International Human Rights Law

The Oxford Handbook of International Human Rights Law provides an authoritative and original overview of one of the key branches of international law. Forty contributors comprehensively analyse the role of human rights in international law from a global perspective, examining its origins and principles, and measuring its impact on the world.

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.

In recent years, there has been an explosion of writing on the topic of human dignity across a plethora of different academic disciplines. Despite this explosion of interest, there is one group – critical legal scholars – that has devoted little if any attention to human dignity. This book argues that these scholars should attend to human dignity, a concept rich enough to support a whole range of progressive ambitions, particularly in the field of international law. It synthesizes certain liberal arguments about the good of self-authorship with the critical legal philosophy of Roberto Unger and the capabilities approach to agency of Amartya Sen, to formulate a unique conception of human dignity. The author argues how human dignity flows from an individual’s capacity for self-authorship as defined by the set of expressive capabilities s/he possesses, and the book demonstrates how this conception can enrich our understanding of international human rights law by making the amplification of human dignity its fundamental orientation.

International law is a social construct crafted by human endeavour to achieve or at least contribute to the achievement of goals perceived to be valuable or necessary to effective social relations. In effect, international law is no more than a facilitative process and so cannot have answers and conclusions of its own other than what lies within the ambitions of those who define the limits of the process. The essays collected together here reveal how international law facilitates the achievement of the long standing ambition of turning human rights ideals and rhetoric into reality.

At a time when human rights are coming under increasing pressure, in-depth knowledge and understanding of their foundations, conceptual underpinnings and current practice remain crucial. The second edition of Walter Kalin and Jorg Kunzli’s authoritative book provides a concise but comprehensive legal analysis of international human rights protection at the global and regional levels. It shows that human rights are real rights creating legal entitlements for those who are protected by them and imposing legal obligations on those bound by them. Based, in particular, on a wide-ranging analysis of international case-law, the book focuses on the sources and scope of application of human rights and a discussion of their substantive guarantees. Further chapters describe the different mechanisms to monitor the implementation of human rights obligations, ranging from the regional human rights courts in Africa, the Americas and Europe and the UN treaty bodies to the international criminal tribunals, the International Court of Justice and the UN Security Council. The book is based on an understanding of human rights as legal concepts that address basic human needs and vulnerabilities, and highlights the indivisibility of civil and political rights on the one and economic, social and cultural rights on the other hand. It also highlights the convergence of international human rights and international humanitarian law and the interlinkages with international criminal law as well as general international law, in particular the law of state responsibility.

The simple and straightforward analysis in this book will provide a useful text for undergraduate (LLB) and postgraduate (LLM) courses in international human rights law and international relations. The book will also assist practitioners in gaining a basic understanding of the practices and procedures of international human rights law.

International Human Rights and Humanitarian Law: Treaties, Cases, and Analysis introduces the reader to the international legal instruments and case law governing the substantive and procedural dimensions of international human rights and humanitarian law, including economic, social, and cultural rights. The book, which was originally published in 2006, also discusses the history and organisational structure of human rights and humanitarian law enforcement mechanisms. A chapter is devoted a chapter to the issues surrounding the incorporation of international law into U.S. law, including principles of constitutional and statutory interpretation, conflict rules, and the self-execution doctrine. Questions and comments sections provide critical analyses of issues raised in the materials. The last chapter addresses theoretical issues facing contemporary international human rights and humanitarian law and its enforcement mechanisms.

International Human Rights Law is a comprehensive introductory treatise, intended for all concerned about this critical area of international law, including students, lawyers, other advocates, teachers, and academics.

