

Philanthrocapitalism's Market-Friendly Solution

From the experience of all ages and nations, I believe, that the work done by free men comes cheaper in the end than the work performed by slaves.

—Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*

The realities of global trade and commerce make it inevitable that products generated by modern slavery will travel across borders and into higher income countries where the prevalence of modern slavery is low.

—Walk Free, *Global Slavery Index*, 2018

Created by Australian Christian philanthropist and mining magnate Andrew ‘Twiggy’ Forrest and his wife, Nicola, in 2012, Walk Free Foundation (Walk Free), an initiative of his Minderoo Foundation, quickly became the key player in the new abolitionist network formed to combat modern slavery and a pivotal global governance actor. Walk Free exemplifies the role and significance of philanthrocapitalists, who use their money, business savvy, and elite contacts to shape global policy in general and modern slavery policy in particular.¹ Philanthrocapitalists purport to inject philanthropy with the dynamism of capitalist enterprise by mobilising market forces and imposing business management models. They support projects with outcomes that can be quantified and measured.² Philanthrocapitalists exemplify the use of the market as a logic of social ordering, one of the key features of neoliberalism. They claim they are reinvesting the rewards of the rich for the benefit of the

¹ Chuang, ‘Giving as governance?’, 1516–1556.

² Mediavilla and Garcia-Arias, ‘Philanthrocapitalism as a neoliberal (development agenda) artefact’, 857; McGoey, ‘Philanthrocapitalism and its critics’, 185; and Bishop and Green, *Philanthro-Capitalism*.

poor by using business strategies to create resources for, and solutions to, problems that governments have been unable to solve.

'Harnessing the power of businesses and faiths', Walk Free seeks to drive legislative change in key countries to end modern slavery.³ Its strategy has three interwoven strands: (1) defining, depicting, and measuring the problem; (2) establishing an elite network to influence policy and legislation; and (3) financing antislavery initiatives. These strategies have had a profound influence on the shape and orientation of recent attempts to govern the global problem of slavery. Either directly or through the charitable foundations they control, philanthropists who head transnational corporations have taken the lead in defining the problem of modern slavery, identifying the appropriate solutions, and steering the direction of development funds towards eradicating it. They portray slavery in supply chains as resulting from market failure and depict the control large transnational corporations have over their supply chains as an antidote to the limits of state sovereignty in the context of global capitalism. Thus, they advocate for market-based solutions to the problem of modern slavery – such as supply chain transparency and mandatory human-rights due-diligence legislation – that enlist transnational corporations located in the Global North to enforce international legal standards against contractors located primarily in the Global South. Laws that target modern slavery in supply chains partially detach sovereign authority from territory by delegating such authority to corporations to enforce the standards extraterritorially, projecting struggles against labour exploitation into a 'privatised sphere of corporate self-governance'.⁴ Circulated through an elite network, this solution is widely accepted by such key states as Australia, the UK, and the United States, international organisations, religious institutions, and civil society organisations.

In contrast to the philanthrocapitalist's account of modern slavery, those who adopt a critical political-economy perspective argue that international and transnational trade and financial agreements have created conditions for multinational corporations to lower labour costs by outsourcing production and increase their control over the labour supply.⁵ Instead of depicting the governance problem as a gap in the authority of states in the Global North to control bad actors in the Global South, critical political economists view the current multiscalar economic governance regime as creating a set of rules that

³ Walk Free, *Global Slavery Index*, 2018, 6.

⁴ Prentice, 'Labour rights from labour wrongs?', 1780; and Sarfaty, 'Shining light on global supply chains', 421.

⁵ LeBaron, *Combatting Modern Slavery*, 1–22.

enable transnational corporations in the Global North to shift competitive pressures down the chain, thereby cultivating conditions that produce modern slavery in the Global South. Seen from this angle, modern slavery laws shore up the legitimacy of the global economic order by aligning transnational corporations with individual morality and by celebrating individual freedom, which is equated with free contracting.

How did Walk Free become an influential actor in the global antislavery governance network? What governance strategies did it promote? To answer these questions, this chapter shows how Walk Free assembled an ethical business alliance that positioned transnational corporations (mainly from the Global North) as the key actors in combatting modern slavery in supply chains. It concentrates on Walk Free's business-led proposals to tackle slave-made goods transmitted across national borders through supply chains and how Walk Free portrayed the transnational scale of the problem and the limited territorial jurisdiction of states as reasons to support business-led solutions. Walk Free's attempt to shape the global consensus on how best to rid supply chains of modern slavery illuminates the critical role philanthropocapitalists have come to play in global governance strategies.

THE NEW ABOLITIONISTS AND THE GLOBAL PROBLEM OF MODERN SLAVERY

The antislavery governance network emerged in the late 1990s out of a struggle over how to frame the problem of human trafficking. Before that decade, human trafficking was approached as a problem of organised crime and unlawful migration rather than a human rights or labour rights issue. Human rights institutions and activists tried to expand how human trafficking was framed and advocated for a broader range of solutions.⁶ Their explicit goal was to rethink 'trafficking as one form of contemporary slavery' and their emphasis was on exploitation, not movement or migration.⁷

They linked up with new abolitionists to focus initiatives less on sex and individual perpetrators and more on labour exploitation and its structural causes.⁸ They took up the phrase 'new abolition' because they found in the history of the legal abolition of slavery (with its emphasis on the role of nineteenth-century British and American evangelicals in ending the trans-Atlantic trade in African slaves) a strategic framework, a prototype for tactics,

⁶ Brysk and Choi-Fitzpatrick, *From Human Trafficking to Human Rights*, 3.

⁷ *Ibid.*

⁸ Choi-Fitzpatrick, 'Rethinking trafficking', 13–24; and Chuang, 'Exploitation creep', 609–649.

and a source of ethical and political inspiration.⁹ Located primarily in Australia, the UK, and the United States, new abolitionists mobilised the iconography and narratives of historical forms of slavery to highlight its new forms and emphasise slavery's continued moral repugnance.¹⁰ They portrayed modern slavery as a form of evil¹¹ and characterised the early crusades against the slave trade as 'the world's first and oldest social movement for human rights'.¹²

Celebrated as the 'world's leading expert on contemporary forms of slavery', new abolitionist Kevin Bales is regarded as being responsible for the modern slavery frame.¹³ An influential norm entrepreneur, he insisted on using the word 'slavery' instead of 'human trafficking'.¹⁴ Through a series of influential books that began with *Disposable People: New Slavery in the Global Economy* (1999), he defined modern slavery as 'the total control of one person by another for the purpose of economic exploitation'.¹⁵ In 2000, he founded the US-based Free the Slaves, one of the most prominent antislavery organisations, and continues to be a key player in the global antislavery network: he sits on the boards of influential private funders, consults for private foundations, and directs the research of a key university human rights centre devoted to ending modern slavery. Bales emphasises that modern slavery is embedded in the global economy and connected across the world via supply chains.¹⁶

Faith-based groups are prominent actors in the global antislavery network.¹⁷ Evangelical Christians were influential in shaping antitrafficking

⁹ Quirk, *The Anti-Slavery Project*; and Choi-Fitzpatrick, 'From rescue to representation', 486–503.

