



Modern Slavery and the Discursive Construction of a Propertied Freedom: Evidence from Australian Business

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Abstract

This paper examines the ethics of the Australian business community's responses to the phenomenon of modern slavery. Engaging a critical discourse approach, we draw upon a data set of submissions by businesses and business representatives to the Australian government's *Joint Standing Committee on Foreign Affairs, Defence and Trade* 'Parliamentary Inquiry into Establishing a Modern Slavery Act in Australia'—which preceded the signing into law of Australia's *Modern Slavery Act 2018*—to examine the business community's discursive construction in their submissions of the ethical–political concept of freedom. The paper shows how the concept of freedom was employed by Australian business in a manner that privileged their own subject status and advocated for legislation with minimal burden. Relating this contemporary case to a longer historical context, we show how Australian business responses towards modern slavery map onto liberal and neoliberal ethics in which the freedom of the propertied takes precedent over that of the property-less. Further, we show discursive similarities in the arguments presented by modern Australian businesses and certain historical efforts by members of the business community to privilege commercial freedoms in responses to 18th and 19th Century abolitionist movements. Overall, our research makes two important contributions: first, it highlights the value of a critical discourse lens in business ethics research to show how business and other stakeholders in the field construct and shape their own and other's ethically-laden understanding of reality; and second, it presents a case for considerable scepticism about the motivation of (Australian) business to employ the freedoms made available to it under neo/liberal discourse to confront a key human rights challenge.

Keywords Modern slavery · Parliamentary inquiry · Australia · Discursive analysis · Neoliberalism · Freedom · Property rights

Introduction

“Modern slavery, one of the most abhorrent crimes against humanity, is a profitable international business which is thriving on an unprecedented scale. It generates an estimated US\$150bn in illegal profits annually...Slavery operates in a hidden form in the complex global value chains governed by powerful multinational corporations” (Stringer & Michailova, 2018, p. 194).

Several jurisdictions—regions, states and countries—have now enacted corporate accountability legislation that includes or targets the issues of modern slavery in the supply chain (Odia, 2019). While primarily identified with the 2012 California *Transparency in Supply Chains Act*, the 2015 UK *Modern Slavery Act*, and France's 2017 *Corporate Duty of Vigilance Law*, Phillips et al. (2018) mapped over 50 new pieces of legislation that have been passed globally since 2009 requiring business or federal institutions to disclose information on labour and procurement issues in their supply chain.

Given attempts to legislate corporate accountability over modern slavery, and academic concerns to consider how slavery and slave-like practices continue to surface in the modern capitalist system (e.g., Benstead et al., 2018; Brace and O'Connell Davidson, 2018; Caruana, 2018; Cooke, 2003; Crane, 2013; Dahan & Gittens, 2010; Gold et al., 2015; Murphy, 2019; New, 2015; Nolan & Boersma,

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2019; Nolan & Bott, 2018; O’Connell Davidson, 2015; Pierce, 2011; Szörényi, 2016;), there is an emerging body of work examining business responses to the establishment and enactment of modern slavery legislation (see Christ & Burritt, 2018; LeBaron & Rühmkorf, 2019; Phillips et al., 2018; Sinclair & Nolan, 2020).

What some of this and other literature identifies is that modern slavery encapsulates the most extreme or severe forms of labour exploitation (Caruana et al., 2021). This includes people working under some form of threat, being controlled by an ‘employer’ through more intimidatory means, are unequivocally treated as a commodity, and have their freedom of movement limited in some way (Crane, 2013, p. 51). As a management practice those affected by modern slavery will typically experience extreme economic exploitation from their work. The term ‘modern slavery’ invokes both historical equivalencies and important distinctions to ‘old’ slavery: not least the fact that, historically, slavery was typically supported through judicial arrangements that made the barbaric ownership of persons legally and state sanctioned. Contrasting with the legality of traditional forms of slavery, modern slavery though it may be just as, possibly even more, extensive (though see Brace and O’Connell Davidson 2018), is rather more clandestine and opaque.

Much of the research on modern slavery to date has focused on business supply chains and how the complexity of these and associated governance issues in global operations can obscure practices of severe labour exploitation (Gold et al., 2015; New, 2015; Odia, 2019; Stringer & Michailova, 2018), or on ways to strengthen and better enforce the regulatory and legislative frameworks that govern employment relationships that may be prone to modern slavery (Dale, 2018; Nolan & Boersma, 2019; Sinclair & Nolan, 2020). While legislative remedies are clearly valued, they are but a necessary first step since changes in laws do not always force businesses to adapt their practices (see Nolan & Boersma, 2019). It appears that eradicating modern slavery requires some attention towards actions that make it economically unprofitable for business to engage in severe labour exploitation. The relatively limited evidence to date shows, in general, business responses to modern slavery ranging from that of ignoring the issue (Pierce, 2011), seeking to contain or control the agenda, through to attempts to weaken regulatory responses (LeBaron & Rühmkorf, 2019).

Our paper offers an empirical contribution to the body of work that examines business responses to the issue of modern slavery. We employ a critical discourse analysis to examine Australian business submissions to the *Joint Standing Committee on Foreign Affairs, Defence and Trade* Parliamentary Inquiry into Establishing a Modern Slavery Act in Australia (herein shortened to ‘the Inquiry’) which preceded the signing into law of Australia’s *Modern Slavery Act 2018* (in effect from 1 January 2019). Compared to jurisdictions

in other advanced capitalist contexts, Australia business has been subject to very limited examination of its responses to modern slavery legislation (for exceptions, see Christ & Burritt, 2018; Christ et al., 2019). Australia, however, is a major advanced capitalist economy which is located in, and relies very extensively for production, outsourcing, and importation of goods from the South-East Asian region, a region that is at high risk of incidence of modern slavery (see Vandergeest & Marschke, 2020; Yea & Chok, 2018).

Our work examines the ethical discourse that Australian business employs and invokes to respond to and seek to shape modern slavery legislation: notably, their discursive constructions of the concept of freedom. This is an illustration of what others have regarded as a public framing contest whereby—in our case, that of business—seeks to construct the desired outcome (see Dahan & Gittens, 2010). One might assume that an ethical–political discourse of freedom would intersect seamlessly with a desire to combat the illiberty of (modern) slavery. As Shabbir et al (2020) observe, however, freedom has an “ambiguous, value-laden, and contested nature”, it is “ethereal and problematic because it camouflages differing connotations” (p. 228). We highlight some of this value-laden and contested nature by critically exploring the concept of freedom in classical liberal and neoliberal thought. Showing how liberal/neoliberal thought privileges the freedom of the propertied over that of the property-less—or, in the case of slavery, those who were property—we unpick in the main body of this paper the continuing threads of this property-privileging freedom in Australian business submissions to the modern slavery inquiry.

