



**HUMAN  
RIGHTS**

# Rights And Law

**Charilaos Nikolaidis**



## **Rights And Law:**

**The Accountability of Armed Groups under Human Rights Law** Katharine Fortin, Foreword by Andrew Clapham, 2017-08-11 Today the majority of the armed conflicts around the world are fought between States and armed groups rather than between States. This changed conflict landscape creates an imperative to clarify the obligations of armed groups under international law. While it is generally accepted that armed groups are bound by international humanitarian law, the question of whether they are also bound by human rights law is controversial. This book brings significant new understanding to the question of whether and when armed groups might be bound by human rights law. Its conclusions will benefit international law academics, legal practitioners and political scientists and anthropologists working on issues related to rebel governance and civil wars. This book addresses the debate on this topic by employing a theoretical, historical and comparative analysis that spans international humanitarian law, international criminal law and international human rights law. Embedding these different perspectives in public international law, this book brings several key points of clarification to the legal framework. Firstly, the book draws upon social science literature on armed conflict to present a new viewpoint on the role that human rights law plays vis-à-vis international humanitarian law in non-international armed conflicts. Secondly, the book sheds light on the circumstances in which armed groups acquire obligations under human rights law. It brings illumination to these topics by combining historical and comparative research on belligerency, insurgency and international humanitarian law with a theoretical analysis of legal personality under international law. In the final part of the book, the author tests the four most utilised theories of how armed groups are bound by human rights law, examining whether armed groups can be bound by virtue of i) treaty law, ii) control of territory, iii) international criminal law and iv) customary international law. In the book's conclusions, the author presents final remarks that are designed to provide concrete guidance on how the issue of armed groups and human rights law can be dealt with more thoroughly in practice. **The**

**Development of Human Rights Law by the Judges of the International Court of Justice** Shiv R.S. Bedi, 2007-01-18 The jurisprudence of the International Court of Justice generally demonstrates that no rule of international law can be interpreted and applied without regard to its innate values and the basic principles of human rights. Through its case law, the ICJ has made immense contributions to the development of human rights law and in so doing continues to provide solutions to mounting international problems such as terrorism and unilateral use of force. Part I of the book argues that the legislative spirit of contemporary international law lies in the doctrine of human rights and that the spirit of human rights doctrine lies in the principle of human dignity. Furthermore, it argues that the processes of international legislation and international adjudication are inseparable and that there is no norm of international law which does not intertwine the fundamental principle of human dignity with human rights doctrine. Hence, human rights law is more a school of law than merely a normative branch of international law and the ICJ's willingness to engage in the development of human rights law depends

upon which judicial ideology its judges subscribe to In order to evaluate how this human rights spirit is manifested or occasionally not manifested through the vast jurisprudence of the ICJ Parts II and III critically examine the Court s principal contentious and advisory cases in which it has treated human rights questions The legal reasoning of the Court and the opinions appended to its decisions by its individual judges are analysed in light of the principle of human dignity and the doctrine of human rights

Islamic Law and International Human Rights Law Anver M. Emon, Mark Ellis, Benjamin Glahn, 2012-10-11 The relationship between Islamic law and international human rights law has been the subject of considerable and heated debate in recent years The usual starting point has been to test one system by the standards of the other asking is Islamic law compatible with international human rights standards or vice versa This approach quickly ends in acrimony and accusations of misunderstanding By overlaying one set of norms on another we overlook the deeply contextual nature of how legal rules operate in a society and meaningful comparison and discussion is impossible In this volume leading experts in Islamic law and international human rights law attempt to deepen the understanding of human rights and Islam paving the way for a more meaningful debate Focusing on central areas of controversy such as freedom of speech and religion gender equality and minority rights the authors examine the contextual nature of how Islamic law and international human rights law are legitimately formed interpreted and applied within a community They examine how these fundamental interests are recognized and protected within the law and what restrictions are placed on the freedoms associated with them By examining how each system recognizes and limits fundamental freedoms this volume clears the ground for exploring the relationship between Islamic law and international human rights law on a sounder footing In doing so it offers a challenging and distinctive contribution to the literature on the subject and will be an invaluable reference for students academics and policy makers engaged in the legal and religious debates surrounding Islam and the West

