

The Law and Slavery

Prohibiting Human Exploitation

By

Jean Allain



BRILL
NIJHOFF

LEIDEN | BOSTON

Contents

Preface	X
Acknowledgements	XIV

Introduction	1
--------------	---

PART 1

The Evolution of Abolition

1	What We Know Today: A Contemporary Understanding of the Atlantic Slave Trade	37
2	The Nineteenth Century Law of the Sea and the British Abolition of the Slave Trade	46
3	Fyodor Martens and the Question of Slavery at the 1890 Brussels Conference	101
4	Slavery and the League of Nations: Ethiopia as a Civilised Nation	121
5	The International Legal Regime of Slavery and Human Exploitation and Its Obfuscation by the Term of Art: 'Slavery-Like Practice'	159

PART 2

Challenging the Status Quo

6	A Review of <i>Understanding Global Slavery: A Reader</i> by Kevin Bales	197
7	A Review of <i>Trafficking in Human Beings: Modern Slavery</i> by Silvia Scarpa	202
8	A Case Note of <i>Hadijatou Mani Koraou v. Republic of Niger</i>	209
9	A Case Note of <i>Rantsev v. Cyprus and Russia</i>	217
10	Immanent Critique: International Law and the Dubious Case-Law on Slavery	230

- 11 A Review of *The Slave Trade and the Origins of International Human Rights Law* by Jenny S. Martinez 251
- 12 Review of *Colonialism, Slavery, Reparations and Trade: Remediating the Past?* edited by Fernne Brennan and John Packer 259
- 13 No Effective Trafficking Definition Exists: Domestic Implementation of the Palermo Protocol 265

PART 3

Servitude and Forced Labour

- 14 On the Curious Disappearance of Human Servitude from General International Law 297
- 15 Sham Adoption: The DNA of a Conventional Servitude 325
- 16 Exploitation and Labour in International Law 345

PART 4

Slavery

- 17 A Legal Consideration 'Slavery' in Light of the *Travaux Préparatoires* of the 1926 Convention 399
- 18 The Definition of 'Slavery' in General International Law and the Crime of Enslavement within the Rome Statute 419
- 19 Case Note of *The Queen v. Tang* 453
- 20 When Forced Marriage is Slavery 466
- 21 Property Law and the Definition of Slavery – Jean Allain and Robin Hickey 475
- 22 Slavery and its Definition – Jean Allain and Kevin Bales 502

APPENDICES

- Appendix 1: The Slavery Convention 513
- Appendix 2: The Forced Labour Convention 520
- Appendix 3: The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 532
- Appendix 4: The Abolition of Forced Labour Convention 539
- Appendix 5: 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime 543
- Appendix 6: Bellagio-Harvard Guidelines on the Legal Parameters of Slavery 555
- Appendix 7: The Protocol to the Forced Labour Convention, 1930 564
- The Queen v. Tang* 570
- Index 636