Our objective is to analyse how business, in its submissions to the Australian federal government’s modern slavery Inquiry, constructed itself, the issues, and their preferred legislative response through ethical discourse centred around a neoliberal conceptualisation of freedom. Through this analysis we show that the discursive constructions of freedom woven through these submissions reproduced a problematic privileging of property and an allied lack of focus on the plight and subject of the modern slave. Specifically, we show how the submissions: (i) construct business itself as the primary agentic moral subject, (ii) as a subject nevertheless suffering a circumscribed freedom of limited responsibility, and (iii) as a subject whose liberty is threatened by anything but minimalist legislation on modern slavery. Acknowledging Smith and Johns’ (2020) critique that “modern slavery literature engages with history in an extremely limited fashion” and tends to reproduce an inaccurate “optimistic historical metanarrative” (p. 271), we also reveal how certain arguments and positions presented by Australian businesses echo an historical privileging of commercial freedoms over and above those of enslaved persons demonstrated in earlier responses by the business community to 18th and 19th Century abolitionist movements. Our Discussion and Conclusion

sections highlight the paper's contributions to the literature on modern slavery, freedom and to works using discursive analysis to examine ethical issues in business. We turn now to expound the idea of freedom as an important organising concept in this paper.

Freedom and Property in Neo/Liberalism

Freedom—liberty—is the defining ethical–political concept of liberal society. In its formative years in the sixteenth century writings of John Locke, in the bourgeois revolution in France (Marx, 1852), and in seventeenth century British political philosophy, individual freedom is held as key. As Marcuse (1941[2005], p. 139) would observe:

“If we try to assemble in one guiding concept the various religious, political and economic tendencies which shaped the idea of the individual in the sixteenth and seventeenth century, we may define the individual as the subject of certain fundamental standards and values which no external authority was supposed to encroach upon.”

Freedom remained central too to the neoliberal reinvention of liberalism. From Hayek's (1944) *The Road to Serfdom* and (1960) *The Constitution of Liberty*, to Friedman's (1962) *Capitalism and Freedom*, and (1980) *Free to Choose*,

“The founding figures of neoliberal thought took political ideals of human dignity and individual freedom as fundamental, as ‘the central values of civilization’. In so doing they chose wisely, for these are indeed compelling and seductive ideals. These values, they held, were threatened not only by fascism, dictatorships, and communism, but by all forms of state intervention that substituted collective judgements for those of individuals free to choose.” (Harvey, 2007, p. 5)

The freedom envisaged by neo/liberalism would always, however, intersect with property rights. The intersection of individual liberty and property was explicit in *Article II* of the first major legislative product of the French Revolution, the 1789 *Declaration of the Rights of Man and of the Citizen* (*Déclaration des droits de l'homme et du citoyen*): “The aim of every political association is the protection of the natural and imprescriptible rights of man; these rights are liberty, property, security and resistance to oppression.” And the privileging of the liberty of the propertied saturated the writings of prominent French and British thinkers from Voltaire and Linguet, to Young, Colquhoun, and Smith, and latterly to Friedman and Hayek (Laski, 1936; Wray-Bliss, 2019).

The conflating, or equating, of freedom with property marked-out the ‘universal’ freedoms of neo/liberalism as partial and inequitably distributed from the outset. Those without

full property rights—women, the poor, working classes, those of ‘lesser’ races—would not enjoy full rights to liberty. This would make liberalism's liberty problematic for those who were property themselves. John Locke, for example, the ‘father’ of liberalism, was himself a shareholder in the Royal African Company and would continue to “seek justifications for enslaving foreign captives” (Davis, 1984, p. 107). Elsewhere, the “Enlightenment's indictments of slavery were scattered and desultory. Often they left loopholes for a defense of colonial slavery on the grounds of expediency and public interest” (Davis, 1984, p. 108).

Even when freedom was to be offered to the enslaved, liberal property relations would severely temper and taint it. The writings of James Stephen, the influential undersecretary of the British Colonial Office from 1836 to 1847, demonstrated the limits of the freedom that the unpropertied emancipated subject would be allowed to enjoy.

“The Owners of the privileged soils would thus have a virtual monopoly of food, and all other necessaries and comforts of life... The manumitted Slave must therefore not only cease to indulge himself in a life of idleness, but must betake himself to that description of labour in which the land-holder of the privileged class, may be pleased to find him employment. The dread of starving is thus substituted for the dread of being flogged. A liberal motive takes the place of a servile one. The ‘Emancipist’ undergoes a transition from the brutal to the rational predicament; the Planter incurs no other loss than that of finding his whips, stocks and manacles deprived of their use and value” (James Stephen 1832 in Davis, 1984, p. 218)

Liberal freedom intersects with and privileges property then, and freedom has been a rather more partial, inequitable, or arbitrary concept for those without. Under neoliberalism, like liberalism before it, the central principle of freedom has,

“primarily worked as a system of justification and legitimation for whatever needed to be done to achieve this [*capital accumulation*] goal. The evidence suggests, moreover, that when neoliberal principles clash with the need to restore or sustain elite power, then the principles are either abandoned or become so twisted as to be unrecognizable.” (Harvey, 2007, p. 19)

Such ‘unrecognisable twisting’ of a discourse of freedom is evidenced well, we contend, in Australian business submissions to the Australian modern slavery Inquiry. The following section discusses the Inquiry and our Methods.

The Inquiry, Business Submissions, and Methods

The Australian Federal Attorney General tasked the *Joint Standing Committee on Foreign Affairs, Defence and Trade* with an Inquiry into establishing a Modern Slavery Act in Australia on 15 February 2017. The terms of reference for this inquiry were as follows:

“With reference to the United Kingdom’s *Modern Slavery Act 2015* and to relevant findings from the Joint Standing Committee on Foreign Affairs, Defence and Trade’s report, *Trading Lives: Modern Day Human Trafficking*, the Committee shall examine whether Australia should adopt a comparable Modern Slavery Act.”

Specifically, the Public Inquiry was asked to examine:

- The nature and extent of modern slavery (including slavery, forced labour and wage exploitation, involuntary servitude, debt bondage, human trafficking, forced marriage and other slavery-like exploitation) both in Australia and globally;
- The prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia;
- Identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation;
- The implications for Australia’s visa regime, and conformity with the *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* regarding federal compensation for victims of modern slavery;
- Provisions in the United Kingdom’s legislation which have proven effective in addressing modern slavery, and whether similar or improved measures should be introduced in Australia;
- Whether a Modern Slavery Act should be introduced in Australia; and
- Any other related matters.

The establishment of the Inquiry was released to the media on 17 February 2017, inviting “anyone with an interest in the issues raised by these terms of reference” to contribute their comments. Consequently, submissions were presented during a series of 10 public hearings of the Inquiry held between 30 May and 30 October 2017. The Inquiry released an interim report in August 2017 and its final report in December 2017. The Modern Slavery Act was

passed into law in 2018 (with effect from 1 January 2019). It was patterned on the ‘weak’ form of the earlier UK legislation (LeBaron & Rühmkorf, 2019, p. 711; Stringer & Michailova, 2018, p. 202).