**HUMAN RIGHTS LAW AND PRACTICE** JATINDRA KUMAR DAS, 2016-07-01 The book written with a rich teaching and research experience of the author emphasises the critical evaluation of contemporary human rights law and practice with special reference to India It also evaluates the ongoing discourse on various issues relating to life liberty equality and human dignity and their reflections in international human rights law referring the state practices through constitutional guarantees judicial decisions as well as through enacting appropriate legislations This lucid and comprehensive book is logically organised into nine chapters Beginning with the theoretical foundations of human rights law referring to origin development and theories of human rights at preliminary level the book proceeds to International Bill of Human Rights demonstrating various facets of civil and political rights as well as economic social and cultural rights It further discusses the importance of human rights law in protection against inhuman wrongs and examines a large number of debates concerning human right to development and protection of environment Then it moves on to explore various issues relating to human rights in Indian Constitutional Law The latter part of the book emphasises on the protection of rights of women and children which has been the focal point of all

human rights discussions It also deals with the scope and ambit of the rights of indigenous peoples and minorities including their protection At the end the book examines the utility and justifications of human rights law in protecting the rights of people with disabilities divyang Though the book is primarily designed for LLB BA LLB and LLM and courses on human rights it will be equally beneficial for the researchers academicians jurists lawyers judges as well as members of civil society

The Idea of International Human Rights Law Steven Wheatley,2019-01-17 International human rights law has emerged as an academic subject in its own right separate from but still related to international law This book explains the distinctive nature of this discipline by examining the influence of the idea of human rights on general international law Rather than make use of a particular moral philosophy or political theory it explains human rights by examining the way the term is deployed in legal practice on the understanding that words are given meaning through their use Relying on complexity theory to make sense of the legal practice of the United Nations the core human rights treaties and customary international law the work demonstrates the emergence of the moral concept of human rights as a fact of the social world It reveals the dynamic nature of this concept and the influence of the idea on the legal practice a fact that explains the fragmentation of international law and special nature of international human rights law

**Children's Rights Law in the Global Human Rights Landscape** Eva Brems, Ellen Desmet, Wouter Vandenhoele,2017-04-21 Children s rights law is often studied and perceived in isolation from the broader field of human rights law This volume explores the inter relationship between children s rights law and more general human rights law in order to see whether elements from each could successfully inform the other Children s rights law has a number of distinctive characteristics such as the emphasis on the best interests of the child the use of general principles and the inclusion of third parties e g parents and other care takers in treaty provisions The first part of this book questions whether these features could be a source of inspiration for general human rights law In part two the reverse question is asked could children s rights law draw inspiration from developments in other branches of human rights law that focus on other specific categories of rights holders such as women persons with disabilities indigenous peoples or older persons Finally the interaction between children s rights law and human rights law and the potential for their isolation inspiration or integration may be coloured or determined by the thematic issue under consideration Therefore the third part of the book studies the interplay between children s rights law and human rights law in the context of specific topics intra family relations LGBTQI marginalization migration media the environment and transnational human rights obligations

New Technologies for Human Rights Law and Practice Molly K. Land, Jay D. Aronson,2018-04-19 Provides a roadmap for understanding the relationship between technology and human rights law and practice This title is also available as Open Access

*Using Human Rights Law in English Courts* Murray Hunt,1997-03-01 The primary purpose of this book is to demonstrate the scope that already exists for using international human rights law in English courts regardless of its status as incorporated or unincorporated Murray Hunt addresses directly what are commonly

supposed to be the theoretical obstacles to using human rights law in English courts and aims to raise awareness of the extent to which these have now fallen away in light of recent developments in English judicial practice The book was first published in hardback in March 1997 *The Right to Equality in European Human Rights Law* Charilaos

