

CORE SOCIO-ECONOMIC RIGHTS
AND THE EUROPEAN COURT OF
HUMAN RIGHTS

Core Socio-Economic Rights and the European Court of Human Rights deals with socio-economic rights in the context of the jurisprudence of the European Court of Human Rights (ECtHR). The book connects the ECtHR's socio-economic case law to an understanding of the Court's responsibility to recognize the limitations of supranational rights adjudication while protecting the most needy. By exploring the idea of core rights protection in constitutional and international law, a new perspective is developed that offers suggestions for improving the ECtHR's reasoning in socio-economic cases, as well as contributing to the debate on indivisible rights adjudication in an age of rights inflation and proportionality review. *Core Socio-Economic Rights and the European Court of Human Rights* will interest scholars and practitioners dealing with fundamental rights and especially those interested in judicial reasoning, socio-economic and supranational rights protection.

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COURT OF HUMAN RIGHTS

INGRID LEIJTEN
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SERIES EDITORS' PREFACE

Over the years, the European Court of Human Rights (ECtHR) has acknowledged that the socio-economic sphere cannot be totally disconnected from its work as a human rights adjudicator, albeit one distanced from the domestic legislative sphere where most redistributive decisions continue to be made. The aim of this book is to explain the socio-economic dimension of case law arising out of the enforcement of the European Convention on Human Rights and Fundamental Freedoms (ECHR). Filling a gap in the literature, the author presents an innovative approach for improving the European Court of Human Rights' adjudication in socio-economic rights cases by using a so-called core rights approach. The intention is to go beyond the paradox that can present a roadblock to further development of the ECHR, namely that the rights in the ECHR are overwhelmingly focused on civil and political questions while the ECtHR is frequently faced with questions in which it has to adjudicate around the impact of national legislative measures on the socio-economic rights of claimants. In effect, the core rights thesis posits a 'limit on the limitations', offering a clearer guide as to how the ECtHR has proceeded in previous cases and may proceed in the future.

The centrepiece of this book is the sustained treatment of the so-called core rights doctrine, namely that a distinction should be drawn between the most fundamental aspects of a right and the more peripheral aspects. The author argues, on the basis of a comparative approach that includes the review of core rights doctrines as applied in other contexts (e.g., Germany and South Africa), that a version of such a doctrine has the capacity to enrich the ECtHR's approach to the vexing question of how far it should show deference to national choices whilst at the same time recognizing the need for protection, particularly where complainants are vulnerable and/or dependent upon the state. The key point is that while the role of the ECtHR may so far be relatively minimal in relation to social rights, per se, a core rights doctrine focusing on socio-economic interests may offer a more comfortable basis for adjudicating the

question of what degree of deference the Court should pay to contracting parties' choices in the fields of social and economic policy. This is especially relevant in relation to welfare and budgetary issues, and identifying the cases where review of those measures should be robust based on the existing ECHR rights. Ultimately, this provides a better understanding of what the ECtHR, as a supranational court, actually does in such sensitive cases.

Jo Shaw
Laurence Gormley

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ABBREVIATIONS

BCLR	Butterworths Constitutional Law Reports (South Africa)
BVerfGE	<i>Entscheidungen des Bundesverfassungsgerichts</i> (judgments of the Federal Constitutional Court of Germany)
CC	Constitutional Court of South Africa
CDDH	Steering Committee for Human Rights
CESCR	Committee on Economic, Social and Cultural Rights
CFR	Charter of Fundamental Rights of the European Union
CoE	Council of Europe
dec.	admissibility decision
ECHR	European Convention on Human Rights
EComHR	European Commission of Human Rights
ECSR	European Committee of Social Rights
ECtHR	European Court of Human Rights
ESC	European Social Charter
FCC	Federal Constitutional Court of Germany; <i>Bundesverfassungsgericht</i>
GC	Grand Chamber (of the ECtHR)
GG	German Basic Law; <i>Grundgesetz</i>
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
no(s).	(application) number(s)
OP	Optional Protocol (to the ICESCR)
P1	First Protocol (to the ECHR)
P12	Twelfth Protocol (to the ECHR)
(R)ESC	(Revised) European Social Charter
SA	South African Law Reports
UDHR	Universal Declaration of Human Rights
UN	United Nations
US	United States
U.S.	United States Supreme Court Reports
VCLT	Vienna Convention on the Law of Treaties
WHO	World Health Organization

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