Two hundred and twenty-five (225) submissions were made to the Inquiry from individuals, non-governmental associations, charities, businesses, legal bodies, governmental agencies, intergovernmental agencies, and others. Two of the 225 submissions were confidential and anonymous. The other 223 submissions were public and revealed the identities of the authors. Of these, our research examined a particular subset: the 59 submissions which were made by individual businesses ($n = 35$); by business associations ($n = 15$) such as, for example, the Australian Food and Grocery Council and the Financial Services Council; or by charitable organisations and foundations whose board membership and origins represent a dominant business presence ($n = 9$). These included, for example, Stronger Together and The Freedom Fund. Submissions ranged from one page in length (e.g., submission 16. ASOS; submission 11. The Freedom Fund) to 89 pages (submission 91. Walk Free Foundation). Submissions were initially content coded then manually analysed for discursive commonalities and variance, particularly around the concept of freedom. Coding items were developed both through a priori means, by drawing upon studies of corporate responses to modern slavery in other jurisdictions (cf. LeBaron & Rühmkorf, 2019), and *posteriori* means through initial readings of the submissions to identify salient points of commonality and divergence. Coding items considered the nature of the submitting entity, the level of expressed support for the Inquiry or Act, response to transparency provisions, extent of expressing own good practices, extent of expressing the size or value of the submitting organisation, support or otherwise for ‘light touch’ legislation, views on the scope of business eligibility via a turnover threshold, views on parallel reporting requirements across jurisdictions, the construction of modern slavery as a business opportunity, and views on standardised versus flexible reporting requirements. Coding was used to tabulate responses and to mark salient passages of text for subsequent conceptual analysis.

The analysis concentrated upon the ways the submissions discursively construct several, seemingly contradictory, discourses of freedom—discourses which as we shall argue below nevertheless coalesce to promote minimalist regulatory burden and enshrine the emancipation of capital. A discursive analysis treats language as not merely reflective of an underlying reality, but rather as working to shape, define, and construct that reality (Hardy et al. 2000). Discursive analysis is concerned, therefore, with how the text relates to, and must be understood by, reference to that which lies outside the text—power, context, and history (Fairclough, 1992; Wodak & Meyer, 2001). We note that context is not

conceptually distinct but “seeks to define the specific articulation of moments that is relevant to the constitution of specific bodies of organizational texts” (Chouliaraki & Fairclough, 2010, p. 1215). In the framework of research into business ethics, scholars have been concerned to examine “how ethical public issues emerge and are shaped by strategizing actors...in an attempt to impose their own definition and preferred solution to the issue” (Dahan & Gittens, 2010, p. 227), with more explicitly critical works seeking to surface the ways social power, dominance, and inequality are enacted, reproduced and resisted by text (van Dijk, 1983).

Previously, discursive analysis has been used to good effect to examine the ways that business and other entities construct their own and other’s ethically-charged understanding of reality. Recent examples in this journal have included Hamilton et al.’s (2019) analysis of the deployment of discourses of heroism and dignity to refashion low status work as socially admirable, Wang’s (2019) analysis of the ideological underpinnings of the national ecological accounting and auditing scheme in China, and Heikkinen et al.’s (2020) analysis of a variety of constructions of work-family practices in Finland. These add to a body of work that has used discursive analysis to effectively examine ethical issues (e.g., Beelitz & Merkl-Davies, 2012; Brei & Böhm, 2011; de Graaf, 2006; Dunn & Eble, 2015; Laasonen et al. 2012; Mark-Ungericht & Weiskopf, 2007). Notwithstanding a shared moniker of discursive (or discourse) analysis, “methods for actually analyzing discourse are varied and sometimes nebulous” (Dunn & Eble, 2015, p. 720). For some scholars, discourses are treated as societal or institutional systems of meaning, the identification of which does not require methodological justification (Kallio, 2007; Mark-Ungericht & Weiskopf, 2007). For others, descriptions of methodologies for apprehending discourses tends toward the post- or neo-positivist: with descriptions of mechanisms to avoid bias (Dunn & Eble, 2015), ensure researcher neutrality (Dahan & Gittens, 2010), apply triangulation (Laasonen et al. 2012; Wang, 2019), engage in complex, multistep methods (Beelitz & Merkl-Davies, 2012; Heikkinen et al. 2020), or employ technical processes and methodologies (de Graaf, 2006) pushing for the authority of the analysis.

In our own approach, we are wary of making claims of a methodological nature that function to undercut the intersubjective nature of discourse itself: wary, that is, of making post- or neo-positivist methodological claims that suggest a seemingly (non-discursively constructed) technical or scientific authority for our academic text (see Bell et al. 2020 for a critique of positivism and scientism in business ethics research). Nonetheless, our critical discourse approach acknowledges the link between theory and methodology whereby the “methodological relationism...privileging social relations...cannot be thought independently of its theoretical premises” (Chouliaraki & Fairclough, 2010, p.

1215). While our process of undertaking discursive analysis of business submissions to the Inquiry comprised practices that we would consider fundamental to research integrity when dealing with the analysis of texts—the constant back and forth between texts, our interpretations of these texts and their intertextuality or on the ways that texts relate to other texts (Fairclough, 1992), and our conceptual understanding of neo/liberal freedom; the critical self-reflection on the meanings and readings we were arriving at; looking for and explicitly acknowledging departures or inconsistencies from our interpretations—we strongly favour inviting the reader to judge the plausibility and usefulness of our analysis for themselves, and against the examples and extracts from the submissions to the inquiry, rather than asserting here further methodological authority for our analysis. This invitation is consistent with others who contend that a multiplicity of possibilities both exists, and indeed is desirable, in critical discourse analysis for how ‘context’ is configured (Chouliaraki & Fairclough, 2010).

Empirical Analysis: Three Constructions of Freedom

Freedom Asserted: Constructing Business as Primary Agentive Subject

The majority of the 59 business submissions to the Inquiry made some form of explicit condemnation of the practices of modern slavery. Several submissions expressed powerful indictments of the practice. The Rotary Action Group Against Slavery, for example, opens with “*Modern Slavery is a form of engineered greed over vulnerability in which victims are treated as commodities for commercial gain*” (submission 21, p. 1) and Norton Rose Fulbright commences with “*Modern slavery is abhorrent. It has no place in a civilized, decent society*” (submission 72, p. 1). A small number of the submissions demonstrated extensive awareness of the range of experiences which may constitute modern slavery (e.g., submission 40, ACCSR consultancy; submission 91, Walk Free Foundation). For others, a rather more perfunctory statement regarding modern slavery sufficed. For example, the Business Council of Australia noted that, “*Business should have a role in combatting modern slavery*” (submission 121, p. 3). Despite the various degrees of condemnation, a number of discursive practices across the submissions reconfigured the central subject as business rather than the victims of modern slavery.

First, the majority of business submissions to the Inquiry opened by using ‘welcoming’ in verb form. For example, “*Westpac Group welcomes the Australian Parliamentary inquiry into establishing a Modern Slavery Act in Australia, and would welcome the introduction of such an Act*”