Nikolaidis, 2014-07-25 A right to equality and non discrimination is widely seen as fundamental in democratic legal systems But failure to identify the human interest that equality aims to uphold reinforces the argument of those who attack it as morally empty or unsubstantiated and weakens its status as a fundamental human right This book argues that an understanding of the human interest which equality aims to uphold is feasible within the jurisprudence of the European Court of Human Rights ECtHR and the European Court of Justice ECJ In comparing the evolution of the prohibition of discrimination in the case law of both Courts Charilaos Nikolaidis demonstrates that conceptual convergence within the European Convention on Human Rights ECHR and the EU on the issue of equality is not as far as it might appear initially While the two bodies of equality law are extremely divergent as to the requirements they impose their interpretation by the international judiciary might be properly analysed under a common light to emphasise the substantive dimension of equality in European Human Rights law The book will be of great use and interest to scholars and students of human rights discrimination law and European politics Research Methods for International Human Rights Law Damian

Gonzalez-Salzberg, Loveday Hodson, 2019-06-13 The study and teaching of international human rights law is dominated by the doctrinal method A wealth of alternative approaches exists but they tend to be discussed in isolation from one another This collection focuses on cross theoretical discussion that brings together an array of different analytical methods and theoretical lenses that can be used for conducting research within the field As such it provides a coherent accessible and diverse account of key theories and methods A distinctive feature of this collection is that it adopts a grounded approach to international human rights law through demonstrating the application of specific research methods to individual case studies By applying the approach under discussion to a concrete case it is possible to better appreciate the multiple understandings of international human rights law that are missed when the field is only comprehended through the doctrinal method Furthermore since every contribution follows the same uniform structure this allows for fruitful comparison between different approaches to the study of our discipline *Fragmentation in International Human Rights Law* Marjan

Ajevski, 2017-07-14 This book explores the effects of institutional fragmentation in international human rights law by comparing the rights jurisprudence of three human rights courts and bodies namely the European Court for Human Rights the Inter American Court for Human Rights and the Human Rights Committee Contributions cover the areas of freedom of expression journalism and the media right to privacy freedom of assembly and freedom of association political parties and measure the extent of fragmentation of human rights protection Moreover the volume argues that while the conflict of laws approach favoured by the International Law Commission might work in avoiding outright conflict in obligation in practice it is

not an approach that presents a viable research agenda when it comes to understanding the causes and consequences of institutional fragmentation This is especially evident in areas like international human rights where the possibility of a silent drift between the jurisprudence of the three courts is a real possibility This book was originally published as a special issue of the Nordic Journal of Human Rights      **Religious Legal Traditions, International Human Rights Law and Muslim**

**States** Kamran Hashemi, 2008-08-31 This book offers an exploration of aspects of the subject Islam and Human Rights which is the focus of considerable scholarship in recent years predominantly from Western scholars Thus it is interesting and important to have the field addressed from a non Western perspective and by an Iranian scholar The study draws on Persian language literature that addresses both theological and legal dimensions of the theme The work is also distinctive in that it tackles three areas that have been largely ignored in the literature It undertakes a comparative study of the laws of several Muslim States with respect to religious freedom minorities and the rights of the child The study offers an optimistic vision of the fundamental compatibility of Islam and international human rights standards      *International Human Rights Law and*