¹⁰ Bales, *Disposable People*; Bales, 'Slavery and the human right to evil', 53–63; Kara, *Sex Trafficking*; Quirk, *The Anti-Slavery Project*; and Gross and Thomas, 'The new abolitionism', 99–118.

¹¹ Bales, 'Slavery and the human right to evil', 53–63.

¹² Choi-Fitzpatrick, 'From rescue to representation', 487.

¹³ Ibid., 499; Dottridge, 'Global trafficking prevalence data', 161–164; Gross and Thomas, 'The new abolitionism', 99–118; and Quirk, *The Anti-Slavery Project*, 159.

¹⁴ Murphy, 'The new slave narrative', 382, 388.

¹⁵ Bales, 'Slavery and the human right to evil', 6.

¹⁶ Bales was a cofounder of Free the Slaves in Washington, DC, and he was the lead author of the *Global Slavery Index* (GSI) in 2013, 2014 and 2016. He now serves on the GSI Expert Working Group. He served as a consultant to the UN's Global Programme against Trafficking in Human Beings, and he edited an antihuman trafficking toolkit for the UN. In addition to *Disposable People*, his books include *Ending Slavery: How We Free Today's Slaves* (2007) and *Blood and Earth: Modern Slavery, Ecocide, and the Secret to Saving the World* (2016). He currently sits on the Freedom Fund and is the director of research at the Nottingham Human Rights Lab.

¹⁷ Bales and Gardner, 'Free soil, free producers, free communities', 85–88.

policy under the Bush administration, and they, along with other faith groups, were drawn to the broader fight against modern slavery.¹⁸ The Catholic Church was involved in propagating the image of modern slavery as a pressing social problem.¹⁹ And the emphasis on rescue and salvation was particularly appealing to the new abolitionists' Christian evangelical wing.²⁰ The International Justice Mission, which describes itself as the largest anti-slavery organisation in the world, is a US-based Christian evangelical organisation that mobilises churches and their members to support its model for ending slavery, which is to 'rescue and restore victims, bring criminals to justice, and strengthen justice systems'.²¹ Developed by the Catholic Bishops' Conference of England and Wales in 2014, the Santa Marta Group is an alliance of international police chiefs and Catholic bishops who work with civil society to eradicate human trafficking and modern-day slavery.²² Faith functions as a motivating force in the new abolitionists' network; it provides a framework for understanding the problem of modern slavery and imagining its solution.

The bicentenaries of the abolition of the slave trade (in Britain in 1807 and in the United States in 1808) fuelled campaigns to expand 'human trafficking' to include all forms of modern slavery. A flurry of antislavery organisations, many of which had strong ties to religious organisations, were established, including Stop the Traffik in 2006, Not for Sale and Alliance to End Slavery and Trafficking in 2007, and End Slavery Now, Unseen, and Justice and Care in 2008.²³ On their bicentenaries, the British and US governments linked the fight against human trafficking to the abolitionist movement to end the slave trade. The UK published an Action Plan on Trafficking, invoking as a historical precedent the Slave Trade Act 1807,²⁴ which abolished the slave trade in the British Empire.²⁵ The United States introduced the Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,²⁶ named after the

¹⁸ Choi-Fitzpatrick, 'To seek and save the lost', 119–140; and Leary, 'Religious organizations as partners', 51–60.

¹⁹ Broad and Turnbull, 'From human trafficking to modern slavery', 127.

²⁰ Choi-Fitzpatrick, 'To seek and save the lost', 119–140; and Kurasawa, 'Show and tell', 170.

²¹ International Justice Mission, 'Trafficking and slavery'.

²² Santa Marta Group, 'About'.

²³ Chuang, 'Exploitation creep', 627; O'Connell-Davidson, *Modern Slavery*, 7; and LeBaron and Rühmkorf, 'Steering CSR through home state regulation', 15–18.

²⁴ An Act for the Abolition of the Slave Trade, 47 Geo III Sess. 1, c. 36 (*Hansard*, 10 February 1807).

²⁵ Fudge and Strauss, 'Migrants, unfree labour, and the legal construction', 160–179.

²⁶ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 (2008), 22 USC 7101.

evangelical British politician and philanthropist who championed the end of the British slave trade.²⁷

The term 'modern slavery' was stretched to include chattel slavery ('old slavery'), forced labour, human trafficking for labour exploitation and prostitution, and forced marriage, among other practices, enabling new abolitionists to advocate for a multifaceted approach to modern slavery. They saw it not simply as a problem in need of a legal solution but also as 'a problem of economic development, migration, gender, prejudice, corruption, and political priorities and will'.²⁸ They emphasised the role of social movements, religious organisations, governments, and intergovernmental actors (from the UN to the World Bank) in the fight to end different forms of modern slavery, such as forced labour, sex trafficking, forced marriage, or child soldiers.

But what was distinctive about the new abolitionists' approach is that they regarded business and consumers as key actors in the fight against modern slavery. They proposed laws to confiscate goods or services made or provided by exploited labour and urged the adoption of naming and shaming campaigns to unleash consumer power to end modern slavery in supply chains.²⁹ Their emphasis on the role of Christian abolitionists and liberal nations in abolishing the Atlantic slave trade provided a historical prototype of benevolent paternalism that was irresistible to key actors in the emerging global governance network.³⁰ They cast modern slavery as a moral imperative that transcended political or economic interests.³¹ By defining slavery as a 'unique moral aberration', the new abolitionist discourse, like that of their nineteenth-century forbearers, gave 'sanction to the prevailing economic order'.³² Its focus is on the actions of individual evildoers rather than on the broader social relations and institutional configurations that create the conditions in which unfree labour is propagated.

The broad range of practices caught under the umbrella of 'modern slavery' also provided room for a diverse group of organisations and actors to take different approaches to the same problem and to focus on different types of modern slavery. The multifaceted approach favoured by international organisations accommodates a hardline criminal approach to prosecuting and incarcerating sex traffickers with a focus on the human rights of victims and the labour rights of migrant workers. The legal assemblage of jurisdiction sorts

²⁷ Chuang, 'Exploitation creep', 624.

²⁸ Bales and Choi-Fitzpatrick, 'The anti-slavery movement', 201.

²⁹ *Ibid.*, 210–214.

³⁰ O'Connell-Davidson, *Modern Slavery*, 11–12; and Quirk, *The Anti-Slavery Project*, 248.

³¹ Walk Free, *Measurement, Action, Freedom*, 10.

³² Davis, 'The problem of slavery in the Age of Revolution', 63.

different governance projects such as transnational sex trafficking and forced labour in supply chains into different institutions and, in doing so, keeps them from clashing. It also reinforces gendered borders between different forms of unfree labour. Sexual exploitation and prostitution, which predominantly involve women and girls as victims, are treated differently from labour exploitation, where most of the victims are men.

