

INDEX

- absolute core rights, 92, 130–40
 - Existenzminimum* and, 203–4
 - in FCC case law, 134
 - theories on, 133–6
 - Wesensgehaltsgarantie* and, 133–6, 203
- absolute theories, 133–6
- absolute-absolute core rights, 200–4
 - ECtHR and, 216
- absolute-relative core rights, 204–6, 225–6
- adjudication, of fundamental rights, 12, 32–9, 118
 - in ECtHR cases, 95
 - intensity of review in, 113–17
 - limitations of, 95
 - scope of, 95
 - under South African Constitution, of socio-economic rights, 150–6, 167–8
 - stages of, 88–117, 160
 - supranational, 113–14
- Article 1, ECHR, 55–7
- Article 2, ECHR, 47–9
- Article 3, ECHR, 49–52
- Article 6, ECHR, 43–4
- Article 8, ECHR, 52–4
- Article 14, ECHR, 42, 44–6
- Asylum Seekers Benefits Act (1993), Germany, 172–3
- autonomous interpretation
 - defined, 66
 - ECHR and, 66–7
 - by ECtHR, 97
- autonomy, personal, 65
- balancing, 109–11
 - Bundesverfassungsgericht* and, 110
 - criticism of, 110
 - formal structure of, 110–11
 - Law of Competing Principles and, 109–10
 - positive socio-economic rights and, 226–7
 - right to social security and, 278–90
- Bundesverfassungsgericht* (German Federal Constitutional Court (FCC))
 - absolute core rights and, 134
 - Asylum Seekers Benefits Act 1993 and, 172–3
 - balancing by, 110
 - Existenzminimum* and, 171–6
 - proportionality test and, 4
 - subsistence minimum, procedural determination of, 229
- capabilities theory, 74–5
- categorical review, 111–13
 - levels of intensity in, 115–16
 - limitations of, 112
 - proportionality and, 112–13
- CESCR. *See* Committee on Economic, Social and Cultural Rights
- Charter of Fundamental Rights of the European Union (CFR), 11
 - core rights under, 125
 - indivisibility thesis and, 71
 - social security rights under, 282
- children's rights, under South African Constitution, 153
- civil and political interests, 60–1
- civil rights obligations, 43
- CoE. *See* Council of Europe

- Committee on Economic, Social and Cultural Rights (CESCR), 157, 168
 core rights and, 125–6, 180–2, 209
 housing rights and, 184–7
 non-discrimination and, 223
 right to health and, 187–90
 right to social security and, 190–2
 comparative interpretation, of
 fundamental rights, 97
 compliance
 with minimum core obligations, 157
 ICESCR and, 147–9
 with minimum subsistence rights, 174
 consensus approach, 181–4
 constitutional rights
 culture of justification and, 99–100
 global model of, 99–100, 213, 296, 298
 positive obligations as part of, 4–5
 constitutionalization of society, 101
 core rights, 200–12. *See also* minimum core obligations;
Wesensgehaltsgarantie
 absolute, 92, 130–40
 absolute, 200–4, 216
Existenzminimum and, 203–4
 in FCC case law, 134
 relative, 204–5, 225–6
 theories on, 133–6
Wesensgehaltsgarantie and, 133–6, 203
 CESCR and, 125–6, 180–2, 209
 under CFR, 125
 courts and, 210–12
 constraints of judicial power, 212
 defined, 15
 determination of, 178–84
 through consensus approach, 181–4
 expert information and, 181–4
 foundational principles as
 influence on, 178–9
 through normative essence
 approach, 179
 ECHR guarantees of, 121–2, 135–6
 under German Basic Law, 122, 129–30
 ICESCR and, 125–6, 209
 indeterminable, 208–10
 indicators of, 219–31
 socio-economic scope and, 219–25
 individual protections of, 135
 indivisibility of, 259
 at international level, 125–6
 intrinsic, 178–81
 justification of, 179–80
 perspective of, 123–6, 176, 211–12
 progressive realization principle and, 125, 169
 proportionality and, 136–40, 219–31
 protection of
 by ECtHR, 2–9, 32–9, 136
 objective, 130–3
 subjective, 130–3
 purposes of, 209–10
 reasonableness and, 150–70
 in South Africa, 165–70
 relative, 123, 130–40
 absolute, 205–6, 216–17
 relative, 206–8
 relative theories for, 138–40, 205–6
 rights inflation and, 213
 rights proliferation and, 213
 socio-economic rights and, 11–12
 protection of, 294–5
 in South Africa, 150–70
 Constitutional Court responses to, 201–2
 reasonableness approach to, 165–70
 as theory and practice, 201, 292
 traditional development of, 123–6
 core socio-economic content, 184–96
 categories of, 192–5
 non-discrimination, 194
 procedural minimum cores, 194–5
 protection of disadvantaged and
 marginalized groups, 194
 strategic minimum cores, 194–5
 tripartite typology and, 192–3
 as fixed, 192
 overlaps within, 193–4
 right to adequate housing, 184–7
 right to health, 187–90
 right to social security, 190–2