*Crimes Against Women in Turkey* Ayşe Güneş, 2020-12-20 This book evaluates the effectiveness of current international human rights law and in particular the recent Istanbul Convention in eradicating so called honour killings in Turkey So called honour killings have become an issue of concern for the international community In Turkey in particular the practice still exists despite the adoption of the relevant human rights instruments The book argues that the improvement of the status of women in Turkey in accordance with gender equality as well as the application of the principle of state due diligence both requirements of the Istanbul Convention and international human rights law are fundamental means towards eradicating the killing of women in the name of honour Using feminist approaches in particular the intersectionality approach the study looks at the application of such standards as well as the current obstacles Through such a lens the study discusses the strengths and weaknesses of the Turkish Constitution Turkish Civil Code Turkish Penal Code and Law to Protect Family and Prevent Violence Against Women and questions the judicial approach to the implementation of the women s right to life It identifies the lacunae in the Turkish legislation that allow inadequate legal protection for women and the inconsistency of the judicial approach to the definition of the so called honour killings in the judgements The study then recommends some concrete amendments to the relevant legal provisions in order to better reflect the international framework and the feminist approaches The book will be a valuable resource for academics researchers and policy makers in the areas of international human rights law and feminist legal theory      The Cambridge Companion to Human Rights Law Conor Gearty, Costas

Douzinas, 2012-11-22 Human rights are considered one of the big ideas of the early twenty first century This book presents in an authoritative and readable form the variety of platforms on which human rights law is practiced today reflecting also on the dynamic inter relationships that exist between these various levels The collection has a critical edge The chapters engage with how human rights law has developed in its various subfields what if anything has been achieved and at what cost in

terms of expected or produced unexpected side effects The authors pass judgment about the consistency efficacy and success of human rights law set against the standards of the field itself or other external goals Written by world class academics this Companion will be essential reading for students and scholars of human rights law *State Responsibility for 'Modern Slavery' in Human Rights Law* Marija Jovanovic, 2023-01-18 What is modern slavery and who is responsible for it What is the relevance of human rights law which primarily regulates state conduct for practices predominantly committed by private actors Where can victims seek justice and redress when national authorities fail to protect them These questions are the core focus of this book Marija Jovanovich analyses the role and responsibility of states for addressing modern slavery a diverse set of practices usually perpetrated by non state actors against the backdrop of international human rights law It explores the dynamic between criminal law and human rights law and reveals the different ways these legal domains work to secure justice for victims The book considers the absolute nature of the prohibition of modern slavery in human rights law the range of practices covered by this umbrella term and their mutual relationships the positive obligations of states established by international human rights tribunals owed to individuals subject to modern slavery and the standards for assessing state responsibility in these situations By engaging with the concept of exploitation in human rights law Jovanovich glues together diverse practices of modern slavery including servitude forced labour and human trafficking into a coherent concept The book elucidates the theoretical foundations of this fundamental human right and explains why human trafficking has an independent place within it In addition to providing a comprehensive critique of the existing human rights jurisprudence this book offers a roadmap for the future development of law on this subject emphasizing the limits of human rights law as a tool for addressing modern slavery

**The Twilight of Human Rights Law** Eric A. Posner, 2014 Nearly all countries have ratified nearly all the major human rights treaties and all governments profess support for human rights yet most countries flagrantly violate the human rights of their citizens This book argues that the reason why is that there is a contradiction between the goal of enforcing human rights which requires simple rules and the realities of governance which require flexibility and discretion

**State-Religion Relationships and Human Rights Law** Jeroen Temperman, 2010-05-17 This book examines the question of how the mode of state religion identification affects the state's scope for compliance with human rights law It presents a human rights based assessment of the various modes of state religion identification and of the various forms of state practice that surround and characterize these different state religion models A close assessment of norms of human rights law substantiates that although human rights law on the face of it is seemingly neutral to the issue of state religion identification legal principles can be extrapolated that have a profound bearing on the question of legitimacy of the possible diverse relationships that may exist between the state and religion A range of thematic case studies on among other issues Establishment of Religion the Equal Religious Rights of Others Religion Freedom of Expression Religion Political Rights Religion Educational Rights Religion Freedom of Association and Religion Equal Employment Opportunities



demonstrates that existing regimes of positive state identification with religion are not devoid of forms of institutionalised discrimination and de facto practices of discrimination on grounds of religion or belief or lack thereof At the same time it is observed by the author that in some secular or separationist states the ideals of state secularism and separationism have come to be considered ends in themselves This has given rise to situations where the principles of secularism and separationism are construed so as to impose illegitimate limits on the activities of religions or illegitimate limits on the individual manifestation of certain beliefs This book makes a case for the recognition of a state duty to remain impartial with respect to religion or belief in all regards so as to comply with people s fundamental right to be governed at all times in a religiously neutral manner