(submission 136. Westpac Group, p. 1); “*Norton Rose Fulbright welcomes the Joint Standing Committee’s inquiry into establishing a Modern Slavery Act in Australia (Inquiry)*” (submission 72, Norton Rose Fulbright, p. 1); “*National Australia Bank Limited (NAB) welcomes the opportunity to provide a submission in response to the inquiry into establishing a Modern Slavery Act in Australia*” (submission 54, NAB, p. 1). That which is being welcomed, as we can see from the above examples, varies across submissions. For some (such as Westpac Group) it is the proposed legislation, for the majority of business submissions (like Norton Rose Fulbright) the establishment of the Inquiry, and for others (such as NAB) merely presents the opportunity to address the Inquiry in a submission. Opening their submissions to the Inquiry with such welcoming could be dismissed as merely a communicative convention—notwithstanding the subtle variations in what is being welcomed. To welcome, however, conveys far more than this. For one, it signals grammatical affirmation. LeBaron and Rühmkorf’s (2019) analysis of responses to the regulatory process of the UK’s 2015 Modern Slavery Act identified an emergent affirmative corporate strategy of supporting, even appearing as vanguard for, the proposed legislation. Corporate interests used this affirmative positioning to champion for weak regulatory initiatives and promote voluntaristic agency, such as that manifest in existing CSR-derived activities, as sufficient. Welcoming further connotes an active, agentic subject; in this case, that of business. Welcoming as the opening grammatical move of business submissions may be contrasted with expressing gratitude for example. Gratitude discursively positions the bestower (in this case, the federal government as the instigator of the Inquiry) as active subject. This may be seen, for example, in the opening sentence of submission 146: “*The Institute for Human Rights and Business (IHRB) is grateful to have the opportunity to make a submission to the Australian Joint Standing Committee on Foreign Affairs, Defence and Trade regarding its inquiry into establishing a Modern Slavery Act in Australia*” (submission 146, IHRB, p. 1). In addition to communicating agency, welcoming infers too symbolic or material ownership of territory (we welcome others to *our* house for example, or, in a specifically Australian context we give ‘welcome to country’ on behalf of the land’s traditional custodians). By ‘welcoming’ the Inquiry business can be seen to be discursively marking-out territorial claim. Finally, welcoming implies that business has the capacity and indeed right to not welcome government encroachment on their territory—even while this right is not exercised on this occasion. Signalling neither subordination, passivity, nor mere communicative convention, opening submissions with the verb form of ‘welcoming’ categorically marks and begins a discursive process whereby businesses connotes active, affirmative, subject status with undisputed territorial rights.

Second, the majority of business submissions made an explicit self-assertion of sustainable excellence. The Inquiry’s remit of “*Identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains*” was interpreted by most businesses as a cue to advertise their own sustainability credentials—and to do so whether or not these engaged with the issue of modern slavery. While not every submission did this (submission 10, Sustainable Business Australia, for example, reviewed the effectiveness of legislative statute across several national governments), 41 out of the 59 submissions (including 28 out of the 35 submissions by individual businesses) expounded only their own sustainability practices. British American Tobacco (submission 205), for example, used four of its seven page submission to present its “*long standing commitment to human rights*” and its claim to have “*always been industry leaders in this area*” (p. 3); Fortescue Metals Group (submission 59) used six of its 14 pages to advertise how the company “*recognises, respects and works to uphold the human rights of every individual*”; Adidas Group (submission 1) used five of its seven pages; Nestlé Australia Limited (submission 65) eight of its 15 pages, and Woodside Energy (submission 28) all of its two page submission, barring salutation and signature lines. Utilising the call for the identification of “*international best practice of governments, companies, businesses and organisations*” as an opportunity to exclusively advertise one’s own sustainability credentials is a bold assertion of subject status. It may be seen to exemplify the narcissistic preoccupation with self that has been argued to characterise both the corporate form in general (Bakan, 2004) and the CSR agenda more specifically (Roberts, 2001, p. 123): that “*fullest expression of corporate egoism—a demand that the corporation and its agents be seen as both powerful and good*”. Businesses expounding their own sustainable excellence in submissions to the Modern Slavery Inquiry in Australia, suggests a condition in which “*the defense or elaboration of the ‘self’ is routinely privileged over proximate responsibility for others*” (Roberts, 2001, pp. 124–125).

A third means by which submissions to the Inquiry discursively assert businesses’ central subject status is by laying monopoly claim to creative agency. While modern slavery, by definition, may be understood as the elimination or usurpation of the human subject’s creative, self-directive agency (e.g., Crane, 2013; Hare, 1979), a recurring theme in submissions was the privileging of business as *the* creative subject whose agency must be protected. For example, business must have “*flexibility to determine what activities are reasonable and appropriate*” (submission 121, Business Council of Australia, p. 2); we must protect the “*creativity and innovation in how companies seek to understand how goods and services are produced*” (submission 131,

Australian Retailers Association, p. 3); business must be allowed to “*harness creativity and competition to drive innovation in what is done to identify and deal with forced labour in offshore supply chains*” (submission 173, Australian Chamber of Commerce and Industry, point 26, p. 7); we should not limit businesses’ “*unique engagement and critical thinking required to meet the objective of identifying and addressing modern slavery risks and remediating any instances of slavery found*” (submission 81, South 32, pp. 3–4); and business must have “*relative freedom to innovate...that allow identification and rapid response to risk, including in relation to modern slavery offences*” (submission 91, Walk Free Foundation, p. 20). Business here is the agentic, creative subject, the one whose freedom from shackle and constraint must be ensured.

Finally, while the victims of modern slavery are typically voiceless—silenced by threat, distance, or the disinterest of others (e.g., Bales, 1999; Kara, 2017)—business subject-status is of a magnitude that assumes multiple opportunities for voicing and reinforcing their position. The larger business organisations in our data set take full advantage of the liberty to speak by making submissions under a variety of different organisational configurations. Woolworths Group, for example, presented their position under their own name (submission 87), and under several other formations of which they are members, including the Retail and Supplier Round Table Sustainability Council (submission 82), the Australian Food and Grocery Council (submission 77) and the Business Council of Australia (submission 121). Further, while we have not been able to determine whether Woolworths Group have a formal relationship with Sustainable Business Australia, this latter group also highlighted Woolworths Group sustainability credentials (submission 101).

Freedom Denied: Constructing a Circumscribed Realm of Limited Responsibility

Assertions of central, agentic, subject status in the discursive practices identified above, contrasts sharply with the second trope around a discourse freedom that the Australian business submissions deploy. Critics have argued that “(m)odern slavery should be seen not merely as an exogenous problem which firms have a responsibility to address, but as an endemic feature of the socio-economic systems which is in part constituted by firms themselves” (New, 2015, p. 697). The submissions, however, perform a discursive shift whereby previously highly agentic and creative business now lacks the freedom to operate in ways other than those that give rise to the risk of modern slavery.

We can see evidence of this first in the discursive positioning of outsourced labour and opaque, complex, global supply chains as conditions imposed upon, rather than enacted by and profitable for, business. Ausbil Investment

Limited observes that “*At the core of the problem of modern day slavery is the lack of visibility over what may often be very complex and global supply chains*” (submission 19, p. 2), and for the Australian Food and Grocery Council “*modern slavery is a very real human rights abuse that occurs in today’s global supply chains*” (submission 77, p. 4). The supply chain here is exogenous. It is a ‘global’ condition, outside the realm of national business control. It is even a condition suffered by and burdensome for Australian business. For example, Woolworths Group “*like most of today’s retailers and brand manufacturers, faces complex supply chain management issues*” (submission 87, p. 1). The “*complex and multi-tiered nature of supply chains*”, observes the Business Council of Australia, “*can limit many companies’ visibility of what is occurring, particularly where there is outsourcing or subcontracting*” (submission 121, p. 3). To the question of why business does not vertically integrate operations to prevent this troublesome outsourcing, Ausbil’s submission that “*Vertical integration in supply chains is rare and often exists in small pockets only*” (submission 19, p. 2) performs a discursive framing that shifts the lack of vertical integration from a mere statement of fact to an ontological condition.

