

Australians and modern slavery

Roscoe Howell

Foreword by
The Hon Catherine Branson QC
President
Australian Human Rights Commission

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Girl on road to Battambang, Cambodia
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Reg Lynch © 2000

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Foreword

You will probably be shocked by what you read in this book. Most of us think of slavery as a blot on past history rather than as a present day problem. Regrettably this is not so.

Slavery is a continuing problem – not just in the developing world but here in Australia as well. Slavery, wherever it occurs, is an egregious breach of human rights. It offends the fundamental human dignity of those affected; impinges on their right to equality and undermines their human rights generally.

We in Australia are fortunate to live in a relatively free and affluent society where few people are vulnerable to exploitation of this kind.

However, as the decision of the High Court of Australia in the case of *R v Tang* [2008] HCA 39 made clear, slavery can and does exist in our country. This important case concerned the sad story of five Thai nationals who came to Australia. Once they were in Australia, those who organised and paid for their visas and travel expenses exploited their financial and other vulnerability by forcing them to work in the sex industry. The High Court upheld the conviction of the brothel owner under the provisions of the Commonwealth *Criminal Code* which criminalise 'Crimes against humanity' including slavery and sexual servitude.

As illustrated by *Tang*, legislative protections and public prosecutions are crucial tools for addressing the problem of slavery. However, because slavery is an international problem, Australia must also work with other countries to defeat modern slavery. For this reason, it is vital that our laws reflect the obligations that Australia and other countries have under the *International Convention to Suppress the Slave Trade and Slavery* 1926 and the *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery* 1956.

However, combating slavery is too important to be left to governments alone.

As concerned citizens of Australia and the world, we should all seek to *understand* the sources of slavery, *learn* how our actions might inadvertently encourage slavery, *be vigilant* in identifying slavery and, to the extent that we can, *take action* to prevent this abhorrent practice.

I therefore commend Roscoe Howell and Slavery Links for producing *Australians and Modern Slavery*. It is an important resource for all of us who believe that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.¹

The Hon Catherine Branson QC
President
Australian Human Rights Commission

¹ Universal Declaration of Human Rights, GA Resolution 217A(III), UN Doc A/810 (1948), preamble

Stop Slavery: Says Who?

Roscoe Howell, anti-slavery campaigner

Who benefits? Who loses? Who gets to share? Who is excluded? How can the poorest and most vulnerable people take their rightful place in the world (and who decides)? These are the big questions for any anti-slavery campaigner to address.

Roscoe Howell started to speak out on slavery after meeting other campaigners in York, UK, in 2005. His book shows that slavery is an issue for Australians today. He traces each form of slavery that has been identified by the United Nations High Commission for Human Rights. His book speaks to solutions and how Australians can engage.



Reg Lynch, cartoonist

Reg was born in Melbourne. He now lives in north west Tasmania. His work has appeared in metropolitan and scientific papers, union papers and elsewhere.

The cartoons are intended to demonstrate that humour is a powerful means of communicating uncomfortable concepts, often through irony. It is okay to remark on the differences we share. It is not okay to treat someone else as inferior. Giving someone a lesser value or treating them as inferior is the root of bondage, forced labour, trafficking and other forms of slavery.



Robert Evans, Board Secretary of Slavery Links

When Robert was a boy in Africa, he met a very old Ugandan who had once been a slave. In about 1896 the man (then roughly 14 years old) had been captured by slave traders. With other boys and girls, he was marched a thousand miles to the coast at Dar-es-Salaam. He was put on a slave ship, destined for the slave markets. The Royal Navy of Britain intercepted the ship, arrested the crew and freed the slaves. Robert now lives in Australia. He is a lawyer. He would like the world to rid itself of slavery.



Acknowledgements

The people of York, United Kingdom, introduced me to the subject of modern slavery. In 2005 they were getting ready to commemorate the 200th anniversary of the banning of the slave trade in British territories in 1807. Thanks go to Dr Rosemary Black, who brought me to York.