In 2012, when he declared that modern slavery was the ‘true name’ of human trafficking, US president Barack Obama claimed that it ‘ought to concern every business, because it distorts markets’ and ‘every nation, because it endangers public health and fuels violence and organized crime’.³³ In 2013, the Centre for Social Justice, a think tank established by a prominent Conservative politician, Ian Duncan-Smith, and influenced by the Catholic Church, released a report, which put pressure on the Conservative-Liberal Democrat coalition government to enact legislation.³⁴ As we will see in Chapter 6, the UK government passed the Modern Slavery Act 2015,³⁵ which requires large corporations to disclose the efforts they have made to detect and eliminate modern slavery in their businesses and supply chains.

While key states and activist networks were adopting the modern slavery frame, an epistemic community of experts on modern slavery was being established. Jean Allain, a professor of international law, set up the Research Network on the Legal Parameters of Slavery consisting of academic researchers, including Kevin Bales, and representatives of Free the Slaves and Anti-Slavery International. Its goal was to develop an understanding of the definition of slavery provided in the 1926 Convention for the Abolition of Slavery,³⁶ a definition suitable for the contemporary context that could be used by courts, states, civil society organisations, and international institutions.³⁷

The challenge was to provide a meaningful definition of slavery in a context where abolition has already taken place and legal slavery no longer existed. Taking as its starting point the convention’s definition of slavery as ‘the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’, the research network emphasised control

³³ Obama, ‘Remarks by the President to the Clinton Global Initiative’.

³⁴ Broad and Turnbull, ‘From human trafficking to modern slavery’, 127. The report, *It Happens Here: Equipping the United Kingdom to Fight Modern Slavery*, was funded by Manpower Group and the Qatar Foundation.

³⁵ Modern Slavery Act 2015, c. 30.

³⁶ Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926 (Slavery Convention of 1926), in force 9 March 1927, 60 LNTS 253.

³⁷ Allain, ‘Contemporary slavery and its definition in law’, 37.

tantamount to slavery as the critical element.³⁸ In 2012, it launched the Bellagio–Harvard Guidelines on the Legal Parameters of Slavery, which explained that the exercise of control is typically ‘supported by and obtained through means such as violent force, deception and/or coercion’ and that, to constitute slavery, the control must ‘significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, profit transfer or disposal of that person’.³⁹ The goal of the guidelines was to ‘unpack the 1926 definition of modern slavery’ to give it heft both as a legal and advocacy tool.⁴⁰

New abolitionists and the international human rights advocacy network recast human trafficking as a specific form of modern slavery. Key states such as the UK and the United States, along with international organisations such as United Nations Office on Drugs and Crime, adopted this broader framing of the problem,⁴¹ and a community of scholars and prominent abolitionists provided legal and normative support.⁴² Modern slavery was portrayed as a form of evil and a human rights violation that deprived individuals of their freedom. But it was the entry of philanthrocapitalists and the transnational corporations they represent that catalysed the creation of a strategic ethical business alliance committed to eliminating slavery in supply chains.

METRICS, NETWORKS, AND MONEY: WALK FREE'S GOVERNANCE STRATEGY

Since its inception, Walk Free has developed metrics, established an elite epistemic network, and used money to shape the global antislavery agenda. Andrew Forrest has demonstrated a keen understanding of the importance of counting, measuring, and valuing as techniques for identifying a social problem and taking ownership of it.⁴³ In this case, the challenge was how to make slavery – a ‘hidden’ crime – legible and measurable. Measurement has long been the core focus of Walk Free's work. Forrest subscribes ‘to the belief that if you can't measure something, you can't fix it’.⁴⁴ As one of its first steps, Walk Free hired Kevin Bales to develop and produce a Global Slavery Index (GSI),

³⁸ Ibid.

³⁹ ‘2012 Bellagio-Harvard Guidelines on the Legal Parameters of Slavery’, 375, Guideline 2.

⁴⁰ Allain, ‘Contemporary slavery and its definition in law’, 37.

⁴¹ Gross and Thomas, ‘The new abolitionism’, 111.

⁴² Beutin, *Trafficking in Antirblackness*, 143–145.

⁴³ Merry, *The Seductions of Quantification*; and Rittich, ‘Representing, counting, valuing’, 238, 255.

⁴⁴ Walk Free, *Measurement, Action, Freedom*, 5.

which ranks countries based on the prevalence of modern slavery in their territories, their citizens' vulnerability to it, and their response.⁴⁵

The first GSI, produced and published by Walk Free in 2013, explained that modern slavery encompasses human trafficking, forced labour, slavery, and slavery-like practices (a category that includes debt bondage, forced or servile marriage, and sale or exploitation of children, including in armed conflict).⁴⁶ According to Walk Free, what is common to these different practices is that 'victims of modern slavery have their freedom denied, and are used and controlled and exploited by another person for profit, sex, or the thrill of domination'.⁴⁷ The 2016 index also emphasised the element of control, noting that 'modern slavery' refers to situations 'with treatment akin to a farm animal'.⁴⁸ This understanding of modern slavery is similar to the definition of slavery in the Bellagio–Harvard Guidelines.

Initially, the GSI Index competed against the measuring and ranking systems of the US government, the International Labour Organization (ILO), and the International Organization for Migration (IOM). Each adopted a different approach to measuring trafficking, forced labour, and modern slavery, and each approach reflected different definitions that stemmed from political as much as conceptual and technical choices.⁴⁹ In 2013, the GSI's estimate of the extent of modern slavery – 29.8 million people globally – significantly exceeded the ILO's estimate of forced labour and human trafficking, which it pegged at 18.7 million.⁵⁰ In each subsequent edition of the GSI, the number of slaves in the world increased – from 35.8 million in 2014 to 45.8 million in 2016 as its methodology changed. Despite attracting a great deal of criticism for its flimsy methodology and earning a 'Pinocchio' ranking by the *Washington Post*'s Fact Checker column, the GSI was widely taken up by 'the global elite of governments, international organisations, philanthropists, and others'.⁵¹

⁴⁵ Beutin, *Trafficking in Antiracism*, 144.

⁴⁶ Walk Free, *Global Slavery Index*, 2013. The ILO's Forced Labour Convention, 1930 (No. 29, Art. 2) defines forced labour as 'work or service which is exacted from any person under the menace of any penalty and for which said person has not offered himself voluntarily'.

It identifies forced labour as a serious crime.

⁴⁷ Walk Free, *Global Slavery Index*, 2013, 10.

⁴⁸ *Ibid.*, 2016, 10.

⁴⁹ Merry, *The Seductions of Quantification*, 299; and Weitzer, 'New directions in research on human trafficking', 6–24; Rittich, 'Representing, counting, valuing', 238–270; Guth et al., 'Proper methodology and methods of collecting and analyzing slavery data', 14–22; and Gallagher, 'What's wrong with the Global Slavery Index?', 90–112.

⁵⁰ Dottridge, 'Trafficked and exploited', 76; and Phillips, 'The politics of numbers', 44, 47.

⁵¹ Phillips, 'The politics of numbers', 46; LeBaron, 'The coming and current crisis', 1; and Kessler, 'The false claim that human trafficking is a "\$0.5 billion business"'.

