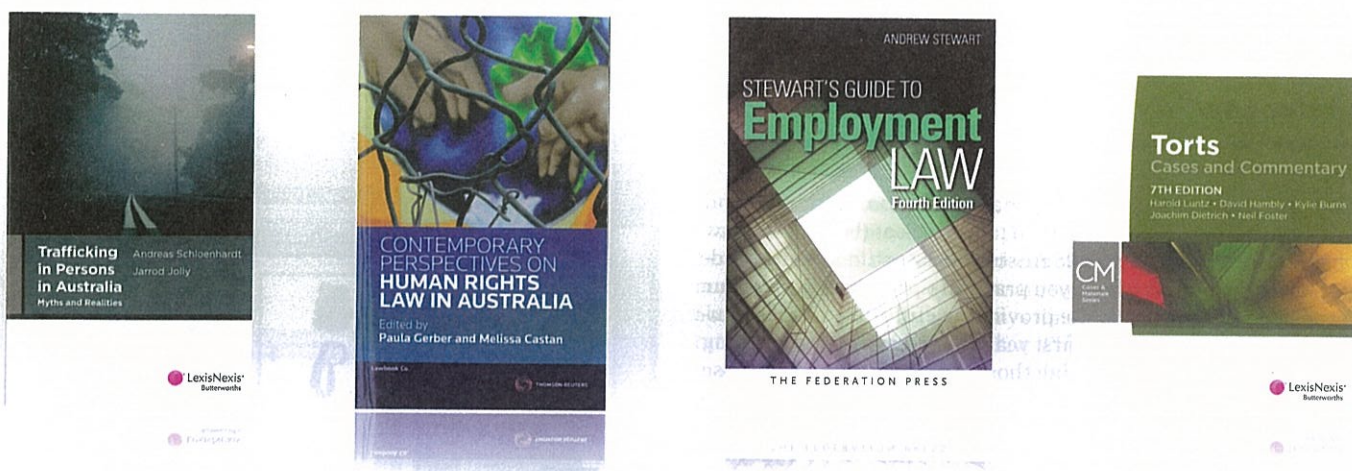


# INPRINT

This month's reviews look at people trafficking in Australia, human rights, employment law and torts.



## Trafficking in Persons in Australia

Schloenhardt, Andreas and Jolly, Jarrod, *Trafficking in Persons in Australia: Myths and Realities*, 2013, LexisNexis, pb \$152.

*Trafficking in Persons in Australia: Myths and Realities* is a fascinating book about a developing area of law. Co-authors Andreas Schloenhardt PhD, Professor of Criminal Law and the Director of International Relations at the University of Queensland, and Jarrod Jolly, who has a Bachelor of Laws from the same university, have produced a meticulously researched study into the phenomenon of people trafficking in this country. Their work has been shortlisted for the LexisNexis Centenary Book Award.

The book looks at the levels and patterns of the various types of human trafficking occurring in Australia: trafficking persons into the sex industry, slavery, forced and servile marriage, labour trafficking, child trafficking and organ trafficking. It does this through a thorough analysis of the available open-source information, including reported cases, Australian Federal Police statistics, government and non-governmental organisation reports and academic research.

The development of international law and policy aimed at combating trafficking in persons is examined, including the United Nations' protocols and best practice guidelines. Australia's treatment of the crime of trafficking in persons is also considered in detail. The book critically analyses

government policy, legislation and case law relating to the area, and makes recommendations for reform. Recent amendments to the Criminal Code brought in by the *Crimes Legislation (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (Cth) are included, meaning that the book is very up-to-date.

The book is set out in a logical way and includes a detailed contents list, table of cases and index, so that it is easy to look up information about a particular aspect of the law or policy relating to trafficking in persons if you choose to use the book as a reference tool. However, it is also a thought-provoking and informative read for anyone interested in learning more about this topic. It paints a clear and compelling picture of the issues involved, and the difficulties of implementing enforceable solutions to the problem. As such, it is a valuable resource about an important but little understood area of law. Highly recommended.

AMANDA MORRISON  
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## Contemporary Perspectives on Human Rights Law in Australia

Paula Gerber & Melissa Castan (eds), *Contemporary Perspectives on Human Rights Law in Australia*, 2013, Thomson Reuters (Professional), pb \$96.

In Australia the protection of human rights is fragmented and incomplete. Unlike every other Western nation, Australia has no national charter of rights. Some rights have

statutory protection, such as anti-discrimination legislation enacted federally and in each state and territory. The common law provides some protection, particularly through rights-protecting presumptions of statutory interpretation.