Given then the reified ‘global supply chain’, the Walk Free Foundation, founded by Fortescue Metal’s Group Australian Chairman, can reasonably argue that “*It is not expected nor realistic that the entire supply chain can be assessed ... It would be an unduly onerous burden on every global business to roll out comprehensive policies and monitor every single supply chain back to source*” (submission 91, p. 18). Therefore, even mining company BHP, the 63rd largest company in the world in 2019 (Masige, 2019), can assert that it would find it “*a difficult, inefficient and potentially unreliable exercise for a company to undertake detailed investigations into the operations and activities of its suppliers, particularly in relation to Tier 2 and 3 suppliers*” (submission. 178, p. 3). Apparently powerless to consider the conditions of labour of their lower tier suppliers, an organisation such as British American Tobacco—undoubtedly cognisant that lower tier subcontractors represent the actual sites of modern slavery (LeBaron & Rühmkorf, 2019)—can self-congratulate their own responsible consideration of tier one suppliers: “*With the highest risks for human rights abuses in our tobacco leaf supply chain, due diligence is conducted on 100% of our first-tier suppliers through the industry-wide Sustainable Tobacco Programme (STP)*” (submission 205, p. 4).

While reifying global supply chains was a dominant theme across the submissions, not every business-based submission to the Inquiry did so. The sustainability consultancy, the ACCSR, for example, highlights how opacity in the supply chain provides opportunities for business to elide responsibility for the conditions of labour they profit from: “*In both the international and domestic spheres,*

the exploitation/insulating capabilities of the organisations are pervasive, specifically accounting opacity and labour supply chain management” (submission 40, p. 7). With reference to the domestic sphere, touched on in the above quote, businesses were not able to deploy the ‘global supply chain’ to discursively position themselves as powerless. Instead, a different framing surfaced. It was now unscrupulous and deceitful labour hire firms who had agency. For example, in the food production and distributions industries, *“Growers are all too often being held accountable for the failures of a ‘phoenixed’ labour hire firm, deliberately mistreating workers and leaving the farmer/grower liable for the intermediaries’ failures*” (submission 191, NSW Farmers, p. 4), and *“Australia has a strong rule of law around this issue and well-established independent agencies that monitor and enforce the laws, however, we acknowledge there are issues with some unscrupulous labour hire companies and accept our responsibility to work with key industry bodies and other stakeholders to help improve labour practices in our supply chain*” (submission 87, Woolworths Group, p. 2). Again, however, ACCSR’s submission to the Inquiry would make a pertinent observation about such arguments: *“there is high labour intensity in many of these industries at the start of supply chain, with the point of value capture further downstream by oligopolistic entities who make high demands of suppliers. For example, the Senate Standing Committees on Education and Employment report on the exploitation of temporary work visa holders acknowledged opinion material that supermarket chains’ dominance of the market could have the effect of determining the price of the product and thereby determining labour costs*” (submission 40, p. 7).

In addition to the discursive construction of a lack of freedom in the use of multi-tier global supply chains or agency in the face of unscrupulous domestic labour hire firms, numerous business submissions also constructed a lack of agency to meet any but the most minimal obligations of proposed legislation. Nestlé, the world’s largest food company, for example, submitted that *“It is our expectation that some respondents to this inquiry will want an Act that makes significantly stronger requirements of business than is the case in the UK Modern Slavery Act. While we appreciate the reasons for this, we are of the view that Australian business is not equipped with the experience to step up to more in-depth requirements*” (submission 65, p. 13). Such is the apparent lack of business agency that BHP, whose tax records show \$33 billion in Australian income in 2016, would argue that having to report in a different format in Australia compared to other jurisdictions would stretch business resources so thinly that it *“would distract companies from the core task of preventing modern slavery practices*” (submission 178, p. 3).

Freedom Endangered: Constructing Business as Victim

LeBaron and Rühmkorf’s (2019) research into business responses to earlier UK modern slavery legislation found business to advocate for “weak laws that merely provide statutory endorsement to existing voluntary CSR initiatives and reporting” (p. 711), laws that may “only require a copy and paste job regarding the statements about supply chain in the companies’ CSR/Sustainability reports” (p. 736). As these authors have observed, following the passing of California’s *Transparency in Supply Chains* legislation multinational corporations launched a ‘transparency coalition’, “to deflect more stringent public initiatives such as the imposition of criminal offenses” and to ensure that legislation in other territories “did not expand existing statutory disclosure duties” (p. 730). Submissions to the Australian Modern Slavery Inquiry also evidenced support for such a minimalist ‘copy and paste’ approach, with ‘transparency’ serving as the grammatical placeholder across the majority of submissions. The submission by NAB illustrates this well, *“NAB considers that introducing a business transparency requirement is an appropriate strategy to help address and reduce modern slavery as those organisations already taking action can quickly and simply articulate the work already underway and planned...”* (submission 54, p. 4).

What our research surfaced too though were discursive moves that augmented support for ‘transparency’ with an implicit construction of business as vulnerable subject, victim almost, whose fragile freedoms were threatened by more stringent legislation. For example, while one might have supposed that the person suffering under conditions of modern slavery bore an incomparably onerous burden, common phrasing across submissions transferred the burden status to business. Taking the case of Phillip Morris, *“Reporting requirements should also be balanced to ensure they do not impose an unreasonable burden on business...”* (submission 179, p. 7); for IATA, *“compliance burden becomes unduly onerous and often conflicting”* (submission 187, p. 2); for the Business Council of Australia, *“The transparency provision in the UK Act has been specifically designed to minimise the burden on business by not dictating the type of activities businesses should undertake or how they should carry them out...The Business Council believes this is a sensible approach”* (submission 121, pp. 11–12); and for the Australian Chamber of Commerce and Industry, it was imperative that any legislation be narrowly restricted to slavery, to avoid the scenario in which *“a wider or generalised mandatory human rights reporting framework”* was imposed on business (submission 173, p. 7).

To keep business free from onerous burdens, the dominant position across the submissions was that any legislation introduced by the Australian federal parliament

around modern slavery must be without penalty or consequence for business. Included here is the stipulation that not complying even with the minimal reporting requirements of the Act should be penalty free. Thus, for Norton Rose Fulbright, “*The legislation should not include fines or other penalties for non-compliance with the reporting requirement*” (submission 72, p. 3); for mining company South32, any new Act must “*encourage businesses to examine their supply chains and identify instances of modern slavery without fear of liability*” (submission 81, p. 4); and for the Walk Free Foundation, “*Our approach must be to encourage business to look and find, and to be open about what they discover. As a community, we must support not shame them*” (submission 91, p. 5).

Rather than penalty or legal liability for non-compliance, the neoliberal market mechanism of reputational risk would be sufficient. As the Australian Food and Grocery Council averred, “*In line with the Australian Government’s deregulation agenda, the Committee may consider whether the measures outlined above can be built upon, recognising that there is a significant reputational incentive for businesses to be proactive in addressing human rights concerns including modern slavery*” (submission 77, p. 4); similarly, for the National Australia Bank, “*Whilst there here are no material statutory sanctions for non-compliance to accompany these requirements, the principle deterrent for not taking steps to publish a statement is driven largely by the potential reputational risk of no action. This can be a strong motivator for public companies with well-known brands. NAB supports this non-punitive approach*” (submission 54, p. 4).