**Corruption and Human Rights Law in Africa** Kolawole Olaniyan, 2014-12-01 This important new book provides a framework for complementarity between promoting and protecting human rights and combating corruption The book makes three major points regarding the relationship between corruption and human rights law First corruption per se is a human rights violation insofar as it interferes with the right of the people to dispose of their natural wealth and resources and thereby increases poverty and frustrates socio economic development Second corruption leads to a multitude of human rights violations Third the book demonstrates that human rights mechanisms have the capacity to provide more effective remedies to victims of corruption than can other criminal and civil legal mechanisms The book takes up one of the pervasive problems of governance large scale corruption to examine its impact on human rights and the degree to which a human rights approach to confronting corruption can buttress the traditional criminal law response It examines three major aspects of human rights in practice the importance of governing structures in the implementation and enjoyment of human rights the relationship between corruption poverty and underdevelopment and the threat that systemic poverty poses to the entire human rights edifice The book is a very significant contribution to the literature on good governance human rights and the rule of law in Africa Endorsements Kolawole Olaniyan has taken up one of the pervasive problems of governance large scale corruption to examine its impact on human rights and the degree to which a human rights approach to confronting corruption can buttress the traditional criminal law response His focus is Africa but the valuable lessons he teaches in this comprehensive study can resonate throughout the world The result is a comprehensive and holistic legal framework for addressing some of the root causes of human rights violations and poverty not only in Africa but wherever corruption exists Dinah Shelton Manatt Ahn Professor of International Law emeritus The George Washington University Law School This book demonstrates the author s mastery of complex jurisprudential and theoretical discourses His review of the existing literature is extensive the doctrinal analysis rigorous and the treatment of the subject innovative Dr Olaniyan s willingness to introduce fresh eyes to the ways in which doctrine contributes to an understanding of seemingly mundane problems lays the foundation for fertile trajectories from which future scholars can launch exciting inquiries on the relationship between corruption and human rights Overall this book makes an important and valuable contribution to the

growth and understanding of the corruption human rights discourse as it is presently constructed Ndiva Kofele Kale  
University Distinguished Professor of Law SMU Dedman School of Law Dallas USA      *Human Rights Law and Personal Identity* Jill Marshall, 2014-06-20 This book explores the role human rights law plays in the formation and protection of our personal identities Drawing from a range of disciplines Jill Marshall examines how human rights law includes and excludes specific types of identity which feed into moral norms of human freedom and human dignity and their translation into legal rights The book takes on a three part structure Part I traces the definition of identity and follows the evolution of and protects a right to personal identity and personality within human rights law It specifically examines the development of a right to personal identity as property the inter subjective nature of identity and the intercession of power and inequality Part II evaluates past and contemporary attempts to describe the core of personal identity including theories concerning the soul the rational mind and the growing influence of neuroscience and genetics in explaining what it means to be human It also explores the inter relation and conflict between universal principles and culturally specific rights Part III focuses on issues and case law that can be interpreted as allowing self determination Marshall argues that while in an age of individual identity people are increasingly obliged to live in conformed ways pushing out identities that do not fit with what is acceptable Drawing on feminist theory the book concludes by arguing how human rights law would be better interpreted as a force to enable respect for human dignity and freedom interpreted as empowerment and self determination whilst acknowledging our inter subjective identities In drawing on socio legal philosophical biological and feminist outlooks this book is truly interdisciplinary and will be of great interest and use to scholars and students of human rights law legal and social theory gender and cultural studies      *The French Law of Marriage and the Conflict of Laws that Arises Therefrom* Edmond Kelly, 1885

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