In the face of increasing criticism of its methodology, Walk Free joined forces with the ILO and IOM in 2017 to develop the joint Global Estimates of Modern Slavery.⁵² This partnership significantly boosted the estimates' credibility and legitimacy. The ILO regards the 2017 Global Estimates as providing the 'benchmark figures against which progress of global efforts to eradicate modern slavery can be measured'.⁵³

These estimates do not, however, rank countries according to their measures to combat modern slavery. The ILO is not involved in the GSI, which is a ranking exercise, but when it works with Walk Free to produce the Global Estimates on Modern Slavery, it lends an aura of legitimacy to the GSI. The GSI is now a leading global policy tool despite continued criticisms of its methods.⁵⁴ Moreover, it is widely cited in the media, which amplifies both the huge number of victims and the worst offenders.⁵⁵

What is striking about the Global Estimates is the sheer enormity of the problem of modern slavery; an estimated 40 million people were victims of modern slavery in 2016. Of the total number of modern slaves, 25 million are in forced labour and 15 million are in forced marriage. Women and girls are estimated to account for 71 per cent of all victims of modern slavery, and debt bondage is estimated to have affected half of all victims of forced labour imposed by private actors. These estimates, which are treated as authoritative, help to construct the crime of modern slavery, its victims, and the extent of the problem.

The Global Estimates were the basis of Walk Free's revamped 2017 GSI, which is broken into two components. Its Vulnerability Model is widely treated as the source of 'official' statistics on the extent, types, and location of modern slavery.⁵⁶ It provides a risk score for 167 countries based on an analysis of data covering twenty-three risk variables across five major dimensions and functions as a 'measure of moral violation'.⁵⁷ These statistics are brought to life on Walk Free's website through vivid pictures of modern slaves in their work environment; information about the steps each government has taken to combat modern slavery; and maps of its distribution across the globe. Africa is covered in red, indicating the highest risk, and the Middle East and

⁵² ILO and Walk Free Foundation, *Global Estimates of Modern Slavery*.

⁵³ Mügge, '40.3 million slaves?'

⁵⁴ Ibid. For a discussion of the GSI methodology and estimates of modern slavery, see Landman, 'Measuring modern slavery', 303–331.

⁵⁵ Brankovic, 'Measure of shame', 103–125.

⁵⁶ LeBaron, 'The coming and current crisis', 43–52; and Phillips, 'The politics of numbers', 44–59.

⁵⁷ Brankovic, 'Measure of shame', 103–125.

most of Asia are in shades of red and orange. Lighter shades in South America and white across western Europe, northern America, Australia, and New Zealand conjure an image of ‘the Global North metaphorically shedding light onto the dark parts of the world where slavery still flourishes’.⁵⁸

Walk Free also provides a Government Response Index that assesses the legal, policy, and programmatic actions that 181 governments are taking to respond to modern slavery. The index is in keeping with its self-proclaimed goal to become ‘the leading non-government, non-business organisation to independently assess each country’s progress towards United Nation’s Sustainable Development Goal 8.7’, which is to eliminate modern slavery and child labour by 2030.⁵⁹ Condemning the lack of official indicators to determine progress, in 2019 Walk Free released *Measurement, Action, Freedom*, which assesses the responses of 183 governments to modern slavery. Adopting ‘situational crime prevention theory’ as its conceptual frame for tracking progress, Walk Free assesses data relating to 102 indicators to evaluate and rank each country’s progress.⁶⁰ These indicators tend to reflect modern slavery’s antitrafficking heritage in criminal law. Most of the indicators refer to victim identification, criminal prosecution, and governmental coordination, although some address broader institutional and social risk factors and policies to prevent sourcing slave-made goods and services. The rankings tend to reinforce the image of richer countries in the Global North bringing pressure to bear on less civilised countries in the Global South, reformatting the old trope that ending slavery is the ‘white man’s burden’.⁶¹ The UK, the Netherlands, and the United States lead the country rankings, with Australia not far behind. North Korea, Eritrea, Burundi, the Central African Republic, Afghanistan, Mauritania, South Sudan, Pakistan, Cambodia, and Iran hold the lowest ranks. By naming and shaming countries that tolerate slavery, the Government Response Index attributes moral blame and portrays slavery as a premodern problem that happens in evil or backward countries far away ‘over there’.

Walk Free has assembled a global antislavery alliance that comprises governments, international organisations, religious leaders, NGOs, businesses, and academics. Its emphasis on recruiting both religious and business leaders is distinctive. Noting that over 80 per cent of the world’s population is religious, it seeks to engage and unite faith leaders around the world to take

⁵⁸ McGrath and Watson, ‘Anti-slavery as development’, 22, 26.

⁵⁹ Walk Free, *Global Slavery Index*, 2018.

⁶⁰ Walk Free, *Measurement, Action, Freedom*, 28. This approach focuses on the setting for the crime rather than the characteristic of offenders.

⁶¹ Kempadoo, ‘Anti-slavery as development’, 22–31.

spiritual and practical action to eradicate modern slavery. In 2014, Forrest established the Global Freedom Network, a faith-based group led by Pope Francis, Justin Welby (the archbishop of Canterbury), and Ahmed Mohamed Ahmed El-Tayeb (the grand imam of al-Ashar), in which religious leaders around the world unite to end modern slavery.⁶² The network convened a meeting of key representatives of major global faith traditions at the Vatican on 2 December 2014, where they endorsed the Joint Declaration of Religious Leaders Against Modern Slavery, which pledged to eradicate modern slavery and human trafficking by 2020.⁶³ Walk Free is also the secretariat for the Bali Process Government and Business Forum, which brings together government ministers and senior business leaders to determine policies for addressing modern slavery and the worst forms of child labour in the Asia-Pacific region. This alliance of religion and business suggests that the goal of eradicating modern slavery transcends partisan approaches and traditional conflicts of interest; it is a moral question.⁶⁴ Walk Free has wide support, including from the UK, US, and Australian governments, the Association of Southeast Asian Nations (ASEAN), and the United Nations Inter-Agency Project on Human Trafficking.

Forrest and Walk Free are strong proponents of private initiatives and public-private partnerships. By 2011, governments had grown fatigued with funding antitrafficking initiatives; in response, the role of philanthrocapitalists and business increased.⁶⁵ In 2013, Forrest's charitable foundation, Minderoo, together with two private foundations (Humanity International, which was set up by the founder of eBay, and Legatum, the offspring of a Dubai-based private investment firm) established a new private Freedom Fund to support efforts to eradicate modern slavery. Allocating US\$30 million to the fund, the three foundations set a goal of raising and spending US\$100 million to combat slavery by 2020.⁶⁶ The fund's mission is to attract funding and innovative investors to frontline efforts to eradicate modern slavery in countries and sectors where it is most prevalent.⁶⁷ Bales, who is on the Freedom Fund's board of directors, estimated in 2007 that the cost of extirpating slavery would amount to about US\$13.5 billion over a twenty-five-year period.⁶⁸ This

⁶² Chuang, 'Giving as governance?', 1533.

⁶³ Walk Free, 'The Global Freedom Network'.