I have learned how to tell the anti-slavery story in several ways. Audiences at events I have spoken at around Australia, people who attended the exhibition *Slavery Exposed*, held in Melbourne in September 2009, and colleagues from the Design Centre at Swinburne University, have all offered valued feedback and support. Thanks go to Dr Mark Burton who made space available for the *Slavery Exposed* exhibition in central Melbourne. Professor Roger Simpson and his successor Dr Simone Taffe enabled the design work for *Slavery Links*, which was led pro bono by Lucia Micelli and Denis Smitka.

Reg Lynch's cartoons waited ten years for me to discover them. Reg looms large among the many great and unexpected gifts that have come into my life. He gave his care, unstintingly.

Thanks to those who gave advice on where I should re-work the text and why: Jonathan Black (on child trading), Greg Thompson (on corruption), Di Otto (on criminal law and Anne Gallagher's paper), Lesley Hoatson and Caroline Lambert (on development), Marc Brenman and Jacques Boulet (on emancipation in the US), Joy Cullen (on enslavement in New Zealand), John Stanley (on equity and resource allocation), Libby Stewart (on financial structures), Chris Sidoti (on human rights), Susan Kneebone (on labour migration and trafficking in the Mekong), Elery Hamilton Smith (on the IUCN and co-management of forests) and Amy Liddy (on tourism).

More generally, my understanding grew from every conversation with those who read drafts and re-drafts and made many helpful comments as I worked to 'join the dots':

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- Visiting Professor Chris Sidoti

Members of Slavery Links and its Board have been patient, thoughtful and persistent. I am deeply grateful to James Brown, Robert Evans, Kaye Hargreaves, Andrew Hateley and Judi Kiraly. Kaye and Robert constructed a legal and conceptual space in which I could work. James clarified many of the Exercises.

Andrew made my work look beautiful. Nathan Hollier and Judi Kiraly gave editorial assistance. An anonymous donor covered some of the production costs for this book.

As is usual, the responsibility is mine alone for any remaining failure to deal with some issue adequately, or clumsiness in expressing aspects of it.

Roscoe Howell
Melbourne 2011

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Foreword

Stop slavery: Says who?

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Introduction

Several features make this book different from other texts on slavery. We take a systems view of slavery and the steps required to bring change. We identify four ‘engines’ that enable systems of slavery to persist.¹ We test the ‘four engines’ construct against real-life programs that are trying to bring change in slave-making systems. We argue that, whatever technique is used, anti-slavery action needs to address all four engines of slavery, comprehensively (Section 4).

We identify several single-purpose or partial programs. We propose that these be put in harness with other partial programs, so that together they form a comprehensive approach (Section 5 and 6).

We show some ways to harmonise bottom-up and top-down approaches; and ways to respect slave-as-survivor. We argue that it is essential for former slaves to have ‘agency’, to be their own actors and not become the objects or subjects of change. We provide a model for emancipation, a way to enable former slaves to build a new life and take their place in the world.²

We use internationally-accepted definitions.³ The United Nations has identified some who have been born into slavery. Others have been captured or trapped since birth. According to Kevin Bales, 27 million people are currently living as slaves.⁴ This book asks: how do we count them; who are they; where are they; how did they come to be there; and how can that be changed?

These forms of slavery are enabled by a range of institutions and practices which trap and hold people in a particular place, such as a farm, quarry, village or factory; often close to the slave’s ‘home’. We put the modern practice of trafficking in a holistic context: human trafficking is only one of eleven forms of slavery identified by the United Nations. Millions of people are not trafficked but are nevertheless trapped in some form of slavery.

We discuss what is meant by the term ‘progress’.

1. The ‘engines’ are poverty, powerlessness, crime / corruption and conflict (see below).
For a discussion of systems theory go to Yoland Wadsworth (2010) [Building in research and evaluation: human inquiry for living systems](#) (Action Research Press. Co-published by Allen and Unwin, Crows Nest, NSW)
2. Start by developing control over (miniscule) resources; develop control over relationships; apply resources and relationships to use information; and gradually develop control over decisions that affect one’s life (Section 7)
3. In this book we refer to eleven forms of slavery that have been defined by the United Nations, as follows:
 - Born into slavery
 - Child labour
 - Child soldiery
 - Child trading
 - Debt slavery
 - Forced labour
 - Forced marriage
 - Forced sexual service in war
 - Human trafficking rackets
 - Labour trafficking rackets
 - Organ trafficking rackets
 For a discussion of abuse that is not slavery, see David Weissbrodt (2002) [Abolishing slavery and its contemporary forms](#), Report from Anti-Slavery International and David Weissbrodt to UN High Commission for Human Rights, HR/PUB/02/4
4. Kevin Bales (2005) [Understanding global slavery](#) (University of California Press)