International Human Rights Law and PracticeCambridge University Press

Customary international law is one of the principal sources of public international law. Although its existence is uncontroversial, until now the content of customary international law in the area of human rights has not been analyzed in a comprehensive manner. This book, from one of international law's foremost scholars and practitioners, provides an unparalleled account of the customary international law of human rights. It discusses the emergence of this customary law, the debates about how it is to be identified, and the efforts at formulation of customary norms. In doing so, the book provides a useful and accessible introduction to the content of international human rights. The author uses the Universal Declaration of Human Rights as a basis to examine human rights norms, and determine whether they may be described as customary. He makes use of relatively new sources of evidence of the two elements for the identification of custom: State practice and opinio juris. In particular, the book draws on the increasingly universal ratification of major human rights treaties and the materials generated by the Universal Periodic Review mechanism of the Human Rights Council. The book concludes that a large number of human rights norms may indeed be described as customary in nature, and that courts should make greater use of custom as a source of international law.

The United Nations Convention on the Rights of the Child 1989 is one of the most highly ratified human rights treaties in the world, with 192 states currently signed up to it. Article Twelve is fundamental to the Convention and states that all children capable of forming views have the right to express those views, and recognises that all children have the right to be heard in any judicial and administrative proceedings affecting them. This book explores the historical and theoretical background to Article Twelve, and examines the various models of participation which have been created to facilitate a better understanding of this provision. Aisling Parkes analyzes the extent to which Article Twelve has been implemented under international law, and in domestic law, as well as setting-out recommendations for the most effective ways of implementing Article Twelve in all areas of children's lives.

The main challenges within international human rights law are generally thought to be in the fields of transitional justice, non-state actors, terrorism, development, poverty and environmental degradation. This volume of articles not only covers these mainstream challenges but also a wider and more systematic range, including justiciability of social and economic rights, extraterritoriality, health care and investment arbitration. The key literature selected for this collection includes articles that have appeared in mainstream journals and books from leading publishers as well as papers that have appeared in lesser known journals, hard to find books and UN documents. Some of these are classic essays whilst others are more recent additions that reflect the current state of the debate. The papers are put into context by a specially
Dinah Shelton provides a comprehensive treatment of remedies for human rights violations reviews the jurisprudence of international law - paying deference to political realities while simultaneously seeking to transcend them - charts new paradigms explored in this collection, converse with each other. This conversation mirrors the process through which compensation to victims of war crimes. The range of issues, multitude of competing norms and narratives, and shifting regimes: belligerent occupation; the European Court of Human Rights and the protection of cultural heritage. Part III other, allegedly new, types of wars. Part II discusses the interplay between IHRL and IHL in the context of three specific paradigmatic (security based "armed conflict" vs. human rights centered "law enforcement" paradigms) and the normative complexities of the interaction between both regimes in the "fight against terror" and in enforcement and remedies. Providing up-to-date and authoritative articles covering key aspects of international human rights law, this book work is an essential work of reference covering topics integral to the theory and practice of international human rights law the volume offers a broader perspective though examinations of the ways in which human rights law interacts with other legal regimes and other international institutions, and by addressing the current and future challenges facing human rights. This highly topical collection of specially commissioned papers is split into four sections: The nature and evolution of international human rights law discussing the origins, theory and practice of the discipline. Interaction of human rights with other key regimes and bodies including the interaction of the discipline with international economic law, international humanitarian law, and development, as well as other legal regimes. Evolution and prospects of regional approaches to human rights discussing the systems of Europe, the Americas, Africa and South East Asia, and their relationship to the United Nations treaty bodies. Key contemporary challenges including non-State actors, religion and human rights, counter-terrorism, and enforcement and remedies. Providing up-to-date and authoritative articles covering key aspects of international human rights law, this book work is an essential work of reference for scholars, practitioners and students alike. Chapter 35 of this book is freely available as a downloadable Open Access PDF at www.routledgehandbooks.com. It has been made available under a Creative Commons Attribution-Non Commercial-No Derivatives 3.0 license.

