# HUMAN RIGHTS AND THE PRIVATE SPHERE A Comparative Study

Edited by Dawn Oliver and Jörg Fedtke



**Angela Müller** 

Human Rights and the Private Sphere Jorg Fedtke, Dawn Oliver, 2015-01-12 This book is a companion volume to Human Rights and the Private Sphere A Comparative Study Volumes 1 and 2 which analysed the effect of human rights on private relationships in a range of democratic jurisdictions around the world This book looks at a number of additional important jurisdictions in self contained chapters which describe the wider constitutional background of each system the relevant national human rights regime the influence of any international human rights instruments the judicial enforcement of human rights and the effect of human rights thinking in the private sphere This book does not just extend the geographical reach of the first two volumes but also addresses a number of specific questions which the particular experience of these new jurisdictions may help to answer These additional lines of inquiry include the influence of religion the question whether notions of human rights protection can affect private relationships even in an authoritarian public law environment whether local systems of customary law fulfil similar functions as modern constitutional guarantees and how private sphere protection develops in systems experiencing not only rapid constitutional changes but also a fundamental shift in their underlying societal paradigm This volume will be of interest to those working in the fields of human rights public law and comparative Human Rights and the Private Sphere Vol 1 Jorg Fedtke, 2007 Part Part I Introduction chapter PART I law INTRODUCTION Human Rights and the Private Sphere the Scope of the Project part Part II National Jurisdictions European Convention on Human Rights chapter 1 Denmark Drittwirkung and Conflicting Rights Viewed from National and International Perspectives chapter 2 England and Wales The Human Rights Act and the Private Sphere chapter 3 France Horizontal Application and the Triumph of the European Convention on Human Rights chapter 4 Germany Drittwirkung in Germany chapter 5 Greece Taking Private Law Seriously in the Application of Constitutional Rights chapter 6 India Protection of Human Rights against State and Non State Action chapter 7 Ireland Irish Constitutional Law and Direct Horizontal Effect A Successful Experiment chapter 8 Israel Human Rights in Private Law The Israeli Case chapter 9 Italy The Protection of Constitutional Rights in the Private Sphere chapter 10 New Zealand Taking Human Rights into the Private Sphere chapter 11 South Africa From Indirect to Direct Effect in South Africa a System in Transition chapter 12 Spain A Jurisdiction Recognising the Direct Horizontal Application of Human Rights chapter 13 The United States and Canada State Action Constitutional Rights and Private Actors chapter 14 The European Convention on Human Rights The European Court of Human Rights Transnational Legal Processes and Human Rights Asst Prof Lauren Fielder, Dr Kyriaki Topidi, 2013-03-28 It is becoming increasingly common for human rights norms to be transferred between legal and political systems and this book is a fresh approach to the intersection of transnational law and the protection of cultural difference beyond the single state border It investigates how the construction and evolution of human rights norms are transferred in