We identify lessons from community development, welfare economics, economic development and human rights that can be applied to the situations of people who are enslaved in this way. We discuss emancipation from the point of view of former slaves (Section 7) and from the point of view of official attempts to control slavery (Section 8). We identify some parts of the 'official' system that are under-utilised; and we identify some parts that may have an impact but are not fully recognised.

In covering these topics, we do seem to bend some conventions about writing. We alternate between large scale and individual, between international and local, between official and personal, between cerebral and practical perspectives. Also, we have used a graphic layout and side-notes rather than foot-notes or end-notes. In our pilot testing of the book, we found that so-called digital natives (young people in particular) used the text boxes and side notes as a guide to move around the book, jumping and sampling and returning (or not), rather like users of the internet. We use humour or irony in places. While not all illustrations appeal to every group of users, our testing indicated that every illustration was regarded as useful by one group or other.

There is an aphorism in social work: 'start where the client is'. We do not do that. We provide a fresh starting point that is intended to be a basis for conversation, research and action into the future. We are prescriptive: there is a definition of slavery, so use it! We are descriptive (Section 2 and parts of Section 6). We use reportage (Section 3, about Australia). Our analysis (Section 4 – Section 6) is referenced to academic standards. In other parts of the book we have elected to provide sources in the media, news reports or podcasts that can be downloaded by lay readers.

This book is timely in terms of the geo-political shift that is currently under way, from the Atlantic to Asia and the Pacific. The book is also timely in terms of Australia's relationship with neighbours. It is in tune with the government's commitment to increase investment in overseas aid; and the policy of spending where that will promote human rights and good governance.

The book identifies what is happening and what interests are involved where slavery is concerned. The 'four engines' framework provides a neutral, less blaming way of referring to some troubling features of life in the region (such as the damage done by crony capitalism; the clearing of forests for palm oil or bio-fuels; and the displacement of tribes and clans from their collective land).

Finally, for Australia, the book intends to raise awareness of slavery; to promote an understanding of what is happening; and to encourage action on what can be changed.

.....
Do we, in Australia, need this awareness?

In contrast to Britain and the United States, nations with an ongoing consciousness about their involvement in slave-trading, there is in effect no public discourse about Australia's past history as a slave-trading nation or consideration of the fact that former slaves live among us. We do business with nations where slaves live today: in Australia the fair trade movement is in its infancy. British supermarkets advertise fair trade goods as one way to rectify the injustice of slavery. In Australia slavery seems to be unrecognized and unacknowledged.

.....
Surely this has been written about already!

Yes. And no. When considering the Asia-Pacific, it is necessary to re-conceptualise some British and American notions of slavery, for a number of reasons ...

Much of the discourse around modern day slavery has relied on concepts or experiences that were derived from the trade in chattel slaves across the Atlantic Ocean from the 16th to the late 19th century.⁵ The capture and enslavement of people from Africa and their transport to the Americas would perhaps equate to the modern day crime of human trafficking. It is not a sufficient description for the modern Asia-Pacific, where human trafficking is only one of eleven forms of modern slavery identified (see Section 2).

5. In this book we use the term 'Atlantic Ocean discourse' to refer to stories about the trade in slaves across the Atlantic, from Africa to the Americas

The Atlantic Ocean discourse is about the enslavement and emancipation of Africans and can carry an implicit or embedded assumption that 'blackness' provided a rationale for treating Africans as in some way sub-human. We need to be clear that slavery-as-ownership is not the same as race-based abuse (or racism).⁶ Brion Davis' discussion of slavery and racism points out that "Slavs and other light skinned people were said to have all the slavish characteristics later attributed to black Africans" and later, under Islam, "Circassians, Turks, Greeks, Italians and Spaniards were prized as concubines, servants, soldiers and galley oarsmen ... who were valued precisely because they were free from the conflicting religious loyalties that divided Islam".