Not only should the proposed Australian legislation entail minimalistic transparency expectations—and contain no penalty, liability, shame, or other punitive measures for non-compliance—multiple submissions stressed that businesses that chose to comply must be assured that they would not suffer commercially for doing so. Here the trope of the ‘level playing field’ surfaced across multiple submissions. For example, the Walk Free Foundation argued that “*We must help drive responsible corporate behaviour, accountability and provide a level playing field for those businesses implementing best practise to minimise the risk of being undercut by those that turn a blind eye to the modern slavery that supports their business*” (submission 91, p. 6); and for NSW Farmers “*Should any legislated supply chain-wide accreditation scheme be developed, regulators must ensure that this does not lead to suppliers preferring less well regulated, overseas produce in place of Australian produce... Any scheme should consider offshore practices to ensure Australia does not legislate a competitive disadvantage for local growers*” (submission 191, p. 5). In those submissions that stressed the imperative not to be commercially disadvantaged, it was not made explicit whether Australian

business should reserve the right to keep using modern slavery in its supply chain if a level playing field could not be ensured.

This third discursive construction of freedom, then, positions business as threatened by onerous and burdensome legislation; legislation which must not contain liability for non-compliance; and legislation that must be crafted in such a way as to protect the commercial interests of Australian business. To draw up legislation other than the above would be to endanger deregulated, emancipated, business—shackling it with new regulatory burdens and rendering business a victim of attempts to combat modern slavery. In case such a construction of neoliberal-businesses’ potential victimhood at the hands of the state needed underlining further, it is worth noting that several submissions insisted that any statutory requirements apply not just to business alone, but also to all branches of the Australian state that engage in procurement.

Conceptual Analysis: (Modern) Slavery, Business and Freedom

In our critical discursive analysis of business submissions to the Australian inquiry into establishing a Modern Slavery Act, we have been concerned to connect the text of the submissions to a longer socio-historical-political context. Specifically, we have sought to surface the ways that these texts reproduce a neo/liberal privileging of freedom for the propertied over and above those who are without—or those who are, symbolically or actually, property themselves. Here, we pursue the discourse analytic concern to connect text and context further by noting a number of similarities between certain of the discursive tropes used by contemporary Australian business to minimise their legal accountability for modern slavery and those deployed by business interests in a previous era to resist the slavery abolitionist movement. Tracing similarities in the discourses employed in both eras, we would argue, further helps a critical project of denaturalising business responses in the present. Doing so helps to combat tendencies towards hegemonic closure (Laasonen et al. 2012) by showing how our modern era’s dominant discourses of neoliberal property rights and commercial freedom (Mark-Ungericht and Weiskopf, 2007) may, in this case, be related to ethically repugnant historical assertions of business interests over and above those of enslaved persons. And, while our paper remains, fundamentally, an empirical examination of a contemporary case, and wishes to make no assertion of a linear or unidirectional reading of a history of ethically problematic business practices, tracing certain discursive similarities between business responses now and those of the disreputable past goes some way towards countering the inaccurate “optimistic historical metanarrative”

(Smith and Johns 2020, p. 271) that flavours much of the writing on business responses to modern slavery.

We discuss in this section how the responses, arguments and positions presented by modern Australian businesses evoke certain historical calls for the privileging of commercial freedoms demonstrated in business community responses to 18th and 19th Century abolitionist movements. The need to show the connection with the past engages with the work of others (e.g., Cooke, 2003). In our case, we wish to highlight historical echoes of the ways that certain business interests sought to delay, water-down, or render under their own control, attempts at ameliorating slavery.

The history of the 18th and 19th Century abolition of slavery movements present many examples of business interests seeking to minimise legislative prohibition of a highly profitable and fully subordinate labour force (Freese, 2020). Drawing on one such example, the slave plantations of colonial West Indies, Britain's abolition of the trade in slaves in 1807 was accompanied with hopes that this would "induce West Indian planters to improve the treatment of slaves and begin to transform them into a self-reproducing peasantry, thereby obtaining the supposed economic advantages of free labour" (Davis, 2014, p. 264). Harrowing reports received by missionaries and others showed that this hope was far from realised—with plantation owners demonstrating a determination to extract from their property the maximum possible labour value. Facing public and political calls for legislation to emancipate this captive labour force, the powerful Society of West Indian Planters and Merchants mounted a campaign to delay abolitionism by publicising the claim that their own voluntary paternalism and "moral progress had already transformed British colonial slavery into a humane and highly paternalistic institution" (Davis, 2014, p. 264): "the spontaneous kindness and humane disposition of their owners...a mild and discrete exercise of authority on one part[,] of a cheerful and willing obedience on the other[,] a reciprocity of good feeling will be established almost superseding the necessary of Legislative Control" (Colonial Office records in Davis, 1984, p. 193). By combining this public relations campaign, with very significant commercial influence, and effective lobbying of government, more stringent legislation to manumit slaves was offset for another two decades.

"To the delight of the planters and merchants, who had conferred with government, George Canning, leader of the House of Commons...presented the government's own ameliorative resolutions...While Canning vaguely committed the government to future emancipation, he made it clear that planters themselves would be the agents for slow, step-by-step change. And by 1830 it was clear that planters had successfully resisted any major amelioration" (Davis, 1984, p. 193).

When the delayed legislation for the abolition of West Indian Slavery finally eventuated, property interests were still insinuated into the agenda of the abolition of slavery. Post 1830, overwhelming and unprecedented British public sentiment for the immediate emancipation of West Indian slaves was again met with persistent and effective lobbying by planters, merchants and those with significant property interests. This saw the 1832 legislation for emancipation drafted in a way that, far from penalising West Indian business interests for the exploitation and mistreatment of slaves, recompensed their property claims. Thus the 1833–4 emancipation of 780,000 colonial slaves, was accompanied with a payment of 20 million pounds compensation to their supposed owners, with the newly freed slaves transferred onto compulsory 12 year 'apprentiships' that compelled them to work under slave-like conditions, without remuneration, for the same masters, for three quarters of their labour time (Davis, 1984, p. 108).

There is resonance here with the present. Not because business submissions to the Inquiry in Australia called for business to be compensated if they were not to use modern slaves in their supply chain—none were so bold as this. Rather it echoes in the present because there were nevertheless a variety of ways that submissions sought to insert commercial interests into the centre of the modern slavery agenda. These included the insistence that legislation be non-onerous for business, that it contained no penalty for non-adherence, that reporting requirements were formulated in such a way that provided the lowest cost for business, that business might merely report what it was doing already as part of its voluntary CSR activity, and that Australian businesses be in no way commercially disadvantaged by actions they might take not to use modern slaves in their supply chain. An example of the latter being a passage from NSW Farmers' submission, which manages to reframe a contemporary account of slave labour in Italy into a concern for Australian business competitiveness,

"Should any legislated supply chain-wide accreditation scheme be developed, regulators must ensure that this does not lead to suppliers preferring less well regulated, overseas produce in place of Australian produce. We note here the example cited in The Australian newspaper on 30 January 2016 where it reported slavery in Italy where the majority of Australia's imported tomatoes are sourced. Any scheme should consider offshore practices to ensure Australia does not legislate a competitive disadvantage for local growers." (submission 191, p. 5)

As with the historical example of UK capitalists with property interests in the West Indies, Australian business lobbied—successfully as it turned out—for a watered-down legislative response. In the Australian case, this lobbying

was against legislation that contained provision for penalties, prohibition, or prosecutions for continual use of modern slaves. Rather than anything legally binding, it would be, to quote Tocqueville (1843), “the enlightened will of the master” (in Davis, 1984, p. 110) that would, apparently, attend to the issue of (modern) slavery. Thus, Australian business pushed for, and secured, a response to modern day slavery that rested on nothing more than businesses voluntary efforts and non-compulsory reporting—enforced only by the vague spectre of reputational risk.