transnational legal settings and asks whether law should reflect express or control any given aspect of culture The chapters explore the ways that law and cultural identity may or may not co exist particularly in circumstances where a prima facie clash is observed Examining legal approaches to cultural differences from a comparative perspective and across a wide range of locations the book covers topics such as juvenile punishment religious defamation religious rights and conflict between industry and indigenous communities It will be of value to those working in the areas of transnational and comparative law as well as those concerned with human rights and the intersection of law and cultural difference Human Rights in the The Impact of the European Convention on Human Rights on Private International Private Sphere Andrew Clapham, 1996 Law Louwrens R. Kiestra, 2014-09-11 In this book the interaction between the rights guaranteed in the European Convention of Human Rights ECHR and private international law has been analysed by examining the case law of the European Court of Human Rights the Court and selected national courts In doing so the book focuses on the impact of the ECHR on the three main issues of private international law jurisdiction applicable law and the recognition and enforcement of foreign judgments Next to a list of cases consulted and a comprehensive bibliography the book offers brief introductions to PIL and the ECHR for readers who are less familiar with either of the topics This makes the book not only a valuable tool for specialists and practitioners in the fields covered but at the same time a well documented basis for students and starting researchers Human Rights and the Global Marketplace Jeanne M. Woods, Hope Lewis, 2005 specializing in either or both directions Special adoption price 95 00 copy 10 or more At a time of great change turmoil and contradiction in international human rights law and politics authors Jeanne M Woods and Hope Lewis have responded to the growing need for a classroom text that focuses squarely on economic social and cultural rights the neglected step children of the human rights family and their intimate inter relationship to civil and political rights Students and instructors will find the results informative and provocative Intended for use in law school graduate and undergraduate survey courses as well as seminars on human rights this book will be useful for teachers using both international and comparative approaches The text is divided into four accessible parts I Human Rights and the Global Marketplace Discursive Themes introduces the nature and scope of human rights discourse II International Instruments and Their Implementation takes students through an array of international and regional human rights treaties that address economic social and cultural rights III Power Politics and Poverty Structural Challenges to the Realization of Economic Social and Cultural Rights addresses major controversies in and barriers to the realization of socio economic and cultural rights IV Comparative Approaches is valuable for international human rights comparative law and comparative constitutional law courses Throughout the book the authors provide notes questions and further reading suggestions to stimulate classroom discussion debate and research The volume also includes valuable appendices with a bibliography of relevant texts and articles and a selection of NGOs that focus on these issues Published under the Transnational Publishers imprint Winner of the Notable Contribution in the Field of Human Rights Scholarship

award at the US Human Rights Network National Conference in Chicago in April 2008 Human Rights from a Third World Perspective José-Manuel Barreto, 2014-08-26 Globalization interdisciplinarity and the critique of the Eurocentric canon are transforming the theory and practice of human rights This collection takes up the point of view of the colonized in order to unsettle and supplement the conventional understanding of human rights Putting together insights coming from Decolonial Thinking the Third World Approach to International Law TWAIL Radical Black Theory and Subaltern Studies the authors construct a new history and theory of human rights and a more comprehensive understanding of international human rights law in the background of modern colonialism and the struggle for global justice An exercise of dialogical and interdisciplinary thinking this collection of articles by leading scholars puts into conversation important areas of research on human rights namely philosophy or theory of human rights history and constitutional and international law This book combines critical consciousness and moral sensibility and offers methods of interpretation or hermeneutical strategies to advance the project of decolonizing human rights a veritable tool box to create new Third World discourses of human rights

Transnational Lawmaking Coalitions for Human Rights Nina Reiners, 2021-12-02 Explores how expert bodies and non state empowered professionals come together to shape human rights law **Transnational Human Rights Litigation** Andrew Novak, 2019-10-14 This book analyzes the role of strategic human rights litigation in the dissemination and migration of transnational constitutional norms and provides a detailed analysis of how transnational human rights advocates and their local partners have used international and foreign law to promote abolition of the death penalty and decriminalization of homosexuality The sharing of human rights jurisprudence among judges across legal systems is currently spreading emerging norms among domestic courts and contributing to the evolution of international law While prior studies have focused on international and foreign citations in judicial decisions this global migration of constitutional norms is driven not by judges but by legal advocates themselves who cite and apply international and foreign law in their pleadings in pursuit of a specific human rights agenda Local and transnational legal advocates form partnerships and networks that transmit legal strategy and comparative doctrine taking advantage of similarities in postcolonial legal and constitutional frameworks Using examples such as the abolition of the death penalty and decriminalization of same sex relations this book traces the transnational networks of human rights lawyers and advocacy groups who engage in constitutional litigation before domestic and supranational tribunals in order to embed international human rights norms in local contexts In turn domestic human rights litigation influences the evolution of international law to reflect state practice in a mutually reinforcing process Accordingly international and foreign legal citations offer transnational human rights advocates powerful tools for legal **Beyond Human Rights** Anne Peters, 2018-06-14 A paradigm change is occurring in the course of which human reform beings are becoming the primary international legal persons In numerous areas of public international law substantive rights and obligations of individuals arguably flow directly from international law The novel legal status of humans in international