The idea that international humanitarian law (IHL) and international human rights law (IHRIL) are complementary, rather than mutually exclusive regimes generated a paradigmatic shift in the international legal discourse. The reconciliation was driven by a humanistic ethos and its purpose was to offer greater protection of the rights to life, liberty and dignity of all individuals under all circumstances. The complementarity of both regimes currently enjoys the status of the new orthodoxy and simultaneously invites critical reflection. This collection of essays accepts the invitation, offering diverse assessments of the merits of taking human rights to the battlefields of the twenty-first century. The book comprises three parts: part I focuses on the paradigmatic (security based "armed conflict" vs. human rights centered "law enforcement" paradigms) and the normative complexities of the interaction between both regimes in the "fight against terror" and in other, allegedly new, types of wars. Part II discusses the interplay between IHRIL and IHL in the context of three specific regimes: belligerent occupation; the European Court of Human Rights and the protection of cultural heritage. Part III explores the potential fusion of IHL and IHRIL into a new paradigm in two areas: post-bellum accountability and compensation to victims of war crimes. The range of issues, multitude of competing norms and narratives, and shifting paradigms explored in this collection, converse with each other. This conversation mirrors the process through which international law - paying deference to political realities while simultaneously seeking to transcend them - charts new pathways to advance its humanizing project. Fully updated edition offers coverage of new topics and a more student-friendly design, while retaining the original style and features.

Dinah Shelton provides a comprehensive treatment of remedies for human rights violations reviews the jurisprudence of international human rights law.
international tribunals on these violations. The text provides a theoretical framework and a practical guide for lawyers, judges, and academics interested in human rights law.

International courts and other actors are increasingly taking into account pre-existing social structures and inequalities when addressing and redressing human rights violations, in particular discrimination against specific groups. To date, however, academic legal research has paid little attention to this gentle turn in international human rights law and practice to address structural discrimination. In order to address this gap, this study analyses whether and to what extent international and regional human rights frameworks foresee positive obligations for State parties to address structural discrimination, and, more precisely, gender hierarchies and stereotypes as root causes of gender-based violence. In order to answer this question, the book analyses whether or not international human rights law requires pursuing a root-cause-sensitive and transformative approach to structural discrimination against women in general and to the prevention, protection and reparation of violence against women in particular; to what extent international courts and (quasi)judicial bodies address State responsibility for the systemic occurrence of violence against women and its underlying root causes; whether or not international courts and monitoring bodies have suitable tools for addressing structural discrimination within the society of a contracting party; and the limits to a transformative approach. Critiquing the State-centric and legalistic approach to implementing human rights, this book illustrates the efficacy of relying upon social institutions.

The overall structure of international human rights law has generally been understood as a regime that is designed in such a way as to protect individuals and groups against abusive domestic state power. The initial stages of the development of international human rights law focused on limiting the harms that the state can do to individuals and peoples in its own territory emphasising ways of enhancing domestic application of international human rights. However, this domestic-oriented approach to state's human rights obligations has increasingly proved in recent years to be inadequate for the effective protection and realisation of individuals' and groups' rights and freedoms. Violations of human rights at the domestic level have come to be increasingly committed by extra-territorial actors, which could be state or non-state entities. Territorially-bound responsibilities of states thus leave a legal black hole in the protective regime of international human rights law where the absence or obscurity of a duty bearer and the resulting lack of redress would lead to a situation where the universal nature of rights becomes empty promises for many of the supposed beneficiaries. This book examines the corpus and jurisprudence of the regional African human rights treaties in the light of international treaty and case laws. It explores the textual bases of African human rights instruments in order to gauge the possibility of the treaties' extraterritorial scope where human rights are breached by both State and non-State actors. The question of whether the scope of application of regional treaties is circumscribed by relevant state's territory or jurisdiction and the victim's nationality or residence is considered, in reference to human and peoples' rights, states' duties and remedies. The case law of the African Commission, the African Committee of Experts on the Rights and Welfare of the Child and the African Court on Human and People's Rights is analysed as well as sub-regional tribunals such as the SADC and the ECOWAC tribunals. The book also looks at the implications of the jurisdiction clause inserted in the relatively new African treaty the Protocol establishing the African Court on Human Rights and Justice. The jurisprudence of the UN and regional human rights bodies is referred to in order to appraise the possibility of drawing analogies and use the experiences of those foreign human rights systems in a way and to the extent the African region can borrow from them.

This book provides a precise concept of international human rights law, its development and the tangible meaning of civil and political rights, economic and social rights. It has highlighted women's rights, globalization, human rights education, role of the UN and NGOs to protect human rights.