⁶⁴ Bunting and Quirk, 'Contemporary slavery as more than rhetorical strategy?', 5, 19.

⁶⁵ Dottridge, 'Private donors'.

⁶⁶ Dottridge, 'Trafficked and exploited', 59, 76; and Ucnikova, 'OECD and modern slavery', 133–150.

⁶⁷ Freedom Fund, 'Our vision is a world free of slavery'.

⁶⁸ Bales, 'What predicts human trafficking?', 269–291.

figure has been cited by Walk Free researchers to castigate Organisation for Economic Co-operation and Development (OECD) member states for failing to provide sufficient funding.⁶⁹ As more money is distributed by this public–private partnership to frontline organisations, the call for metrics to determine the success of the initiatives escalates.

Walk Free created the Global Fund to End Modern Slavery (GFEMS) to ‘coordinate a coherent global strategy to address modern slavery’.⁷⁰ The GFEMS’s goal is to raise US\$1.5 billion (£1.1 billion) to eliminate modern slavery by making it economically unprofitable. According to its first CEO, a former vice-president of global procurement for ExxonMobil, the organisation believes that ‘sustainably ending modern slavery will require market-based solutions and proactive business leadership’.⁷¹ The GFEMS was endorsed early on by the ILO, and in 2017 it received substantial funding from the US Department of State and the UK Department for International Development. Organisations (known as partners) that receive financial assistance from the GFEMS must support the fund’s theory of change, which posits that ‘there is demonstrable, long term economic value to be unlocked by eliminating forced labor from supply chains’.⁷²

The idea is that once governments ‘raise the cost of slavery by ending impunity (via effective laws/policies, civil remedies, and criminal proceedings) for all forms of trafficking’, the private sector will be free to create and capture ‘value by eliminating forced labour from supply chains’.⁷³ The dividends of freedom can then be used to provide alternative livelihoods for vulnerable individuals. This approach chimes with attempts to prove that ‘slavery is bad for business’. Since Adam Smith wrote about the economic costs of slavery in the late eighteenth century, the assumption has been that chattel slavery is not as profitable as free wage labour. Kevin Bales, among others, has embraced this position, arguing that forced labour not only involves firm- and market-level inefficiencies but also imposes enormous opportunity costs and negative externalities on the population.⁷⁴

⁶⁹ Ucnikova, ‘OECD and modern slavery’, 146.

⁷⁰ Mortimer, ‘US and UK pledge millions’.

⁷¹ *Ibid.*

⁷² Global Fund to End Modern Slavery, ‘Theory of change’.

⁷³ Global Fund to End Modern Slavery, ‘Funding principles’, available at www.gfems.org/funding-principles (last visited 23 April 2021).

⁷⁴ Datta and Bales, ‘Slavery is bad for business’, 205–223; Raigrodski, ‘Creative capitalism and human trafficking’, 71–134.

This emphasis on the market as a solution is a theme in other public–private partnerships established to combat modern slavery. Launched at the UN in 2017, the Financial Sector Commission on Modern Slavery and Human Trafficking, known as the Liechtenstein Initiative, was formed as a public–private partnership between Liechtenstein, Australia, and the Centre for Policy Research at the United Nations University. It has now established Finance Against Slavery and Trafficking (FAST) to develop initiatives to mobilise and promote responsible investment in the financial sector, such as tracking illicit financial flows to capture profits from modern slavery and making good-faith efforts to address forced labour risks in supply chains. The commission's 2019 report, *A Blueprint for Mobilizing Finance against Slavery and Trafficking*, depicts modern slavery as 'a tragic market failure'. Slavery, it argues, deprives those enslaved of an estimated US\$150 billion for their labour each year and creates unfair competition by lowering labour costs.⁷⁵ It also represents a labour-market failure by failing to provide decent work and employment opportunities for all.⁷⁶ Emphasising the need for information about the risks of modern slavery to correct these market failures, the report recognises that additional regulatory interventions might be required to generate risk identification at the individual firm level, which could then be used to produce 'comparable market information' that would 'eventually impact pricing signals and costs of capital at the individual enterprise level'.⁷⁷

Public–private partnerships, exemplified by the Freedom Fund, GFEMS, and FAST, consist of interlinking and overlapping individuals and organisations, and philanthrocapitalists such as Forrest and their charitable foundations are at their centre.⁷⁸ Together, they have assembled a strategic and purposeful ethical business alliance built on the idea that slavery is a market failure. The Global Slavery Index both identifies the problem of modern slavery and ranks governments in terms of their progress in solving it. It collects data, develops indicators, depicts the problem, and identifies best practices. It then circulates this knowledge through the larger global antislavery governance network. The ethical business alliance also creates financial incentives for other actors in the broader assemblage to adopt its understanding of the problem and its preferred solutions. It depicts modern slavery as 'a tragic result of market failure', the solution to which is corporate engagement

⁷⁵ Liechtenstein Initiative, 'A blueprint for mobilizing finance', 2.

⁷⁶ Ibid.

⁷⁷ Ibid., 81.

⁷⁸ Bales is on the board of the Freedom Fund, and Jean Baderschneider was a member of the Liechtenstein Initiative's commission.

and free markets.⁷⁹ Its goal is to persuade governments and other powerful governance actors that it has the best policy solutions for eliminating forced labour in supply chains.

THE ETHICAL BUSINESS ALLIANCE AND THE GOVERNANCE OF GLOBAL SUPPLY CHAINS

The twin goals of fostering decent work in global supply chains and taking action to eradicate modern slavery, forced labour, and human trafficking (as called for by SDG 8.7) moved onto the political stage at the May 2017 meeting of G20 labour and employment ministers in Bad Neuenahr, Germany.⁸⁰ Business-led initiatives had the greatest appeal, although other state-led measures were suggested.

In his keynote address to the meeting, John Ruggie (the UN Secretary-General's Special Representative for Business and Human Rights from 2005 to 2011) advised that the gap between the scale and impact of multinational corporations and the capacity of states to manage the adverse consequences of globalisation could be narrowed 'either through more effective cooperation or through roll-back, otherwise known as protectionism'.⁸¹ Ruggie proposed the United Nations Guiding Principles on Business and Human Rights (UNGPs) as 'a roadmap for helping to bridge the governance gaps and imbalances that must be addressed for global supply chains and globalization itself to become socially sustainable'.⁸²

The UNGPs were Ruggie's attempt to develop authoritative standards of expected behaviour from business regarding human rights. A form of 'soft' law, they offered human-rights due-diligence (HRDD) as a process for businesses to meet their obligation to respect human rights.⁸³ HRDD has three

⁷⁹ Cockayne, 'Working with the financial sector' 159–162. Cockayne was head of secretariat, Liechtenstein Initiative for FAST, is the Head of Office at the United Nations for the United Nations University, and the New South Wales Anti-slavery Commissioner.

⁸⁰ G20 Labour and Employment Ministers Meeting – Germany, 'Ministerial declaration'.

⁸¹ Ruggie, "Making economic globalization work for all".