- subsistence minimums and, 195–6
- Council of Europe (CoE), 33
- courts. *See also specific courts*
- core rights and, 210–12
- constraints of judicial power, 212
- cultural rights, socio-economic rights and, 14–15
- culture of justification, 99–100
- deference, 113
 - margin of appreciation and, 115
- degrading treatment. *See* inhuman and degrading treatment
- democratic values, 65
- derogable fundamental rights, 92–3
- dialogue argument, minimum core obligations and, 163–4
- directive principles, socio-economic rights and, 6
- disadvantaged and marginalized individuals and groups, protections of, 195–6
- definitions of, 225
 - Roma people, 242–8
- discrimination. *See also* non-discrimination
 - as first-rank socio-economic concern, 223
 - prohibition of, 130
 - right to social security and, 271
- ECHR. *See* European Convention on Human Rights
- EComHR. *See* European Commission of Human Rights
- economic rights. *See* socio-economic rights
- ECSR. *See* European Committee on Social Rights
- ECtHR. *See* European Court of Human Rights
- education, right to
 - minimum levels of, fulfillment of, 221–3
 - under South African Constitution, 153
- effectiveness thesis, 62–8, 291–2
 - defined, 63–4
 - indivisibility thesis and, 69
 - interpretative techniques and, 64 (meta-)teleological interpretation and, 64–5
- environmental health, 260, 262–8
 - ECHR provisions and, 262
 - in ECtHR cases, 262–8
 - indivisibility and, 263–4
 - threshold requirements and, 263
- environmental pollution, 49
- equality rights, 130
- ESC. *See* European Social Charter
- essence criterion, for social security rights, 286
- ethical pluralism, 180
- EU. *See* European Union
- European Commission of Human Rights (EComHR), 2
- European Committee on Social Rights (ECSR), 31–2, 184
 - indivisibility and, 76–7
- European Convention on Human Rights (ECHR). *See also* socio-economic rights
 - Article 1, 55–7
 - Article 2, 47–9
 - Article 3, 49–52
 - Article 6, 43–4
 - Article 8, 52–4
 - Article 14, 42, 44–6
 - autonomous interpretation under, 66–7
 - as civil and political rights treaty, 26–32
 - core rights guaranteed under, 121–2, 135–6
 - democratic values and, 65
 - disadvantaged and marginalized individuals and group protections under, 225
 - docket crisis and, 8
 - institutional response to, 8
 - EComHR and, 2
 - effectiveness thesis and, 62–8
 - defined, 63–4
 - interpretative techniques and, 64

- European Convention on Human Rights (ECHR). (cont.)
 meta-teleological interpretation and, 64–5
 teleological interpretation and, 64–5
 enforcement mechanisms for, 32–3
 environmental health in, 262
 ESC and, 31–2
 freedom of assembly and association under, 90–1
 function and purpose of, 25
 historical development of, 26–9
 housing rights under, for Roma people, 243
 human dignity protected under, 65
 as living instrument, 66–7, 291
 minimum core socio-economic protections under, 213–20
 minimum protections of housing rights under, 235–6
 non-discrimination principle in, 42, 44–6, 80, 223–4
 personal autonomy protected by, 65
 pluralism and, 65
 positive obligations and, 40–1, 48
 prohibition of torture under, 49–52
 protection of property under, 55–7
 protocols to, institutional changes through, 30–1
 purpose and function of, 29
 right to fair trial under, 43–4
 right to health under, 51–2
 right to life under, 47–9
 environmental responsibilities as part of, 49
 scope of rights under, 29–30, 47–57
 social security rights under, 269–72
 socialization through, 42–6, 68
 socio-economic rights protected under, 121–2
 future of, 293–4
 subsistence minimum and, 65
 UDHR and, 27
 VCLT and, 63
 welfare rights under, 39–40
- European Court of Human Rights (ECtHR). *See also* socio-economic rights
 absolute-absolute core rights and, 216
 autonomous interpretation by, 97
 caseload issues for, 38–9
 CoE and, 33
 constitutional role of
 limitations of, 34
 positive obligations and, 4–5
 core rights protections by, 2–9, 32–9, 136
 developments in fundamental rights protection by, 2–9
 future of, 295–6
 different roles of, 32–9, 95
 criticism of judgments and, 35–6
 environmental health and, 262–8
 function and purpose of, 101–2, 59–62
 housing rights cases, Roma people and, 243–8
 indivisibility thesis and, 1–2, 73–7
 indivisible rights and, 1–2
 intensity of review by, 116–17
 margin of appreciation and, 84–5, 116–17, 39, 214
 minimum protections of housing rights under, 236–42
 positive obligations doctrine, 4–5, 79–80, 129–30
 procedural protection and, 230–1
 procedural review by, 117, 229–30, 294–5
 proportionality review and, 3–4
 purpose and function of, 214–15
 social security rights cases and, 270–2, 279–90
 socio-economic rights protections by, 214–19
 absolute-absolute core rights, 216
 absolute-relative core rights, 213–19
 through consensus, 218–19
 determination of content, 217–18
 future of, 295