The international human rights system remains as dynamic as ever. If at the end of the last century there was a sense that the normative and institutional development of the system had been completed and that the emphasis should shift to issues of implementation, nothing of the sort occurred. Even over the last few years significant changes happened, as this book amply demonstrates. We hope that this Manual makes a contribution to the development of International Human Rights Law and is of interest for those working in the field of promotion and protection of human rights. The book is the result of a joint project under the auspices of HumanitarianNet, a Thematic Network led by the University of Deusto, and the European Inter-University Centre for Human Rights and Democratisation (EIUC, Venice).

This book offers a critical reinterpretation of Western European States' programmatic support for International Human Rights Law (IHRL) since the 1970s. It examines the systemic or structural constraints inherent to the international legal system and argues that order trumps justice in Western Europe's promotion of international human rights norms. The book shows that IHRL evolved as a result of a tension between two forces: A European understanding of international society, based on order, the centrality of the State and a minimalist conception of human rights; and a civil society and UN-promoted, mostly Western, particularly European but broader conception of human rights, based on justice. As such, human rights norms emerge and develop when (some) states' idea of order meets with advocates' idea of justice. We are living a historical juncture of shifting tectonic plates with rising nationalism in the Global North, ever growing power in the Global South and a declining presence of Europe in global affairs. The conditions under which IHRL emerged have fundamentally changed and unpacking the factors beneath the international recognition of human rights has never been more pressing. This book will be of key interest to scholars, students and practitioners in human rights law, public international law, international relations, critical legal theory and in European politics.

Paradigms of International Human Rights Law explores the legal, ethical, and other policy consequences of three core structural features of international human rights law: the focus on individual rights instead of duties; the division of rights into substantive and nondiscrimination categories; and the use of positive and negative right paradigms. Part I explains the types of individual, corporate, and state duties available,
and analyzes the advantages and disadvantages of incorporating each type of duty into the world public order, with special attention to supplementing individual rights with explicit individual and state duties. Part II evaluates how substantive rights and nondiscrimination rights are used to protect similar values through different channels; summarizes the nondiscrimination right in international practice; proposes refinements; and explains how the paradigms synergize. Part III discusses negative and positive paradigms by dispelling a common misconception about positive rights, and then justifies and defines the concept of negative rights, justifies positive rights, and concludes with a discussion of the ethical consequences of structuring the human rights system on a purely negative paradigm. For each set of alternatives, the author analyzes how human rights law incorporates the paradigms, the technical legal implications of the various alternatives, and the ethical and other policy consequences of using each alternative while dispelling common misconceptions about the paradigms and considering the arguments justifying or opposing one or the other.

Human rights law is a complex but compelling subject that fascinates, but often confuses, students. International Human Rights Law and Practice explores the subject from a theoretical and practical perspective, guiding students to a rich understanding of the law. The second edition has been fully revised and updated, including two new chapters on children’s rights and international criminal law, and new sections on a variety of topics, including the right to equality, the protection of refugees and the effect of foreign investment and sovereign debt on the enjoyment of human rights. In addition, new case studies and interviews with practitioners, NGO activists and policymakers show how theory is applied in real life. Student learning is supported by questions to stimulate seminar discussion and further reading sections that encourage independent study. The authors’ clear and engaging writing style ensures that this new edition will continue to be required reading for all students of human rights law.

Drawing upon previous theories on the relationship between human rights law and international humanitarian law, this book examines on the basis of a series of individual case-studies the new theoretical trend arguing for a merge of these two sets of norms. The only human rights textbook truly merging law with practice in a comprehensive and enjoyable manner.