6. The distinction between slavery and racism is an important one to make, conceptually. However the distinction would be difficult to draw in terms of the real life experience of aboriginal or other first peoples who may have been racially abused and treated as if owned (see Section 3)

As is touched on in Section 2 of this book, white-skinned European adults were lured to the Americas and children were sent there, only to find themselves enslaved. Skin colour is not the issue in slavery. Slavery is about the exercise of ownership.

The experience of slavery in the Asia-Pacific region was different from the Atlantic experience of chattel slavery. Australia was being settled in the period when chattel slavery was being suppressed. During the period of suppression, plantation interests worked to re-define slavery as a form of apprenticeship. David Brion Davis has shown how, in the West Indies, "By 1835 [Thomas] Buxton had compiled a volume of evidence comprising a 'Black Case' against apprenticeship, documenting instances of murder, torture, overwork, and the infliction of more corporal punishment than in the days of slavery."

Several colonies in Australia relied on indenture as a way of circumventing the new anti-slavery regime. Australia's experience with so-called blackbirding (the capture and forced labour of Pacific Islanders under an indenture system) illustrates that in the Asia-Pacific a similar process occurred, of re-defining slavery as a sort of labour contract. British, French and Dutch colonialists implemented similar practices in greater Malaya, the Pacific Islands (New Hebrides-Vanuatu to Fiji and New Caledonia), and the East Indies (Indonesia).

The intersection between 19th century systems of indenture, following on from slavery, and the modern practice of temporary migration to seek work, also needs to be considered. Reports about modern contract labour in Asia and the Gulf countries and about the treatment of migrant labour gangs in Europe, considered in Section 2, must be considered in the context of these earlier forms of slavery.

Similarly, there is an indubitable connection between modern international trade and slavery. Brion Davis describes how, in the 19th century, “Britain’s expanding trade led to new networks of complicity”, such as the import of slaves under cover of sham contracts, the manufacture or supply of items that supported slavery in some way, the dependence on products from slave economies, the investments in enterprises that used slavery.

Sections 4 and 8 consider how such links might operate today between modern slavery, trade and finance. We live in a global economy where international agreements set the ground rules to facilitate trade, travel and respect for human rights. In this book we refer to relevant international processes and we use the internationally-accepted definitions for slavery, where we can.⁷

7. Where there are gaps and overlaps in the international definitions, we point this out (see Section 2).

..... Where are these slaves?

Counting slaves is difficult. Section 2 covers some of the different counting rules that have been used for particular forms of slavery. We have mentioned that this book uses Kevin Bales’ figure of 27 million as a gross estimate for the number of modern slaves. Bales derives this estimation from knowledge of stocks of slaves and flows of people trafficked in each country.

Between 21 and 26 million of Bales’ slaves are to be found in south Asia (the region where systems of slavery have persisted). The Table (on the next page) calls attention to the huge numbers of modern slaves in India and Pakistan and to a lesser extent Bangladesh and Nepal. While Bales is not specific about classes of slave, experience says that the south Asia numbers mainly relate to debt bondage, a subject taken up in Section 2.5.

| Country | Number of slaves Low estimate | Number of slaves High estimate |
|----------------|--|---|
| India | 18,000,000 | 22,000,000 |
| Pakistan | 2,500,000 | 3,500,000 |
| Bangladesh | 250,000 | 300,000 |
| Nepal | 250,000 | 300,000 |

..... Systems of slavery

In this book we respond to the above data by emphasizing the needs of people who have been enslaved in a particular place (such as their village or local farm, quarry or factory). We seek to understand those forces in a society that can promote or retard systems of slavery.⁸ In Section 4 we identify the four ‘engines’ that drive slave-making systems and allow them to persist. In Section 5 we put the construct to the test. We consider how these engines drive three actual slave-making systems, namely debt bondage, child trading and forced marriage.

These systems of slavery are defined in the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery. In this book we use the Supplementary Convention as a reference point, a touchstone or standard for what slavery means today. The Convention is a fundamental document in the development of human rights. It followed on from the Universal Declaration of Human Rights in 1948. In adopting it, the world community took ‘time out’ from the disputes of the cold war and de-colonisation (see Section 8). It has a ‘systems’ perspective that makes it, even today, a very modern document. We commend it, and the social development perspective that stems from it, to all who work in the field.