⁸² *Ibid.*

⁸³ The UNGP set out guidelines for implementing the 'Protect, Respect and Remedy' Framework, which consists of three complementary and interdependent pillars: (1) the state duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication; (2) corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the human rights of others and to address adverse impacts with which they are involved; and (3) greater access by victims to effective remedy, judicial and nonjudicial.

interconnected components: (1) identifying actual or potential human-rights impacts; (2) preventing and mitigating those impacts; and (3) accounting for impacts and the responses to them. The UNGPs provide guidance about the scope and complexity of due-diligence obligations, how to prioritise redress for adverse human-rights impacts, and when and how to disclose information to stakeholders.⁸⁴ However, the guidelines are ambiguous about the extent to which states should supervise, or even mandate, corporate HRDD,⁸⁵ which help to explain their remarkable success. Adopted unanimously in 2011 by the forty-seven members of the Council of Human Rights (selected from member states of the UN General Assembly), the UNGPs have been widely taken up by large multinational corporations.

In their concluding declaration at the 2017 meeting, the G20 labour and employment ministers 'underlined the responsibility of businesses to exercise due diligence' in line with the UNGPs, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises, and 'encouraged businesses to report on these due-diligence procedures'.⁸⁶ They also committed to developing policy frameworks to foster decent work in sustainable, slavery-free global supply chains. These frameworks could include ratification of the ILO's 2014 Protocol to the Forced Labour Convention, incorporation of the ILO's Fundamental Rights and Principles at work in trade agreements, and the involvement of stakeholders (trade unions, workers, employers, companies, and consumers) in initiatives. In its follow-up Call to Action to End Forced Labour, Modern Slavery, and Human Trafficking, launched at the 2017 UN General Assembly, the UK government accentuated business-led initiatives, government procurement practices, and 'building a culture of consumer awareness which supports such action and promotes decent work'.⁸⁷

It was in this political environment that Walk Free promoted a business-led approach to tackling modern slavery in supply chains within the broader global antislavery governance network. It created and distributed knowledge about modern slavery and how best to eradicate it from supply chains and

⁸⁴ Landau, *Human Rights Due Diligence and Labour Governance*. The UNGPs also provided guidance about the scope and complexity of due-diligence obligations, how to prioritise redress for adverse human rights impacts, and when and how to disclose information to stakeholders.

⁸⁵ Ibid.

⁸⁶ G20 Labour and Employment Ministers Meeting – Germany, 'Ministerial declaration'.

⁸⁷ United Kingdom, Department for International Development, 'A call to action to end forced labour'.

assembled an elite ethical business alliance to promote its solution.⁸⁸ Its 2018 Global Slavery Index examined ‘the issue of modern slavery from the perspective of where . . . the products of the crime are sold and consumed’.⁸⁹ Remarking that ‘too often, the onus of eliminating modern slavery is placed only on the countries where the crime is perpetrated’, Walk Free focused for the first time on key supply chains to G20 countries to understand ‘the transfer of risk from source countries to consumer countries’.⁹⁰ This knowledge helped foster an elite consensus that the best way to tackle modern slavery in supply chains is through mandatory disclosure and due-diligence obligations. This solution rests on a specific understanding of the problem of modern slavery and of the role of supply chains in its production and circulation, one that characterises the cause of the problem as a combination of market failure and the territorial limits of the sovereign state.

The 2018 GSI defines, depicts, and measures the problem of modern slavery and the effects of state action – a form of governance by numbers. Its goal was to influence public opinion, policy, and legislation. It depicts modern slavery as a combination of market failure and the limited jurisdiction of nation-states to deal with social problems that cross national borders. Its solution calls on large multinational firms and their financial backers since only they are free to exercise their power across national borders.

Harnessing the Power of Business, released by Walk Free in 2016, exemplifies this way of thinking. In the foreword to the report, Forrest portrays himself as an ethical business leader. He explains that after his daughter learned of the extent of modern slavery in the Asia-Pacific region, he made a commitment as chairman of Fortescue Metals Group to deal with slavery in the mining conglomerate’s global supply chain. Fortescue’s suppliers were asked to review their first- and second-order supply chains and to ensure there was no forced labour or slavery-type practices in them. Verité, a labour auditing expert, was hired to verify the suppliers’ reports.⁹¹ However, the problem with these voluntary due-diligence initiatives is, Forrest notes, that business leaders who adopt them and disclose the results may be at competitive disadvantage against

⁸⁸ In Foucauldian terms, Walk Free assembled a *dispositif* that created and then distributed knowledge about modern slavery and how best to eradicate it from supply chains (Foucault, *Society Must Be Defended*, 33–34). Ngai-Ling Sum and Bob Jessop define a *dispositif* as (1) a strategic and purposeful apparatus that comprises institutions, organisations, and networks; (2) a discourse with themes and objectives; (3) devices and technologies involved in producing power/knowledge; and (4) subject positions. Sum and Jessop, *Towards a Cultural Political Economy*, 208. See Fudge, ‘Bad for business’.

⁸⁹ Walk Free, *Global Slavery Index*, 2018, 102.

⁹⁰ *Ibid.*, 102, 103.

⁹¹ A global leader in iron ore, Fortescue generated over US\$7.1 billion in revenue in 2016.

those who do nothing. They 'punish those who put the time and effort into ensuring they have clean supply chains, whilst rewarding those who do nothing'.⁹² Forrest's solution is for governments to introduce legislation requiring businesses to prepare a yearly slavery statement disclosing the steps taken to ensure that their organisations and supply chains are slavery-free.

A guiding theme of Walk Free's approach to modern slavery is the role it sees for government, which is to create a level-playing field for ethical businesses. The beauty of mandatory disclosure, according to Walk Free, is that it enables 'the court of public opinion' to rank how organisations respond to the issues and permits investors and consumers to 'lead with their wallets'.⁹³ According to this view, once businesses disclose their and their suppliers' practices, consumers and investors can exercise their individual moral choices with confidence. Over time, firms that do not take adequate steps to end slavery will lose both customers and capital. Business leaders, consumers, and investors are cast as ethical subjects who want to follow their conscience and make ethical choices; the government's role is to ensure that they have the information to do so.

Walk Free also underscores the comparative governance advantage businesses have over governments: '[B]usinesses are very used to operating across borders', whereas 'the government capacity tends to be confined with national borders'.⁹⁴ Disclosure laws can have an extraterritorial effect by creating incentives for business to eradicate slavery transmitted through transnational supply chains. In this way, state sovereignty can be extended beyond territorial borders by requiring multinational enterprises to take steps to ensure that slave-made goods do not infiltrate their supply chains, thereby preventing such goods from crossing national borders. The imposition of mandatory-reporting obligations on firms is supposed to narrow the governance gap.

Advocates characterise modern slavery laws as a response to market failure, and they argue that eliminating slavery and thereby correcting market failure will be good for business.⁹⁵ Mandatory-reporting requirements purport to discipline business through market pressure. By making disclosure initiatives mandatory, public authorities exercise their sovereignty over lead firms located in their territorial jurisdiction in the Global North to 'leverage' private governance for public purposes in the Global South.⁹⁶ At the same time, states also

⁹² Walk Free, *Harnessing the Power of Business*, 1.

