



The International Law of Human Trafficking

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CAMBRIDGE

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CAMBRIDGE
UNIVERSITY PRESS

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore,
São Paulo, Delhi, Dubai, Tokyo, Mexico City

Cambridge University Press

32 Avenue of the Americas, New York, NY 10013-2473, USA

www.cambridge.org

Information on this title: www.cambridge.org/9780521191074

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First published 2010

Printed in the United States of America

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication data

Gallagher, Anne, High Commissioner.

The international law of human trafficking / Anne T. Gallagher.

p. cm.

Includes bibliographical references and index.

ISBN 978-0-521-19107-4 (hardback)

1. Human trafficking. 2. Human trafficking – Prevention – International
cooperation. I. Title.

K5258.G35 2010

345'.025-dc22 2010030167

ISBN 978-0-521-19107-4 Hardback

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Preface

This book is not a specialist treatise in the usual sense. More accurately, it represents an attempt to apply the science and tools of international law to a specific, contemporary issue. From this perspective, it is as much about sources of international legal obligation, the formation of international law, the doctrines of responsibility, and theories of compliance as it is about trafficking. The book's focus is essentially a problem-solving one: The international community has identified trafficking as a problem and decided that law will be used to structure and enable at least part of the solution to that problem. By providing a clear and organized explanation of the law as it is, the capacity of those who are in a position to use international law to hold States and others to account is hopefully strengthened.

The book has evolved out of more than a decade of writing and practice. It reflects experiences and insights from my working life as a UN official, as a teacher and scholar of international law, and as a practitioner in the field. From that perspective, more persons than can reasonably be named have contributed, in one way or another, to the final product. I acknowledge in particular Mary Robinson. It was under her leadership as UN High Commissioner for Human Rights that I first began working on trafficking and it was from my time with her that I learned valuable lessons about the politics of international lawmaking. My work in Southeast Asia since 2003 has provided a unique opportunity to test complex theories of legal obligation and State responsibility in the real world. Thanks are due to my stellar ARCPPT/ARTIP team; to ASEAN and its Member States; and to government counterparts in Australia, Brunei Darussalam, Cambodia, Lao PDR, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam for allowing me the benefit of this collaboration. The police, prosecutors, and judges with whom I have worked over the past ten years were especially influential in opening my eyes to the central importance of an effective criminal justice response to trafficking for human rights and the rule of law. In this regard, a separate and special thanks is due to my friend and colleague, Paul Holmes.

Janie Chuang has been an intellectual companion on this journey, and I benefited greatly from our constant discussions and her review of parts of the draft manuscript.

Fiona David, Al Moskowitz, Anahred Price, Nina Vallins, Zelig Wood, and Andrea Zakarias also made substantial and much appreciated contributions, as did Cees Flinterman and Theo van Boven, my PhD supervisors at the University of Utrecht during the period 2002–2005. Angela Ha proved to be an exceptional research assistant, and I am grateful for her help in finalizing the manuscript.

Writing is a solitary, if not selfish, occupation, particularly for an independent scholar who insists on maintaining her day job. It is therefore to my family that I owe the greatest debt of gratitude. Thanks to Cees for his critical eye and generous, steadfast support, and to Ruby and Elodie, for providing the perfect reason to hurry and finish up each day.

Anne T. Gallagher
Australia
June 2010

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- Oct. 11 International Convention for the Suppression of Traffic in Women of Full Age (150 LNTS 431) 14, 57 n. 16, 58, 59 n. 24

1945

June 26	Charter of the United Nations (1 UNTS 16)	146 n. 12
	Preamble	191 n. 261
	Art. 1(3)	191 n. 261
June 26	Statute of the International Court of Justice (961 UNTS 183)	
	Art. 38(1)	54 n. 1, 137 n. 543
	Art. 38(1)(b)	132 n. 520

1947

Nov. 12	Protocol Amending the International Convention for the Suppression of Traffic in Women and Children and the International Convention for the Suppression of Traffic in Women of Full Age (53 UNTS 13)	57 n. 16
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1948

July 9	Convention Concerning Freedom of Association and Protection of the Right to Organise (68 UNTS 17; ILO No. 87)	166 n. 118
Dec. 9	Convention on the Prevention and Punishment of the Crime of Genocide (78 UNTS 227)	270 n. 279, 408 n. 167
	Art. 3	442 n. 120
Dec. 10	Universal Declaration of Human Rights (UNGA Res. 217A(III))	37, 146, 152, 162, 165, 181, 355, 357, 412
	Preamble	146 nn. 9–10
	Art. 2(1)	146 n. 11, 147 n. 13
	Art. 4	181 n. 215
	Art. 8	355 n. 85, 357 n. 98
	Art. 9	165 n. 113
	Art. 13(2)	162 n. 90, 165 n. 108, 340 n. 15, 344 n. 34
	Art. 14	198 n. 304
	Art. 29	162 n. 90

1949

May 4	Protocol Amending the International Agreement for the Suppression of the White Slave Traffic, and Amending the International Convention for the Suppression of the White Slave Traffic (30 UNTS 23)	57 n. 16
July 1	Convention Concerning Migration for Employment (Revised) (20 UNTS 79; ILO No. 97)	166–167
	Art. 8	167 n. 121
	Art. 6	167 n. 125
	Art. 13	167 n. 121

July 1	Convention Concerning Right to Organise and Collective Bargaining (96 UNTS 257; ILO No. 98)	166 n. 118
Aug. 12	Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (75 UNTS 287)	
	Art. 3(2)	210 n. 375
	Art. 27	210 nn. 376–377
	Art. 146	409 n. 173
	Art. 147	210 n. 378
Dec. 2	Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (96 UNTS 271)	14–15, 27, 30, 38, 58–64, 132, 477
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	Art. 8	60 n. 32
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	Art. 16	59 n. 29, 60 n. 36
	Art. 17(1)	61 n. 42
	Art. 17(2)	61 n. 39
	Art. 17(3)	61 n. 41
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1950

Nov. 4	Convention for the Protection of Human Rights and Fundamental Freedoms (213 UNTS 221; ETS 005)	35 n. 91, 157, 190 n. 159, 239, 246, 249, 347, 356, 458 n. 189, 459, 499
	Art. 1	156 n. 63, 232 n. 72, 238 n. 96, 240
	Art. 3	347–348 n. 51, 348 n. 53
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	Art. 5	293 n. 72
	Art. 5(1)	291 n. 63
	Art. 6	399 n. 125