact in either scenario.

The corporation is seen as an organization that can help, by way of its policies and financial investment, to reduce modern slavery in regions most affected. Whether true or not, this consistent adherence to the idea of the 'good corporate citizen' downplays the severity of criminality that entwines corporate business practices in far-off reaches of the world (Rothe & Friedrichs, 2015). The neoliberal ideals of profit maximization and liberalized markets, while productive to the world economy, are detrimental to the nations most exposed to exploitation and

with the fewest resources to substantially confront it. The capitalist venture of the corporation skews the perception it has of its duties.

In the Canadian context, what results is a bill that fails to adequately account for the ‘criminal’ aspect of corporate harm and contravention to supply chain reporting. In an environment of enforcement options comprising legislation, police intervention, investigation and audits, the sanctions applied to offenders of the proposed law do little to castigate or hold criminally liable in any meaningful way private enterprises that employ forced labour or contract other companies who do.

The leniency of reporting whether modern slavery exists in the supply chain, especially when the penalty is financial, does not act as a deterrent for companies, let alone eliminate forced labour. As such, dominant voices in the Canadian response to address modern slavery are littered with crumbs of neoliberal principles of capitalist market freedom, corporate self-regulation, and unconstrained state regulation. Yes, the bill represents a step forward in ensuring accountability and greater awareness of the issue; however, it has yet to develop out of the teething stage. The absence of any defined criminal sanction reveals a limitation in the ability to assure accountability for corporate wrongdoing, which ultimately fails to demonstrate a genuine commitment from the Canadian government to take the issue seriously.

Canada is bound by the international commitments to which it has pledged its resources and support in addressing global modern slavery. The government’s response to the SDIR report refers to Canada as having historically played an integral role in promoting human rights; however, as the Subcommittee report explains, there are concerns that Canada risks “falling behind” the “global pace” if it does not implement effective supply chain legislation (Talibart & Trachuk, SDIR, 5 December 2017; p. 3-6; Kennedy, 7 December 2017, p. 1, as cited in 2018, p.

36). Whether the Canadian government uses its political will simply to uphold (or restore) Canada's reputation on the world stage or to actively abide by international goals for transformational change toward sustainable development and the protection of vulnerable populations, the political impetus to enact modern slavery legislation has shaped the way the Canadian state chooses to confront the issue.

Accommodating Unheard Voices

Existing structures and assumptions of neoliberal corporate-favoured regulation were shown to have maintained the dominant hegemonic conceptualization of transnational corporate responsibility on the part of the Canadian state. It is no less valuable, however, to consider the role of the resistance discourses that came about as the Canadian government developed its strategy to address modern slavery and corporate accountability in supply chains.

At its core, this research sought to critique social inequality and corporate impunity by observing the role of discourse in the (re)production and contestation of dominance. Examining not only the top-down relations of dominance but also the bottom-up relations of resistance was a crucial focus for any study of corporate crime. The discursive techniques of the elite that maintain inequality can themselves be a vector for greater transformational counter-hegemonic narratives seeking to unmask the real and adverse implications concealed behind the ideal of neoliberal profit maximization.

Several resistant voices had not been fully acknowledged, accepted, or given full credence in the federal government's final narrative for its approach to Canada's supply chain transparency demonstrating which options were omitted. These claims include the following notions made by witnesses representing civil society groups and non-governmental organizations

advocating anti-slavery and human rights initiatives: 1) the importance of treating conduct committed as part of the business routine and contracts of a corporate enterprise the same as conduct that would conventionally be deemed criminal if committed by a private citizen; 2) calls to reconfigure the *Criminal Code of Canada* offence of human trafficking to include all forms of exploitative labour and all criminal legal subjects; 3) recommendations for greater accountability on Canada (including Canadian companies and the federal government) for its direct or indirect involvement in allowing human rights abuses to continue abroad (as opposed to redirecting the blame and applying oversight solely onto those foreign nations where those abuses are predominant or more visible); and 4) the need to comprehensively examine the ability for the corporation – as a bureaucratic entity comprising a wide set of positions – to self-regulate and undertake internal monitoring and auditing procedures without state intervention all while remaining impartial to the profit-saving interests for the company (Becker, Bosma Kooman, Evans, McQuade, & Messenger, SDIR, 23 November to 7 December 2017).

Alcoff (2009) describes the importance for anyone engaging in research to speak to the experience of others on their behalf because meaning is relational; it varies from person to person and indeed between contexts. Through this research, I intended to speak about and better understand the influence of the corporate and political spheres to speak more generally for the victims of modern slavery and corporate abuses. Establishing strong protections for these victims as well as cultivating legal assurances to them and certainly the general consumer public comprise the core solution to exploitative practices in global supply chains. As such, the disciplines of criminology and business management have a role to play in investigating the relations of power in a society that inherently prop up the interests and influence of the social, political, and economic elite. This duty of examining the hegemonic discursive mechanisms that

legitimate corporate negligence and harms comprise the crime reduction and prevention pillar of criminological enquiry as the objective is to bring about deeper insight into how, when, and why deviant behaviour occurs (Triplett, 2017; Walgrave, 2011).