⁹³ *Ibid.*, 2.

⁹⁴ *Ibid.*, 16.

⁹⁵ Ethical Trading Initiative, 'Modern slavery statement 2017/18'.

⁹⁶ Phillips, LeBaron, and Wallin, 'Mapping and measuring', 2.

augment and validate corporate authority by outsourcing governance to multinational enterprises.

Big business in Australia, the UK, and the United States has widely supported supply chain disclosure legislation, and it has been enacted by governments in countries that are key sites for new abolitionists through the 2010 California Supply Chain Act,⁹⁷ the United Kingdom's Modern Slavery Act 2015,⁹⁸ and Australia's Modern Slavery Act 2018.⁹⁹ Such legislation differs in terms of coverage; whether auditing is required; and the form, content, and stringency of disclosure requirements.¹⁰⁰ Yet a common theme of all of these laws is that they portray businesses as able to eradicate modern slavery that crosses national borders through supply chains while at the same time studiously avoiding imposing liability on them for business models and practices that cultivate unfreedom. As Walk Free's submission to the Australian government on its proposed modern slavery law declared: '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'.¹⁰¹

Reporting and transparency obligations only require businesses to report what steps they have taken to ensure there is no modern slavery in their supply chain. They do not require businesses to take steps to eradicate modern slavery. They are a form of reflexive regulation: the goal is to provide incentives for business to regulate itself.¹⁰² The purpose of these modern slavery laws is to enable consumers and investors in the Global North to align their ethical and economic choices. Devices such as the Global Slavery Index and techniques such as disclosure laws promote a neoliberal ethics based on individual responsibility.¹⁰³

SHORING UP GLOBAL CAPITALISM?

Walk Free and the ethical business alliance it helped to coalesce played an important role in orienting global antislavery policy towards business and market-friendly forms of regulation to deal with slavery in global supply

⁹⁷ California Civil Code, sec. 1714.43.

⁹⁸ Modern Slavery Act 2015 (2015, c. 30).

⁹⁹ Modern Slavery Act 2018 (No. 153, 2018); LeBaron, 'Slavery, human trafficking, and forced labour', 381–398; and Walk Free, *Harnessing the Power of Business*.

¹⁰⁰ Phillips, LeBaron, and Wallin, 'Mapping and measuring'.

¹⁰¹ Wray-Bliss and Michelson, 'Modern slavery and the discursive construction'.

¹⁰² Wen, 'The cogs and wheels of reflexive law and business disclosure', 327–359.

¹⁰³ Jessop, 'Neoliberalization, uneven development, and Brexit', 1729–1733; and Davies, *The limits of neoliberalism*.

chains. A form of public–private partnership dominated by a few key actors, the alliance uses faith and free markets to frame modern slavery. It claims that slavery is bad for business and that business can help to eradicate modern slavery. Disclosure requirements and rankings are supposed to enable consumers and investors to align their ethical beliefs with their economic choices without disrupting the existing structures of consumption and accumulation, promoting ‘the commodification of ethics’.¹⁰⁴ As Forrest informed the *New York Times* in 2018, ‘modern slavery is a First World problem. If you are a chief executive or an investor and you are not prepared to take human rights into account now, you don’t deserve to be a chief executive or an investor’.¹⁰⁵ The idea is that the market can be an instrument of ethical consumption and accumulation – if business leaders are encouraged to connect moral norms to corporate policies through managerial practices. This ‘ethico-managerial strategy’ emerged as belief in global trade (best exemplified by supply chains) as the best road to prosperity (especially in the Global South) began to fade.¹⁰⁶ It attempts to recalibrate and stabilise what a former director of Anti-Slavery International called ‘a neo-liberal government alliance with the hyperwealthy’ rather than transform it.¹⁰⁷

The market failure approach to the problem of modern slavery is contested. From a critical political-economy perspective, supply chains are not conduits of unfree labour committed by bad actors located in the Global South; rather, lead firms located in the Global North and their associated management practices are the drivers of modern slavery. Critical scholars argue that lead firms, typically large multinational enterprises, generate intense competition along the supply chains they dominate, which results in labour cost-cutting pressures along the chain.¹⁰⁸ The imperative within the supply chain is to assemble a particular kind of labour force and utilise it in a way that generates the maximum flexibility for the firm, limits the ability of workers to bargain in the labour process, and maximises the return on capital. Research reveals that forced labour and slave-like conditions are not the outcomes of market failure but rather a predictable feature of many sectors and regions of the global political economy.¹⁰⁹

¹⁰⁴ Mezzadri, *The Sweatshop Regime*, 187.

¹⁰⁵ Wray-Bliss and Michelson, ‘Modern slavery and the discursive construction’.

¹⁰⁶ Arnold and Hess, ‘Governmentalizing Gramsci’, 7.

¹⁰⁷ Dottridge, ‘Private donors’.

¹⁰⁸ Phillips and Mieres, ‘The governance of forced labour’, 244–260.

¹⁰⁹ Mezzadri, ‘Class, gender and the sweatshop’, 1877–1900; Crane et al., ‘Governance gaps in eradicating forced labor’, 86–106; LeBaron, ‘The coming and current crisis’; Anderson and Rogaly, ‘Forced labour and migration to the UK’; Barrientos, *Gender and Work in Global Value Chains*; and Phillips, ‘Unfree labour and adverse incorporation’, 171–196.

Evidence supporting this critical perspective on global supply chains comes from an unlikely source – the World Bank. Its 2020 flagship report, *Trading for Development in the Age of Global Value Chains*, made the astonishing admission that ‘the risk that firms from developing countries experience limited profits after becoming suppliers for global firms mirrors the rise in profits in the developed world’.¹¹⁰ Higher markups in firms located in developed countries and integrated into global supply chains have reduced labour’s share of income worldwide (as well as the share of capital amongst those firms integrated into global supply chains and located in developing countries).¹¹¹ The gains are only partly passed on to consumers and suppliers; the real winners from global value chains are large transnational firms, primarily located in the Global North, who have reduced production costs.¹¹² Despite evidence that gains are not ‘trickling down’ the supply chain, the World Bank advocates a ‘business as usual’ approach that promotes international trade agreements and flexible labour markets.

The problem with the ‘market failure’ story is that it ignores the possibility that profitable business and management practices for key firms in the Global North create the conditions that lead to modern slavery and forced labour lower down the chain in the Global South. It leaves the supporting multi-scalar legal framework – which consists of domestic contract and corporate law and international investment, trade, and intellectual property laws – intact.¹¹³

The perspective that transnational corporations contribute to unfree labour is gaining ground, fuelled in part by what the pandemic revealed about the frailty of global supply chains and how they distributed the greatest risks to the most vulnerable links – workers in the Global South.¹¹⁴ Indeed, in its 2023 GSI, Walk Free recognises that the purchasing practices of business and governments in wealthy countries ‘fuel exploitation in lower-income countries that are at the front line of global supply chains’.¹¹⁵ Adding to scepticism that the market is the ‘solution’ to the problem of modern slavery is growing awareness that the use of disclosure legislation has not produced tangible results, despite the energy and money that has gone into promoting firm compliance and refining disclosure and reporting requirements.¹¹⁶ Research

¹¹⁰ World Bank, *Trading for Development*, 86.