A second historical echo sounds in the ways that those business interests which advocated for the abolition of slavery did so in a way that sought to ring-fence this one form of domination from others that they had commercial interests in sustaining. Several prominent British capitalists in the late 1700s and early 1800s, under religious, civic or commercial grounds, added their voice to the call for the abolition of slavery in the colonies. Such a call for the abolition of slavery came from owners of factories that were simultaneously visiting excesses of exploitation on the ‘free’ labour in their own industrial premises. Such a situation was not lost on proponents of slavery themselves, who.

“...contrasted the alleged comfort and security of West Indian slaves with the oppression of English workers and the plight of English children exposed to the ‘pestilential vapour’ of factories. Francklyn pointedly asked why universities did not offer prizes ‘for the best dissertation on the evil effects which the manufactories of Birmingham, Manchester, and other great Manufacturing towns, produce on the health and the lives of poor people employed therein?’ [...] Francklyn was probably not surprised when Lancashire manufacturers took the lead in 1787 in initiating the great petition campaign to abolish the African slave trade” (Davis, 1987, pp. 799–800).

For British capitalists advocating for the abolition of slavery, such as these Lancashire manufacturers, it was essential that a distinction be made between the plight of the colonial slave and that of the local ‘wage slave’; between the exploitation they condemned abroad and that which they relied upon at home. Here again, a parallel with elements of the Australian business submissions on modern slavery can be suggested. This may be seen, for instance, in the aforementioned attempts of submissions to limit responsibility to tier one suppliers or the construction of modern slavery as an exogenous condition “and not as something that might be connected with the underpinning economic systems which support the ‘good firms’...for example, relentless cost cutting and the exercise of brutal commercial power” (New, 2015, p. 701). However, perhaps the most explicit examples of the attempt to demarcate legislative focus on modern slavery from other potential labour issues may be found in

the Australian Chamber of Commerce and the Australian Retailers Association submissions:

“To enjoy the support of employers, any anti-slavery measures must be confined to addressing actual slavery...Slavery must be forced labour or compulsory labour only, as per ILO Convention 29 which was confirmed in the 2014 Protocol” (submission 131, Australian Retailers Association, p. 2).

“[the legislation] should not become an attempt to impose a wider or generalised mandatory human rights reporting framework [p. 7] ... To do so would risk being inconsistent with the carefully calibrated basis on which the business and human rights interface has been addressed at the global level” (submission 173, Australian Chamber of Commerce, p. 8).

Writing of the historic antislavery movement, preeminent historian of slavery, David Brion Davis, argued that it:

“reflected the needs and values of the emerging capitalist order...the belief that all classes and segments of society share a natural identity of interest. The anti-slavery movement, while absorbing the ambivalent emotions of the age, was essentially dedicated to a practical demonstration of the same message” (Davis, 1975, p. 71).

For Davis, the “attack on a specific system of labour and domination” served to “also validate other forms of oppression and test the boundaries of legitimate reform” (Davis, 1975, p. 71). We contend that Australian business submissions to the Parliamentary Inquiry into Establishing a Modern Slavery Act in Australia evoked ethical–political discourses of freedom to do likewise.

Discussion

This paper has examined the ethics of the Australian business community’s responses to the phenomenon of modern slavery. We drew upon a data set of submissions by businesses and business representatives to the Australian government’s *Joint Standing Committee on Foreign Affairs, Defence and Trade* ‘Parliamentary Inquiry into Establishing a Modern Slavery Act in Australia’—which preceded the signing into law of Australia’s *Modern Slavery Act 2018*. This allowed us to examine the business community’s discursive construction of the ethical–political concept of freedom. Australian businesses’ simultaneous assertion, monopolisation, denial and claimed threatened-status of freedom articulated in their submissions to the Modern Slavery Inquiry was argued to resonate with a longer neo/liberal history within which freedom has been a strategically employed discourse, promoting the emancipation of property. We showed how ‘freedom’

was discursively employed by Australian business in a manner that privileged their own subject status and advocated for legislation with minimal burden. In presenting the above, our paper has sought to make a contribution primarily to two bodies of literature: (i) literature that has utilised a critical discursive approach to examine the constructions of ethics in the business realm, and (ii) literature examining businesses relationship with and responses to (modern) slavery.

On the former, our research reinforces the finding that ethical discourse may be used by business to frame and shape ethical public issues to their own advantage. Dahan and Gittens (2010), for example, found that when responding to activist's and other's ethical argumentation against slavery in regard to cocoa production, business felt compelled to respond "with an alternative ethical argumentation, rather than, say, an economic argumentation" (p. 242). Our research bolsters this finding, demonstrating how a three-fold ethical-political discourse of freedom was utilised across business submissions to the Australian parliamentary inquiry to argue for minimal legislative burden.

Like previous work that has undertaken a critical discursive analysis (see Hardy et al. 2000), our research demonstrates how discourse analysis can surface attempts by powerful organisations to set the agenda "for what is discussed, how it is discussed, who is heard, and who is silenced" (Dunn & Eble, 2015, p. 720); can demonstrate "(t)he use of discourse as a means of constructing reality in a way that benefits the company at the expense of society" (Beelitz & Merkl-Davies, 2012, p. 115); and can bring to the fore attempts to "dominate the field of discursivity [and] fix meanings through hegemonic articulations" (Laasonen et al. 2012, p. 523). And it can do so, as Dahan and Gittens (2010) and our own research attests, *within* rather than *outside* of ethical discourse.

Moving specifically to our discursive examination of the concept of freedom, identifying that business utilises a discourse of freedom to advance their own interests is not in itself a novel contribution. As we argued earlier regarding the foundational meanings of freedom/liberty in liberal and neoliberal thought, property interests and capital have always intersected with a neo/liberal concept of freedom (Friedman, 1962; Hayek 1960). Previously, Mark-Ungericht and Weiskopf (2007), identified how an economically privileging, neoliberal freedom has penetrated into all areas of contemporary social and economic life. Our paper reinforces this finding, showing how—even with regard to as ethically-charged an issue as other's actual illiberty—neoliberal business is unabashed in evoking a discourse of freedom in a manner that furthers its property interests. We have contributed further by providing necessary empirical nuance to this point: demonstrating the varied, subtle, seemingly contradictory, but ultimately interlocking ways that discourses of freedom may be deployed to reinforce business interests.