law is now captured with a concept borrowed from constitutional doctrine international rights of the person as opposed to international law protecting persons Combining doctrinal analysis with current practice this book is the most comprehensive contemporary analysis of the legal status of the individual Beyond Human Rights previously published in German and now revised by the author in this English edition not only deals with the individual in international humanitarian law international criminal law and international investment law but it also covers fields such as consular law environmental law protection of individuals against acts of violence and natural disasters refugee law and labour law The Routledge Handbook on Extraterritorial Human Rights Obligations Mark Gibney, Gamze Erdem Türkelli, Markus Krajewski, Wouter Vandenhole, 2021-12-24 The Routledge Handbook on Extraterritorial Human Rights Obligations brings international scholarship on transnational human rights obligations into a comprehensive and wide ranging volume Each chapter combines a thorough analysis of a particular issue area and provides a forward looking perspective of how extraterritorial human rights obligations ETOs might come to be more fully recognized outlining shortcomings but also best state practices It builds insights gained from state practice to identify gaps in the literature and points to future avenues of inquiry The Handbook is organized into seven thematic parts conceptualization and theoretical foundations enforcement migration and refugee protection financial assistance and sanctions finance investment and trade peace and security and environment Chapters summarize the cutting edge of current knowledge on key topics as leading experts critically reflect on ETOs and where appropriate engage with the Maastricht Principles to critically evaluate their value 10 years after their adoption The Routledge Handbook on Extraterritorial Human Rights Obligations is an authoritative and essential reference text for scholars and students of human rights and human rights law and more broadly of international law and international relations as well as to those working in international economic law development studies peace and conflict studies environmental law and migration The Open Access version of this book available at www taylorfrancis com has been made available under a Creative Commons Attribution Non Commercial No Derivatives 4 0 license States, Human Rights, and Distant Strangers Angela Müller, 2023-10-24 This book combines legal and philosophical perspectives to address the question of whether states are bound by human rights when they act with effects on people abroad states extraterritorial human rights obligations Taking an innovative approach it begins with a profound legal analysis of the issue at national supranational and international levels and then engages in depth with counterarguments against extraterritorially applying human rights on the basis of which it develops its own ethical justificatory theory of extraterritorial human rights obligations The book closes the circle by showing what the practical implications of this theory for the interpretation and possible evolvement of human rights law would be In a world where critiques of and resistance to the general idea of universal human rights are on rise the book contributes to closing the gap between judicial and normative perspectives on extraterritorial human rights obligations by inquiring into the ethical underpinnings of this topical legal challenge This book will be of key interest to scholars and

students in human rights international law and more broadly in political philosophy philosophy of law and international relations The Open Access version of this book available at www taylorfrancis com has been made available under a Creative Commons Attribution 4 0 license The Reach of Human Rights in a Globalising World Michał Gondek, 2009 In the globalizing world of today the conduct of states often affects the human rights of persons situated outside of those states territories The problem of applying human rights to such state conduct has become increasingly topical as a result of phenomena such as the war on terror foreign military interventions and economic globalization. The controversies as regards the applicability of human rights treaty law in such cases stem mainly from the wording of the relevant treaty provisions. The principal treaties on civil and political rights require states to guarantee certain human rights to persons within their jurisdiction while treaties on economic social and cultural rights specifically envisage international cooperation of states parties for the purposes of achieving these rights The meaning of jurisdiction and the precise nature and content of the obligation of international cooperation are subject to debate This study explores the question of extraterritorial application of principal universal and regional human rights treaties It covers treaties on civil and political rights as well as those on economic social and cultural rights The study determines to what extent and under which circumstances human rights treaties are applicable to state conduct which affects the human rights of persons situated outside the borders of the state party in question The problem is analyzed by reference to the rules of treaty interpretation and in the conceptual framework of public international law It contains a thorough analysis of preparatory works of the relevant treaties the case law of the International Court of Justice and of human rights courts as well as other output of human rights treaty bodies State practice including the case law of national courts is also explored The study argues for a flexible approach to extraterritorial application of human rights treaties which would make it possible for the human right systems to respond to the challenges posed by the evermore notorious extraterritorial state conduct In 2010 Michal Gondek has won the first prize in the Max van der Stoel Human Rights award for this book He also has won Manfred Lachs Prize for the Best Book Debut in International Law by a Polish Author 20 Human Rights or Global Capitalism Manfred Nowak, 2016-10-26 The fall of communism in the late 1980s and the end of the Cold War seemed to signal a new international social order built on pluralist democracy the rule of law and universal human rights But the window of opportunity for creating this more just more equal and more secure world slammed shut just as quickly as it opened Rather than celebrate the triumph of democracy over autocracy or political freedom over totalitarian rule the West exulted in the victory of capitalism over communism Neoliberal policies of deregulation and privatization that minimized the role of the state were imposed on the transitional societies of Central and Eastern Europe as well as economically weak and politically fragile nations in Africa Asia and Latin America Twenty five years later the world reaps the fruits of that market driven state foundation inequality poverty global economic food financial social and ecological crises transnational organized crime and terrorism proliferating weapons fragile states Human Rights