¹¹¹ *Ibid.*, 84–85.

¹¹² *Ibid.*, 86.

¹¹³ Alessandrini, ‘Global value chains, development and the *long durée*’.

¹¹⁴ BHRRC, ‘Wage theft and pandemic profits’.

¹¹⁵ Walk Free, *Global Slavery Index*, 2023, 146.

¹¹⁶ Phillips, LeBaron, and Wallin, ‘Mapping and measuring’, 28. See also Chapter 6.

also reveals that consumers do very little if anything about modern slavery in their consumption, even when they identify it as a significant moral issue.¹¹⁷

The shift towards mandatory HRDD reflects growing doubt, even among members of the ethical business alliance, that corporate self-regulation is sufficient to address slavery in supply chains.¹¹⁸ These laws hardens soft norms like the UNGPS, the ILO's Multinational Enterprises and Social Policies Declaration (MNE Declaration), and the revised OECD Guidelines by requiring companies to engage in some form of due-diligence process to identify, prevent, and address adverse human-rights impacts in their businesses.¹¹⁹ With the enactment of the French Duty of Vigilance Law in 2017, binding due diligence has become a popular governance mechanism for addressing human rights and environmental abuses that result from transnational business practices.¹²⁰ Mandatory HRDD laws have been proliferating in European countries, and the EU has adopted a directive that requires each member to adopt a law imposing due-diligence obligations on corporations and sets out minimum conditions for these laws to meet and, thus, 'level' the playing field.¹²¹

CONCLUSION

Dissatisfaction with the limited effectiveness of existing disclosure regulations has resulted in Walk Free's support for harder governance mechanisms for addressing modern slavery in supply chains. The 2023 GSI recommended that, among other things, G20 governments (mostly located in the Global North) enact mandatory HRDD legislation requiring large businesses and publicly funded entities to identify and remediate forced labour risks; strengthen existing disclosure laws by adding and implementing penalties and providing a free and accessible repository for modern slavery statements; and take other legal measures such as import controls on products linked to forced labour.¹²²

¹¹⁷ Carrington, Chatzidakis, and Shaw, 'Consuming worker exploitation?', 432–450. For a more sanguine assessment of using consumer purchasing power to improve labour standards, see Kolben, 'The consumer imaginary', 839–898.

¹¹⁸ Freedom Fund, 'Freedom in the supply chain'.

¹¹⁹ LeBaron and Rühmkorf, 'The domestic politics of corporate accountability legislation', 710.

¹²⁰ Duty of Vigilance of Parent and on Its Affiliated Entities, Law No. 2017-399 (27 March 2017); World Bank, *Trading for Development*; and Evans, 'Overcoming the global dependency trap', 658–685.

¹²¹ Dehbi and Martin-Ortega, 'An integrated approach to corporate due diligence'.

¹²² Walk Free, *Global Slavery Index*, 2023, 150.

Mandatory HRDD laws enlist transnational corporations to enforce human rights and labour standards across national borders, effectively rescaling the sovereignty of states in the Global North. They are ‘evolving as a tool for shaping not only corporate conduct, but also the conduct of Global South states with regard to human rights and environmental standards’.¹²³ So far, none of the mandatory HRDD laws enacted or proposed impose obligations on lead firms to engage in meaningful consultation with actors in the Global South (governments, trade unions, NGOs, and workers) about how their business practices may contribute to modern slavery in supply chains or how to devise effective grievance mechanisms for workers.¹²⁴ Indeed, there is a growing literature that is sceptical of the capacity of existing mandatory hrdd laws in Europe to advance the protection of human rights.¹²⁵

Import bans or controls on goods suspected to have used forced labour in their production are a form of trade sanction directed at foreign-made goods.¹²⁶ States impose them to protect their citizens’ morals from corruption and their markets from unfair competition. Some human-rights advocates see import bans as complementary to mandatory HRDD laws since they can be used to persuade lead firms to exercise their leverage with suppliers to eliminate forced labour in the labour process and as an incentive for suppliers to eliminate forced labour to gain access to markets.¹²⁷ However, those who adopt a labour rights perspective caution that bans can be harmful depending on how they are handled; at worst, they can threaten the existence of suppliers with no upside for workers.¹²⁸ Under the US import ban, for example, the enforcement agency is not required to consult with workers who are alleged to have been subject to forced labour before issuing a ban, and the law does not

¹²³ Dehbi and Martin-Ortega, ‘An integrated approach to corporate due diligence’, 6, references omitted.

¹²⁴ Ibid.

¹²⁵ Deva, ‘Mandatory human rights due diligence in Europe’, 390.

¹²⁶ At present, only the US, Mexico, and Canada have forced labour import bans in place, and only the US has significant experience enforcing a forced labour import ban. The Mexican and Canadian bans were implemented to meet the requirements enshrined in the US-Mexico-Canada trade agreement. Australia has proposed to introduce a ban on the import of goods made with forced labour through an amendment to its Customs Act, and the European Union has proposed a regulation that would ban the import, sale, and export of products within the EU of goods made with forced labour. Fudge and LeBaron, ‘Regulatory design and interactions in worker-driven social responsibility initiatives’; and Pietropaoli, Johnstone, and Balch, ‘Effectiveness of forced labour import bans’.

¹²⁷ Anti-Slavery International and European Center for Constitutional and Human Rights, *Position on Import Controls*; and LaFianza, ‘Threatening ill-gotten gains’.

¹²⁸ Fudge and LeBaron, ‘Regulatory design and interactions in worker-driven social responsibility initiatives’.

require that provision be made to protect workers or remediate the impacts they might experience because a ban has been imposed.¹²⁹

Mandatory HRDD laws and import bans single out corporations and states in the Global North as the key agents of change. These top-down governance measures tend to reinforce, rather than challenge, the prevailing concentration of power in global economic and political relations. Since these laws do not provide participatory and remedial rights for workers at lower tiers in global supply chains, they treat workers at risk of modern slavery as passive victims rather than as potentially transformative actors.

There is, however, some evidence that key actors in the global antislavery governance network have begun to support governance measures that directly empower workers. Along with these top-down measures, Walk Free's 2023 GSI also advised governments to extend 'labour laws and fundamental labour rights to all groups without exception, including freedom of association and collective bargaining'.¹³⁰ The ILO, one of Walk Free's partners in developing the influential Global Slavery Estimates, has made the labour approach a prominent strategy in the global antislavery governance network. As we will see in the next chapter, the ILO used the UN human trafficking protocol's reference to forced labour in its definition of human trafficking to revitalise its mandate and fashion a distinctive labour approach to unfree labour. It acted at the same time as its constituents fought over the scalar dimension of the ILO's distinctive governance instrument, international labour standards.

¹²⁹ Ibid.

¹³⁰ Walk Free, *The Global Slavery Index*, 2023, 4.