In focussing on the discursive use of freedom in the specific realm of (modern) slavery, our research contributes an addendum to the editorial essay by Shabbir et al. Through extensive historical analysis Shabbir et al. (2020) show a discourse of freedom was used in a progressive manner by British abolitionists in their anti-slavery campaigning. Our paper, in contrast, identified the more *regressive* nature of the contemporary Australian business community's use of this discourse to limit legislative intervention. These findings are not, we suggest however, contradictory. Indeed, finding that discourses of freedom may be utilised both to combat forms of slavery *and* to resist attempts to effectively do so has received support in Freese's (2020) recent work. Examining commercial, state and other entity's arguments around abolitionism, Freese shows—as per Shabbir et al.—how eighteenth century abolitionists invoked principles of liberty to push for the end of the slave trade. However, Freese reveals how those representing the commercial interests of slave traders also utilised a discourse of liberty to argue for the continuation of slavery: arguing, variously, that the slave's liberty was in actuality greater than that of the working classes of Great Britain, that socialising the uncivilised slave in the disciplines of labour was preparing them for being able to understand and exercise liberty at some future stage, and that abolishing slavery would effectively end the liberty the slave currently enjoyed by being fed, clothed and housed by the master. Freese (2020), Shabbir et al. (2020), and our own examination of discourses of freedom, deployed by different parties, and for radically different strategic purposes with regard to issues of (modern) slavery, each serve to reinforce Shabbir et al.'s argument that freedom is an "ambiguous, value-laden, and contested" concept that "camouflages differing connotations" (p. 2). Appreciation of the ambiguous, contested and contestable, nature of ethical discourse, we suggest, pushes all the more strongly for research in business ethics—such as that presented here—which closely scrutinises the discursive framing of ethical concepts.

Turning from our contributions to the body of work undertaking a discursive analysis of ethics, to our contributions to the literature on modern slavery itself, our first contribution has been to study businesses responses to modern slavery in a major economy, in a region at high risk of incidence of modern slavery, which has hitherto been relatively neglected by researchers. Apart from a small number of papers published in legal and human rights journals focussing on the final legislation passed by the Australian government (e.g., Nolan & Bott, 2018; Sinclair & Nolan, 2020), few other works have examined Australian business responses to modern slavery. Christ and Burritt (2018) is a notable exception. Like our paper, Christ and Burritt (2018) engaged with submissions to the Australian modern slavery Inquiry itself, providing a useful initial overview, coding

and tabulation of these. Our research adds to this work, contributing detailed empirical analysis of the discourses and discursive strategies employed.

Through this finer-grained, discursive analysis, our paper has contributed also to research documenting strategies employed by business actors seeking to impact national policymaking on modern slavery. LeBaron and Rühmkorf's (2019) analysis of struggles over the 2015 UK Modern Slavery Act, for example, highlighted a number of strategies by business entities which we also identified in the Australian case. For instance, UK business sought to "derail efforts to raise public labour standards by lobbying *for* legislation—albeit a weak version of transparency legislation—and by positioning themselves as part of the societal coalition pushing for governmental action to combat slavery in global supply chains" (p. 711); to push for voluntary, penalty free, legislation; to push for legislation that merely endorses existing CSR-derived activities; and requires only "a copy and paste job regarding the statements about supply chain in the companies' CSR/Sustainability reports" (p. 736). Our research reinforced each of these findings, demonstrating their duplication in the Australian context. Through our analysis of the Australian submissions, we also identified a number of additional strategies, including large corporate entities voicing their positions multiple times through different bodies, associations, and coalitions; the discursive framing of modern slavery as an exogenous problem of complex supply chains, a problem suffered by and not the responsibility of business itself (see New, 2015); a strategy of constructing business as powerless to, and overstretched if it were to attempt to, respond to the problem of modern slavery; a strategy of deflecting attention from tier 2 and 3 suppliers, where the primary risk of modern slavery adheres, to only being accountable for consider tier 1; and a strategy of overemphasising reputational incentives for corporate compliance as a means of explicitly deflecting from more effective and punitive legislative provisions. Taken together, research such as LeBaron and Rühmkorf (2019) examining the UK context, and our own examining the Australian context, argue for and contribute to "better recognition of the diverse mechanisms that industry actors use to weaken and oppose public regulation" (p. 711).

While focussed on contemporary Australian data, our study sought also to situate the discourses utilised by business in this case in some historical context. By doing so, we were mindful of Smith and John's (2020) critique of much of the modern slavery literature as "largely ahistorical" and reproducing an inaccurate "optimistic historical metanarrative" (p. 271). Our contribution to countering this optimistic historical metanarrative showed how Australian business responses mapped onto classical liberal and neoliberal ethics in which the freedom of the

propertied took precedent over that of the property-less. Further, we demonstrated certain discursive similarities between some of the positions presented by modern Australian businesses and those seeking to privilege commercial freedoms in opposition to 18th and 19th Century abolitionist movements. By doing the above, we have sought to contribute towards contesting the potential for hegemonic closure (Laasonen et al. 2012) around the topic of business responses to modern slavery, coalescing around a self-congratulatory narrative of businesses support for modern slavery legislation (LeBaron & Rühmkorf, 2019).

In contrast to a self-congratulatory, or optimistic metanarrative, our examination of business submissions to the Inquiry contributed an explicitly critical reading of Australian businesses' discursive agency. It might be posited that what businesses write or say about modern slavery is only that—just writing or speech—just discursive utterances that may not be translated into their subsequent actions. That, in short, a more optimistic and generous reading than we argue here should be made. For us, however, the discourses that business use to represent itself are not mere presentation, a surface gloss detached from some separate ethico-political reality. Rather, the discourses that business employs signal the realities that business interests wish to see, wish to construct, and are bringing into being. And the reading we have made here—of Australian businesses' discursive construction of minimal legislative accountability and responsibility for modern slavery—does, regrettably, seem to be borne out in other jurisdictions. For instance, large Australian financial institutions have already been "remarkable for their mediocrity" (Dean & Marshall, 2020, p. 66) in terms of their reporting quality over three cycles of the UK *Modern Slavery Act*. More broadly in the UK context, disclosures and compliance with modern slavery reporting are highly uneven across industry sector and are not positively influenced by media exposure or scrutiny (Flynn, 2020). Others note the largely symbolic, disappointing, compliance of many UK employers (Monciardini et al., 2021), as well as UK business complicity in sustaining exploitative supply chain practices and ignoring those directly impacted by modern slavery (see Ras & Gregoriou, 2019). In California there are also indications of a low quality of business disclosures of their treatment of the issue, with symbolic rather than substantive effects (see Birkey et al., 2018). More generally in the U.S., there are reports of employers commonly ignoring and turning a 'blind eye' to modern slavery (Pierce, 2011). These other works, examining jurisdictions other than Australia, sadly lend support to our critical reading of Australian businesses' discursive privileging of their property interests over and above the plight of those enduring modern slavery.

Conclusion

Overall, our paper has made an original empirical contribution to our understandings business responses to modern slavery, using a critical discourse approach to do so.

Reflecting on the scope of our paper, we note some limitations. For example, we are mindful that business was just one stakeholder making submissions to the Inquiry towards the introduction of a Modern Slavery Act in Australia. We did not investigate the discursive constructions of other stakeholder submissions, though we understand that these may also be designed to advance particular interests (see Dahan & Gittens, 2010; Robinson, 2015). Nor did we trace forensically each stakeholder's lobbying to ascertain their specific influence on the passage of the final Act. The introduction of any legislation is subject to numerous dynamics, including political party contestation and intricacies of the law-making process in democratic countries. Tracing these connections and intricacies was beyond the scope of the current work.

What we have contributed, however, is the first detailed analysis of Australian business's discursive construction of the issue of modern slavery: businesses operating in a region at high-risk of modern slavery in the supply chain. Our work dovetails with existing research that has examined businesses' discursive construction of ethics, and the concept of freedom in particular. It has served to demonstrate how business may seek to deploy ethical discourse in a manner that diminishes responsibility and advocates for minimalist legislative accountability on matters of ethical significance to the wider community.

Declarations

Conflict of interest The authors declare that they have no conflict of interest.

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