- relative-absolute core rights, 216–17
 - relative-relative core rights, 217
 - subsidiarity and, 39
 - supranational role of, 2–3, 7–8, 32–9
 - European Social Charter (ESC), 31–2
 - indivisibility thesis and, 75–6
 - European Union (EU). *See also specific conventions and treaties*
 - CFR, 11
 - core rights under, 125
 - indivisibility thesis and, 71
 - evictions, 186–7
 - evolutive interpretation
 - by ECHR, 67–8
 - of fundamental rights, 97
 - Existenzminimum*, 171–2. *See also*
 - subsistence minimum
 - absolute core rights and, 203–4
 - in FCC, 171–6
 - expertise, socio-economic rights and, 25–6
 - fair trial, right to, 43–4
 - family life. *See* private and family life
 - FCC. *See Bundesverfassungsgericht*
 - first generation norms, 60
 - food, right to, 221–3
 - freedom, law and, 139
 - freedom of assembly and association, 90–1
 - freedom of speech, 102
 - fundamental rights. *See also*
 - adjudication;
 - Wesensgehaltsgarantie*
 - core rights and, 11–12, 124
 - defined, 14
 - derogable, 92–3
 - under ECHR, 1
 - ECtHR protections of, 2–9, 32–9
 - criticism of judgments and, 35–6
 - future of, 295–6
 - individual and general, 36–7
 - multidimensionality of, 37–8
 - hermeneutical perspective to, 10
 - human rights compared to, 14
 - as individual rights, 135
 - indivisibility thesis and, 71–2
 - interpretation of
 - comparative, 97
 - evolutive, 97
 - purposive, 96–7
 - textual, 95–8
 - limitations of, 90–2, 95, 137
 - negative obligations and, 98–104
 - positive obligations and, 98–104
 - prism character of, 79
 - purpose of, 105–6, 183
 - social security rights and, 269–70
 - socio-economic, 5–8
 - structure of, 89–95
 - trump character of, 93
- German Federal Constitutional Court (FCC). *See Bundesverfassungsgericht*
 - Germany. *See also Wesensgehaltsgarantie*
 - Asylum Seekers Benefits Act 1993, 172–3
 - Basic Law in, 122, 129–30
 - Existenzminimum* under, 171–2
 - minimum subsistence rights in, 170–6, 195–6
 - absolute-relative protection of, 173–4
 - calculation of, 175
 - compliance with, 174
 - procedural protection of, 229
 - value-based balancing in, 111
 - global model of constitutional rights, 99–100, 213, 296, 298
 - guarantee of the essence of rights. *See Wesensgehaltsgarantie*
 - health and health care, rights to, 51–2, 251–68. *See also* environmental health
 - under CESCR, 187–90
 - core of, 251–62
 - ECHR provisions and, 251–2
 - under ICESCR, 147–8, 187–90
 - indivisibility of, 259