Because human rights have no firm footing in Australia, many members of Australian society struggle to have their rights respected. Asylum seekers, people with disabilities, Indigenous Australians, women, children and prisoners are just some of these groups. Written by experts in each of these areas, *Contemporary Perspectives* provides an up-to-date and illuminating outlook. Each chapter brings a wider perspective to the topic than one generally receives from the popular media. One rarely hears, for example, of Australia's legal obligations (under international law) to protect and properly assess asylum seekers in the midst of a debate focused largely on the assertion of national (and especially territorial) borders and sovereignty.

Each contribution to *Contemporary Perspectives* challenges the reader to think more broadly and deeply about the topic under consideration. Each chapter opens with a helpful overview before exploring particular contemporary issues in detail. It is therefore accessible to those with no background in law or human rights. Informing the ordinary concerned citizen regarding these pressing social issues is the important work performed by this book.

In an age of global interconnectedness we ignore legal developments in other jurisdictions, and internationally, at our peril. Many Australians may be shocked by the

disregard shown by successive Australian governments towards international obligations Australia has voluntarily assumed (described in chapter 5). Other nations have worked through the various issues discussed in this work and have chosen to enact comprehensive rights-protecting legislation. *Contemporary Perspectives* provides the most compelling arguments why Australia should follow suit.

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## Stewart's Guide to Employment Law

Andrew Stewart, *Stewart's Guide to Employment Law* (4th edn), 2013, The Federation Press, pb \$79.95

This new publication of perhaps the best concise authority on Australian employment and industrial law is a valuable update to the relatively recent third edition of the text.

"The Stewart" originated in 2008, with the first edition published before the introduction of the *Fair Work Act* 2009 (Cth) and covered both the then WorkChoices laws and the proposed Fair Work laws.

Since then, the text has grown in volume and authority. It considers both the common law of the employment contract as well as laws governing minimum employment standards, collective bargaining and enterprise agreements, unfair dismissal, occupational health and safety, and discrimination.

Knowing that industrial law continues to be politically charged, Stewart often contrasts existing legislative provisions with former ones to bring attention to the competing policy or political arguments relating to certain aspects of the law. For example, sections on the legality of content in enterprise agreements consider both previous and existing federal laws as well as recent developments in state jurisdictions. This edition further builds on this tradition when it discusses, where relevant, legislative reform proposals suggested by the *Fair Work Act Review* 2012.

While in parts the text provides no more than a good but basic overview (for example, when detailing the principles concerning whether a termination is harsh, unjust or unreasonable in the unfair dismissal jurisdiction), in others it deals quite exhaustively with both the law and its context.

Notable inclusions in this edition are: a discussion of the High Court decision in *Board of Bendigo Regional Institute of TAFE v Barclay* [2012]; recent decisions of the Fair Work Commission concerning employer control over employees' use of social media and networking sites; and analysis of the principles governing the making of workplace determinations by the Commission to resolve

(arbitrate) bargaining disputes, including details on the recent Qantas determinations.

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## Torts: Cases and Commentary

Luntz, Harold, Hamby, David, Burns, Kylie, Dietrich, Joachim, and Foster, Neil, *Torts: Cases and Commentary* (7th edn), 2012, LexisNexis, pb \$170.

*Torts Cases and Commentary* is an introductory book for law students. It is suitable for students still developing legal research skills as it contains extensive and varied materials.

The book has a strong focus on the tort of negligence. The continuous evolution of the law in this area is remarkable, as seen for example in the shift in emphasis from "proximity" to "salient features" in deciding whether a duty of care is owed in novel cases.

Apart from negligence, there are chapters dealing with other torts including breach of statutory duty, trespass and nuisance. There are also useful chapters on damages, vicarious liability and concurrent liability. However more specialised torts, such as defamation and interference with contractual relations, receive little more than passing mentions.

The authors invite students to consider the social functions of the law and evaluate its effectiveness. The introduction draws on edited extracts from official reports and case law to challenge the efficiency of a fault-based accident compensation system. The latest edition covers no-fault workers' and transport accident compensation schemes, tort law reform and the proposed National Disability Insurance Scheme.

Since the publication of the seventh edition, an additional levy has been imposed on taxable income to help fund the new National Disability Insurance Scheme. Presumably the authors of *Torts Cases and Commentary* approve.

There are law and economics and feminist critiques of torts in the introduction. In addition, critical perspectives are applied to the subject matter in notes throughout. The casebook is packed with nuance and references to relevant academic and legal sources.

In recent years legislation has become increasingly important in torts. In this edition, the authors have helpfully included relevant extracts of legislative provisions from various Australian jurisdictions in the casebook. Of course, as the provisions vary from state to state, it will still be necessary for students to consult the equivalent provisions in their own jurisdictions.

*Torts Cases and Commentary* has been a respected and popular teaching book in law schools in Australia for more than 30 years. The seventh edition continues that tradition. ●

ANDREW WESTCOTT  
SPECIAL COUNSEL, HWL EBSWORTH LAWYERS

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By Trischa Mann \$68

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