8. Anti Slavery International’s video describes how people are trapped – they do not just fall into debt by accident or through negligence. Go to: <http://www.cultureunplugged.com/play/2122/Azadnagar---Gulamnagar>

..... Social development? Why not let the markets deal with slavery?

Markets did play an accepted role in the time when slavery was an accepted institution. They enabled buyers and sellers to set a price for African slaves in the 1790s and 1800s (see Section 6.7). Even after slavery became illegal, slave markets continued to operate. In the 1990s markets set a price for children in the Sudan, along with guns and cattle (Section 6.6).

What happens when people are sold? What is the logic of the market? In Section 4.4 we refer to Debra Satz's (2010) book: Why some things should not be for sale: The moral limits of markets. Satz argues that we do not countenance the selling of children or votes; and we should not accept such markets. In this book we tell a simpler story, about profit maximising behaviour that occurs when markets are left to deal with slavery:

- In 1781 the slave ship 'Zong' left West Africa carrying 442 African slaves. Two months later it arrived in Jamaica carrying only 208 slaves. The Captain claimed that 132 people had been thrown overboard as a necessity, jettisoned because water was short. An insurance claim was made, where the people were treated as 'cargo'.⁹
- In 1809, Mrs Elizabeth Macquarie (wife of the soon-to-be Governor of New South Wales) sailed from Britain to Australia. Off the coast of Brazil they encountered a number of drowned Africans, thrown overboard, ostensibly because of illness. Her journal tells the story.¹⁰
- In the Pacific slave trade, colonial Australians had a choice of taking Islander captives to Queensland or to French Polynesia. The French paid a good price but restricted the numbers of slaves that could be landed. There are persistent stories about ships, unexpectedly close to French territory, throwing Islanders overboard to drown so that the ship could unload its remaining live cargo and get back to business.

9. James Walvin (2011) A massacre, the law and the end of slavery (Yale University Press, New Haven and London)

Professor James Walvin was in Australia in March 2011. He was interviewed on ABC radio: 'Murder on the Zong', Saturday Extra, with Mark Bannerman, 19 March 2011. He argues that public anger about these events fuelled the campaign to ban slavery. Go to: http://mpegmedia.abc.net.au/rn/podcast/2011/03/sea_20110319_0850.mp3

10. Elizabeth Macquarie. Journal of a voyage from England to Sydney in the ship 'Dromedary', 15 May 1809 - 25 December 1809. Mitchell and Dixon Libraries Manuscripts Collection, State Library of New South Wales, Manuscripts Accession register no. 79909. Go to: <http://www.archivists.org.au/directory/data/170.htm>

The case of the 'Zong' contributed to the banning of the slave trade and ending the institution of slavery in British territory in 1807 and 1833 respectively.¹¹ The argument about markets and slavery was over and closed 200 years ago. Those arguments are why, in Australia today, we have human rights laws that express the idea that every person has equal value, just by virtue of being born human. Similar arguments are why Amartya Sen developed 'welfare economics' (an approach that won him the Nobel Prize). Sen argued that governments in south Asia should intervene in the market, to ensure some sort of justice from one generation to the next. We meet Sen again in Section 6.3.

11. Walvin argues that the 'Zong' was a signal event, a singular affront, so egregious that it enabled public opinion to be mobilised against the slave trade. Australian experience (Note 10 above) indicates that the massacre on the 'Zong' was not an isolated example

..... How are overseas examples relevant to Australia?

Some Australians are poor, some are dis-empowered, some persons are corrupt or criminal. Section 4 tells us why we do not want to allow systems to develop that would entrench these conditions; to allow whole groups of people to be excluded; and vulnerable to being snared by slavery. Section 4 reminds us that what we have is special; and why we can be grateful to our forebears who established Australia as a commonwealth.