Legislators also influence social ways of thinking and, in scenarios such as the development of Canada's *Modern Slavery Act*, the conceptualization of the deviant behaviour that constitutes criminality and carries strict penal sanctions. Barring the political sphere, consumers and civil society make up the largest influence for the private sector and can, in turn, influence the course of legislative action if political power is endangered. Growing demand from these groups brings to bear the struggles faced by the victims for which they advocate.

The resistant force of criminological research, which scrutinizes the mainstream, conventional social conceptions of crime and studies why crimes persist, must act as a lens through which the legitimized dominance of globalized corporate capitalism can be shared with the general public. Only once accepted and understood will this voice demanding ethical business practices and greater protections for workers throughout the supply chain – from the associate stocking shelves at the Loblaw supermarket to the worker collecting shrimp from a Thai fishing ship – become the legitimized hegemonic understanding to which global multinational corporations will be made accountable. Only then will the evil of modern slavery ever be confronted and, hopefully, eliminated.

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Appendices

Appendix A: Members of the Standing Committee on Foreign Affairs and International Development

Below is a list of members of the Subcommittee on International Human Rights of the Standing Parliamentary Committee on Foreign Affairs and International Development whose names appear in the minutes from the Committee's study of child labour and modern slavery, held between 2017 and 2018. Members' names are listed in alphabetical order.

- Michael Levitt, Chair, Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development, Liberal Party of Canada
- David Anderson, Conservative Party of Canada
- Peter Fragiskatos, Liberal Party of Canada
- Cheryl Hardcastle, New Democratic Party
- Iqra Khalid, Liberal Party of Canada
- John McKay, Liberal Party of Canada
- David Sweet, Conservative Party of Canada
- Marwan Tabbara, Liberal Party of Canada
- Anita Vandenbeld, Liberal Party of Canada

Temporary Acting Roles:

- Pam Damoff (acting for Michael Levitt), Liberal Party of Canada
- Ali Ehsassi (acting for Marwan Tabbara), Liberal Party of Canada
- Robert-Falcon Ouellette (acting for Iqra Khalid), Liberal Party of Canada
- H el ene Laverdi ere (acting for Cheryl Hardcastle), New Democratic Party
- Paul Lefebvre (acting for Peter Fragiskatos), Liberal Party of Canada
- Irene Mathyseen (acting for Cheryl Hardcastle), New Democratic Party
- Murray Rankin (acting for Cheryl Hardcastle), New Democratic Party
- Scott Reid (acting for David Anderson), Conservative Party of Canada
- Sherry Romanado (acting for Peter Fragiskatos), Liberal Party of Canada

- Don Rusnak (acting for Marwan Tabbara), Liberal Party of Canada
- Ruby Sahota (acting for Peter Fragiskatos), Liberal Party of Canada
- Brigitte Sansoucy (acting for Cheryl Hardcastle), New Democratic Party

Appendix B: Witnesses Appearing Before the Standing Committee on Foreign Affairs and International Development

Below is a list of witnesses who testified at the Subcommittee on International Human Rights of the Standing Parliamentary Committee on Foreign Affairs and International Development and whose names appear in the minutes from the Committee's study of child labour and modern slavery, held between 2017 and 2018. Witness' names are listed in chronological order based on the date of their appearance before the committee.

November 23, 2017 (Meeting 86)

- Hon. Christopher Evans, Director, Perth Headquarters, Western Australia, Walk Free Foundation
- Benjamin Smith, Senior Officer, Child Labour Division, International Labour Organization

November 28, 2017 (Meeting 87)

- Simon Chorley, Deputy Director, International Programs, UNICEF Canada
- Simon Lewchuk, Senior Policy Advisor, Child Rights and Protection Division, World Vision Canada
- Michael Messenger, President and Chief Executive Officer, World Vision Canada

November 30, 2017 (Meeting 88)

- Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch
- Aidan McQuade, Special Advisor, Former Director, Anti-Slavery International

December 5, 2017 (Meeting 89)

- Cindy Berman, Head, Modern Slavery Strategy, Ethical Trading Initiative
- Peter Talibart, Partner, Seyfarth Shaw LLP
- Mark Trachuk, Partner, Osler, Hoskin & Harcourt LLP

December 7, 2017 (Meeting 90)

- Petra Bosma Kooman, Director, Marketing and Public Relations, International Justice Mission Canada
- Kate Kennedy, Managing Director, North America Office, The Freedom Fund
- Edwin Wilson, Executive Director, International Justice Mission Canada

December 12, 2017 (Meeting 91)

- Claude Beauséjour, Director, Education and Preventing Violence and Harmful Practices Division, Department of Foreign Affairs and International Trade
- Robert McDougall, Executive Director, South Asia Division, Department of Foreign Affairs and International Trade
- Chris Moran, Director General, Trade Portfolio Strategy and Coordination, Department of Foreign Affairs and International Trade
- Rakesh Patry, Director General, Labour Program, Department of Employment and Social Development Canada
- Mandy Sheldrake, Deputy Director, International Crime, Department of Foreign Affairs and International Trade
- Michelle Sinclair, Senior Policy Analyst, Labour Program, Department of Employment and Social Development Canada

May 10; May 31; June 5; June 12; June 14, 2018 (Meetings 108, 112, 113, 115, 116)

- No further witnesses were requested to testify. The Subcommittee proceeded to the consideration and development of the study report.