As Jenny Martinez shows in this groundbreaking new book, the international human rights law that we know today is not solely a post-World War II development, as most scholars claim, but rather has roots in one of the nineteenth century's central moral causes: the movement to ban the international slave trade. Martinez focuses in particular on international courts for the suppression of the slave trade. The courts, which were created by treaties and based in the Caribbean, West Africa, Cape Town, and Brazil, helped free more than 80,000 Africans from captured slave ships between 1807 and 1871. Here then, buried in the dusty archives of admiralty courts, ships' logs, and the British foreign office, Martinez uncovers the foundations of contemporary human rights law: international courts exercising jurisdiction over crimes against humanity long before the Nuremberg trials. Fueled by a powerful thesis and drawing on novel evidence, Martinez's work will reshape the fields of human rights history and international human rights law.

The essays selected for this volume, written by some of the world's most respected experts on human rights, encompass the development of human rights law from its philosophical underpinnings and address many of its current controversies. The collected essays explore the development of human rights instruments, including the political challenges that shaped those instruments; examine the interrelationship of various claimed rights; and identify factors producing compliance with - and violation of - human rights law. Other contributions analyze the role of non-governmental organizations in achieving better human rights protections as well as the danger of claiming too many rights, and the tension between rights and security. Contrasting viewpoints in several essays highlight some of the key conflicts in the field. An introductory essay provides a roadmap marking the collection's major themes, and tracing the relationship between those themes. Taken together, the essays emphasize the legal underpinnings of the human rights regime and as such, the collection provides an essential, wide-ranging account of this important part of international law, procedure and practice.

The Punta del Este Declaration, and this book dedicated to elaborating upon it, is devoted to exploring the ways that human dignity for everyone everywhere can be a useful tool in helping to address the challenges and strains facing human rights in the world today. In 2018, an initiative was launched to revitalize the human rights project by way of engaging the notion of human dignity. This resulted in the Punta Del Este Declaration on Human Dignity for Everyone Everywhere (Punta Del Este Declaration), a declaration co-authored by over 30 human rights experts from all over the world. The Punta Del Este Declaration simplifies and brings coherence to the concept of human dignity in 10 brief statements that capture the many dimensions and aspects of human dignity and the practical ways that human dignity is useful in the promotion of human rights. This book provides an overview of how the notion of human dignity has been used to strengthen human rights. It discusses how human dignity plays many different roles in human rights discourse and has the force to revitalize the human rights project; it is the foundational principle upon which the human rights project is built. But it is also the telos, or end goal, of human rights. At the same time, it is an important evaluative mechanism for assessing how well a country is doing in the implementation of human rights. The book will be a valuable resource for all those working in the areas of International Human Rights Law, Legal Philosophy, and Law and Religion.

There is a broad consensus among scholars that the idea of human rights was a product of the Enlightenment but that a self-conscious and broad-based human rights movement focused on international law only began after World War II. In this narrative, the nineteenth century’s absence is conspicuous, and few have considered that era seriously, much less written books on it. But as Jenny Martinez shows in this novel interpretation of the roots of human rights law, the foundation of the movement that we know today was a product of one of the nineteenth century's central moral causes: the movement to ban the international slave trade. Originating in England in the late eighteenth century, abolitionism achieved remarkable success over the course of the nineteenth century. Martinez focuses in particular on the international admiralty courts, which tried the crews of captured slave ships. The courts, which were based in the Caribbean, West Africa, Cape Town, and Brazil, helped free at least 80,000 Africans from captured slave ships between 1807 and 1871. Here then, buried in the dusty archives of admiralty courts, ships' logs, and the British foreign office, are the foundations of contemporary human rights law: international courts targeting states and non-state transnational actors while working on behalf the world's most persecuted peoples—captured West Africans bound for the slave plantations of the Americas. Fueled by a powerful thesis and novel evidence, Martinez's work will reshape the fields of human rights history and international human rights law.
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 though 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. Illustrating the scope of this fascinating and wide-reaching subject to the student, this clear and concise text gives a broad introduction to international human rights law. Coverage includes regional systems of protection, the role of the UN, and a variety of substantive rights. The author skilfully guides students through the complexities of the subject, and then prepares them for further study and research. Key cases and areas of debate are highlighted throughout, and a wealth of references to cases and further readings are provided at the end of each chapter.

An analysis of international human rights law's applicability and effectiveness in geographic areas where the State has lost territorial control. 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.

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