Australians hold in common some institutions and assets: a state separated from church; the rule of law and ways to refine past decisions; a standard for universal education; safety nets for the poor, with basic conditions for work and income; endowed public hospitals to be served by medicos and specialists; Parliamentary government with an electoral system to give equal opportunity for citizens to enrol and (roughly) equal weight to votes from all parts of the country; a social contract to care for the elderly and to include women in the franchise; systems for settling disputes and dispensing justice that seem to operate with reasonable probity and give a reasonable hearing to all comers. We are still coming to terms with our past history of racism (the former White Australia policy); and the treatment of aboriginal Australians (who were non-citizens when the 1956 Supplementary Convention was made). Despite this blot, most Australians enjoy a reasonably open, just and equitable society.

Australians subject the commons to scrutiny from time to time. Although there has been debate around the margins, Australians appear to value our public institutions and assets. The decisions we make show that we want to continue them in some form or other. It is to be hoped that the framework that is developed in this book will be recognised as reflecting this consensus; and will be found useful by Australians across the political spectrum. There is nothing controversial or new in the embodied features of our commonwealth or governance.

On occasion, Australia seeks to share our common-wealth and our understanding of good governance with other countries. We do this through overseas aid; political engagement; and in other ways. Sections 5 – 7 consider how Australians can stand in solidarity with enslaved people as they recover their freedom and take up their place in the world.

Section 8 identifies how we can use these ideas, to play a part in official attempts to control slavery. Section 8 considers how we act as a nation.

Section 9 considers some of the ways we can act as individuals.

We start Section 1, over the page, with a definition of slavery.

Australians and modern slavery

by Roscoe Howell

“As concerned citizens of Australia and the world, we should all seek to understand the sources of slavery, learn how our actions might inadvertently encourage slavery, be vigilant in identifying slavery and, to the extent that we can, take action to prevent this abhorrent practice.”

Extract from Foreword by The Hon Catherine Branson QC

“This book shocks. It’s a steady, factual account, but disturbing all the same. Slavery, most people think, is dead and buried, consigned to history by William Wilberforce and the abolitionist movements of the nineteenth century. But nothing could be further from the truth.

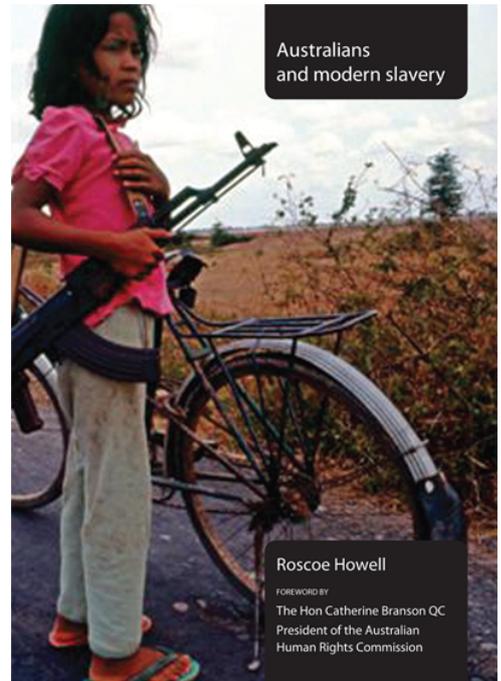
Shamefully, slavery is alive and well, and it is estimated that there are 27 million slaves in the world today. This book unpicks who they are, where they are and how they got there. Slavery has to be stopped! But how?

There is no better place to start than Roscoe Howell’s *Australians and Modern Slavery*. It examines the notion of slavery, the forms it takes, and how it may be encountered. It considers official attempts to control modern slavery, the array of international instruments and measures that have been developed, and most importantly what the ordinary person can do.

The book is presented in a disarmingly engaging style, and packed with masses of useful information. It is eminently readable, entertaining while it educates. It is chock-full of tables and charts and photos – and cartoons! This is a “must buy” for anyone concerned to pursue the fight against slavery.

And it is not just for the general reader. The lawyer will benefit. It bridges the human rights–criminal law divide. It gives examples (from Africa and South Asia) of how the law has helped, it analyses gaps and overlaps between the “official” system and what happens in practice. The social scientist will find its analysis of slavery as a human phenomenon illuminating and instructive. And the activist and reformer will find its practical advice and concrete recommendations indispensable.”

Book Review for the Human Rights Law Centre May 2012 by Associate Professor David Wood who is a Principal Fellow at the Faculty of Law, University of Melbourne



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