- health and health care, rights to (cont.)
 minimum levels of, fulfillment of, 221–3
 respect for private and family life and, 260
 in South African Constitution, 153
- housing rights, 57, 234–51
 discrimination in, 80
 evictions and, 186–7
 under ICESCR, 184–7
 legal security of tenure and, 186
 minimum protection and, 234–42
 under ECHR, 235–6
 in ECtHR cases, 236–42
 non-discrimination in, 248–51
 for Roma people, 242–8
 under ECHR, 243
 in ECtHR cases, 243–8
 non-discrimination principles and, 250–1
 under South African Constitution, 153
- human dignity, 65
Wesensgehaltsgarantie and, 135
- human rights. *See also* rights
 fundamental rights compared to, 14
- ICCPR. *See* International Covenant on Civil and Political Rights
- ICESCR. *See* International Covenant on Economic, Social and Cultural Rights
- ILO. *See* International Labor Organisation
- immediate minimum core obligations, 146–50
- indeterminable core rights, 208–10
- individual liberty, 123
- individual protection
 of core rights, 135
 under ECtHR, 36–7
 fundamental rights and, 135
Wesensgehaltsgarantie and, 135
- indivisibility thesis, 69–77, 291–2
 CFR and, 71
 for core rights, 259
 development of, 69–71
 ECSR and, 76–7
 ECtHR and, 1–2, 73–7
 effectiveness and, 69
 environmental health and, 263–4
 ESC and, 75–6
 fundamental rights and, 69–73
 philosophical accounts of, 71–2
 ICESCR and, 70–1
 Limburg Principles and, 71
 UDHR and, 70–1
 Vienna Declaration and, 71, 77
- inflation of rights, 213
- inhuman and degrading treatment,
 prohibition of, 228
- intensity of review, 113–17
 categorical review and, 115–16
 deference and, 113, 115
 by ECtHR, 116–17
 standards of review, 115–16
- interests, norms and, 59
 civil and political, 60–1
 classical, 61
 socio-economic, 60–1
- international bill of rights, 27, 143.
See also Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights (ICCPR), 28, 144
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 12
 core rights and, 125–6, 209
 implementation of, 146
 indivisibility thesis and, 70–1
 Limburg Principles and, 146–7
 minimum core rights and, 125–6
 immediate, 146–50
 Proclamation of Teheran and, 70–1
 right to health under, 147–8
 right to housing under, 184–7
 right to social security under, 147–8, 190–2
 rights perspective under, 28
- international human rights movement, 28. *See also specific conventions*
- International Labor Organisation (ILO), 75–6

- interpretation of fundamental rights,
 95–8
 autonomous
 defined, 66
 by ECtHR, 66–7, 97–8
 comparative, 97
 effectiveness thesis and, 64
 evolutive, 67–8, 97
 purposive, 96–7
 of social security benefits, 269
 (meta-)teleological, 64–5, 97
 textual, 95–8
- intrinsic core rights, 178–81
- judicial power, 212
 judicial reasoning, 298
 in socio-economic cases, 225–6
 juridification of society, 101
- law
 freedom and, 139
 as relational, 140
 Law of Competing Principles, 109–10
 legal security of tenure, 186
 legitimacy, socio-economic rights and,
 25–6
- life. *See* right to life
- Limburg Principles, 71
- limitations of fundamental rights, 90–2,
 95
 justification of, 104–6
 review of, 104–17
 balancing in, 109–11
 categorical, 111–13
 proportionality in, 106–9
- margin of appreciation
 deference and, 115
 ECtHR and, 39, 84–5, 116–17, 214
 structural, 117
 substantive, 117
 width of, 117
- marginalized individuals and groups.
See disadvantaged and
 marginalized individuals and
 groups
- meta-teleological interpretation, 64–5
 minimum core obligations, 125–6
 CESCR and, 157, 168
 criticism of, 149–50, 163–4
 debates about, 156–65
 defined, 142
 dialogue argument and, 163–4
 under ECHR, 213–20
 ICESCR and, 143–50
 progressive realization and, 143–6
 identification of, 164–5
 immediate, 146–50
 reasonableness approach to, 157,
 159–60
 resources and, 162
 scepticism towards, 164–5
 separation of powers and, 163–4
 South African Constitution and,
 rejection of, 162–3
 weighed priority of, 169
 minimum levels, of socio-economic
 rights, 221–3. *See also*
 minimum core obligations
 prima facie protection of, 221–3
 minimum protections, of housing
 rights, 234–42
- negative obligations, fundamental
 rights and, 98–104
- negative rights, 108
- non-discrimination principles
 CESCR and, 223
 core socio-economic content and,
 194
 in ECHR, 42, 44–6, 80, 223–4
 in housing rights, for Roma people,
 250–1
 property rights and, 215
 in right to social security, 272–8
- normative essence approach, 179
- norms, of rights, 59–60
 autonomous interpretation and,
 97–8
 first generation, 60
 interests as distinct from, 61–2
 socio-economic, 60–1
- obligations. *See also* minimum core
 obligations
 negative, 98–104