or Global Capitalism is not simply concerned with the success or failure of neoliberal policies per se or judging whether they are good or bad Rather it examines the application of those policies from a human rights perspective and asks whether states by outsourcing to the private sector many services with a direct impact on human rights education health social security water personal liberty personal security equality abdicate their responsibilities to uphold human rights and thereby violate international human rights law Manfred Nowak explores these examples and outlines the ways in which neoliberal policies contravene the obligations of states to protect the human rights of their people Protecting Human Rights Todd Landman,2005 Includes statisticals tables and graphs Human Rights and the Dark Side of Globalisation ,2016

The Frontiers of Human Rights Nehal Bhuta, 2016 In an epoch of transnational armed conflict global environmental harm and rising inequality the extraterritorial application of human rights law has become a pressing and controversial legal issue The faultlines of the Westphalian order are the meridians along which the extraterritorial application of human rights run as human rights are invoked to address a panoply of global scale problems from transborder environmental harm to social and economic development and global inequality to the repression of piracy in ungoverned spaces and military occupation and armed conflict in the territory of a third state **Human Rights and Comparative Foreign Policy** David P. Forsythe, 2006-09-30 Human Rights And Comparative Foreign Policy Is The First Book In English To Examine The Place Of Human Rights In The Foreign Policies Of A Wide Range Of States During Contemporary Times The Book Is Also Unique In Utilizing A Common Framework Of Analysis For All 10 Of The Country Or Regional Studies Covered This Framework Treats Foreign Policy As The Result Of A Two Level Game In Which Both Domestic And Foreign Factors Have To Be Considered Leading Experts From Around The World Analyze Both Liberal Democratic And Other Foreign Policies On Human Rights A General Introduction And A Systematic Conclusion Add To The Coherence Of The Project The Authors Note The Increasing Attention Given To Human Rights Issues In Contemporary Foreign Policy At The Same Time They Argue That Most States Including Liberal Democratic States That Identify With Human Rights Are Reluctant Most Of The Time To Elevate Human Rights Concerns To A Level Equal To That Of Traditional Security And Economic Concerns When States Do Seek To Integrate Human Rights With These And Other Concerns The Result Is Usually Great Inconsistency In Patterns Of Foreign Policy The Book Further Argues That Different States Bring Different Emphases To Their Human Rights Diplomacy Because Of Such Factors As National Political Culture And Perceived National Interests In The Last Analysis States Can Be Compared Along Two Dimensions Pertaining To Human Rights Extent To Which They Are Oriented Toward An International Rather Than National Conception Of Rights And Extent To Which They Are Oriented Toward International Rather Than National Action To Protect Human Rights Human Rights Unbound Lea Raible, 2020 This book uses approaches from legal and political philosophy to develop a theory of when states owe human rights obligations to individuals outside of their own territory looking at economic social and cultural rights as well as civil and political rights **Human Rights and Private** 

**International Law** J. J. Fawcett, Máire Treasa Ní Shúilleabháin, Sangeeta Shah, 2016 This text tackles the interaction of human rights with private international law It provides an essential resource for practitioners and academics in the area

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