# The Law and Slavery

Prohibiting Human Exploitation

Ву

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 Fydor 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 Understanding Global Slavery: A Reader by Kevin Bales 197
- 7 A Review of *Trafficking in Human Beings: Modern Slavery* by Silvia Scarpa 202
- 8 A Case Note of Hadijatou Mani Koraou v. Republic of Niger 209
- 9 A Case Note of Rantsev v. Cyprus and Russia 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: Remedying 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