

BOOK REVIEW

TRAFFICKING IN PERSONS IN AUSTRALIA: MYTHS AND REALITIES

**BY ANDREAS SCHLOENHARDT AND
JARROD JOLLY**

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Despite its geographical isolation Australia is an attractive destination for many people seeking an improvement in their circumstances and in the circumstances of family members. Criminal exploitation of this demand of course takes many forms, including the exploitation of those who may have a legitimate asylum claim. This sustains one strand of the human trafficking industry as it affects Australia. Another form of criminal exploitation, also giving rise to trafficking, arises from the sex industry in Australia which offers the possibility of earnings to women elsewhere in the region who thereby become vulnerable to those who control that industry. Money is to be made by those who are in a position to control the immigration, living arrangements or working arrangements of these individuals from overseas who, for the most part, may be said to have consented to undertake the journey.¹

Trafficking in persons thus goes well beyond the situation of abduction and other involuntary transportation. This most flagrant form of trafficking of

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¹ Andreas Schloenhardt and Jarrod Jolly, *Trafficking in Persons in Australia: Myths and Realities* (LexisNexis Butterworths, 2013) 24.

course also persists, as with some cases of children accompanied by family members such as estranged spouses, or in cases of illegal ‘adoption’ of foreign babies. But the problem of human trafficking, in Australia as elsewhere, is predominantly a matter of the exploitation within the country of adults who have arrived with documentation that is either valid or has been falsified with sufficient skill so as to pass the scrutiny of the border security process.²

Schloenhardt and Jolly’s useful book *Trafficking in Persons in Australia: Myths and Realities*, which is part of an ongoing project based at the University of Queensland, systematically examines the law and the facts of human trafficking in today’s Australia. Throughout this book, while recognising the difficulties of obtaining factual evidence in this dark area, the authors attempt to distinguish between evidence-based claims and either speculative and exaggerated, or dismissive, claims as to the scale of the problem.

After an introductory chapter, in Chapter 2 ‘Patterns and Levels’ the authors critically review the various attempts to quantify human trafficking in Australia. Women from the Asia-Pacific region, especially from Thailand, South Korea and Malaysia are the largest groups represented. Useful overviews of successful convictions for debt bondage and for labour trafficking are provided.

In ‘International Perspectives’ (Chapter 3), the history of a variety of relevant international regulations is usefully summarised. The discussion covers the international regulation of slavery, of prostitution, of labour, of human rights, and of the rights of the child. Attention is then focused on the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (the *Trafficking in Persons Protocol*), a Protocol to the *Convention against Transnational Organized Crime*. Both *Protocol* and *Convention* entered into force in 2003, and the *Protocol* boasts 154 parties (including the EU), but the effectiveness of the *Protocol* seems modest.

Chapter 4 ‘Policy and Administration’ describes Australian government initiatives to control human trafficking and indicates the roles played by the many arms of government involved. Interaction with non-governmental agencies of various kinds is also discussed. As the authors observe, criticism has been expressed of the Commonwealth’s over-emphasis on criminal justice processes in this area of its response to trafficking. However there is no doubt that criminal justice is of central importance. This is the focus of Chapter 5. Here relevant provisions of the *Criminal Code* (Cth) are analysed, including

² Ibid 27.

Division 270 relating to slavery, and the consequences of the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (Cth). As elsewhere in the book, the summaries of statute and of related case law are thorough and well organised. There is an important discussion of the question of consent in relation to the sentencing of offenders.³

Immigration law is discussed in Chapter 6. *Refugee Convention* protection is considered as well as the abuse of various visa subclasses such as student and working holiday visas. A useful chapter is then devoted to 'Victim Support' with coverage of compensation and practical support as well as discussion of the process of repatriation with its somewhat open-ended consequences. Prevention is discussed in Chapter 8. A range of proposals are reviewed, including the reform of visa categories, and education initiatives aimed at Australian consumers whose purchasing decisions may indirectly support trafficking. This would include the consumers in the sex industry. The introduction of penalties or other disincentives for those consumers has also been mooted but remains problematic.

Brief 'Observations and Conclusions' are presented in Chapter 9. These are cautious, and hence consistent in tone with the overall style of the book, with its emphasis on the fact that research in this field is very much work in progress. But the authors might have ventured further beyond the commonplace here. There is an awkwardness of expression in these final pages and occasionally elsewhere, for example in the headings, 'The infinity of trafficking in persons'⁴ and 'What to do about trafficking in persons?',⁵ which suggests that closer proofreading might have assisted. Layout of the book is in the familiar law textbook or professional style, with numbered sections, boxes and bullet points, a style which has both practical advantages and aesthetic disadvantages. The bibliography is extensive and, along with the content sampled above, constitutes an extremely useful resource to anyone working in this challenging area.

³ Ibid 218

⁴ Ibid 110.

⁵ Ibid 358.