- obligations. (cont.)
 positive
 constitutional rights and, 4–5
 ECHR and, 40–1
 ECtHR recognition of, 4–5, 79–80, 129–30
 fundamental rights and, 98–104
- pluralism
 ECHR and, 65
 ethical, 180
- positive obligations
 constitutional rights and, 4–5
 ECHR and, 40–1, 48
 ECtHR and, 79–80, 129–30
 recognition of, 4–5
 fundamental rights and, 98–104
- possessions, social security rights and, 278–90
- power. *See* judicial power
- prima facie rights, 64, 83, 94
 comparative interpretation for, 97
 Wesensgehaltsgarantie and, 139
- prism character, of fundamental rights, 79
- private and family life, respect for, 52–4, 83
 right to health and, 260
- procedural protection
 ECtHR and, 230–1
 proportionality and, 225–31
 Roma cases and, 242–8
- procedural requirements, 195–6
- procedural review
 by ECtHR, 117, 229–30, 294–5
 proportionality and, 230
- proceduralization, 229–30
- Proclamation of Teheran, 70–1
- progressive realization, 125, 169
 requirements of, 143–6
- property, protection of, 55–7
- property rights
 under ECHR, 55, 80
 non-discrimination principles and, 215
 social security rights and, 215, 272–8
- proportionality
 Bundesverfassungsgericht and, 4
 categorical review and, 112–13
 core rights and, 136–40, 219–31
 as moral doctrine, 110
 procedural protection and, 225–31
 procedural review and, 230
 review of, 3–4, 106–9, 219
 core rights and, 231
 reasonableness and, 106–7
 social security rights and, 279
 sub-principles of, 107
 purposive interpretation, of
 fundamental rights, 96–7
- reasonableness, 106–7
 core rights and, 150–70
 in South Africa, 165–70
 minimum core obligations and, 157, 159–60
- reasoning. *See* judicial reasoning
- relative core rights, 123, 130–40
 absolute, 205–6
 relative, 206–8
 relative-absolute, 205–6
- relative theories
 on core rights, 138–40, 205–6
 on *prima facie* rights, 139
 on *Wesensgehaltsgarantie*, 138–40
 for core rights, 205–6
- relative-absolute core rights, 205–6
 ECtHR and, 216–17
- relative-relative core rights, 206–8
- RESC. *See* Revised European Social Charter
- respect for private life. *See* private and family life
- Revised European Social Charter (RESC). *See* European Social Charter
- right to education. *See* education, rights to
- right to fair trial. *See* fair trial
- right to food. *See* food
- right to health. *See* health and health care
- right to housing. *See* housing rights
- right to life, 47–9
 environmental responsibilities as part of, 49

- rights. *See also* core rights; equality rights; fundamental rights; housing rights
 for children, 153
 defined, 59
 to education, 153
 equality and, 130
 to food, 221–3
 to health, 51–2
 under CESCSC, 187–90
 under ICESCR, 147–8, 187–90
 under South African Constitution, 153
 inflation of, 213
 interests and, 59, 61–2
 interpretation of, 95–8
 to life, 47–9
 limitations of
 justification of, 104–6
 review of, 104–17
 minimum levels of, fulfillment of, 221–3
 to minimum subsistence, 65
 negative, 108
 non-discrimination as, 223–4
 prima facie, 64, 83, 94
 comparative interpretation of, 97
 relative theories on, 139
 Wesensgehaltsgarantie and, 139
 to respect for private and family life, 52–4, 83
 right to health and, 260
 scope of, under ECHR, 29–30, 47–57
 to social security, 56
 under CESCSC, 190–2
 under ICESCR, 147–8, 187–90
 minimum levels of, fulfillment of, 221–3
 under South African Constitution, 153
 rights inflation. *See* inflation of rights
 rights proliferation, 213
 Roma people
 housing rights for, 242–8
 under ECHR, 243
 in ECtHR cases, 243–8
 non-discrimination principles and, 250–1
 scope of rights
 determination of, 95–117
 through broad definition, 99
 negative obligations and, 98–104
 positive obligations and, 98–104
 narrow, 102
 under UDHR, 143–4
 wide, 102
 separation of powers, and minimum core obligations, 163–4
 social rights. *See* socio-economic rights
 social security, right to, 56, 269–90
 under CFR, 282
 core rights perspective for, 278–90
 under ECHR, 269–72
 in ECtHR cases, 270–2, 279–90
 equality issues in, 283–4
 essence criterion for, 286
 fair balance in, 278–90
 fundamental individual interests and, 269–70
 under ICESCR, 147–8, 190–2
 minimum levels of, fulfillment of, 221–3
 non-discrimination principle and, 272–8
 possessions and, 278–90
 prohibition of discrimination in, 271
 property rights and, 215, 269, 272–90
 proportionality and, 279
 under South African Constitution, 153
 socialization of ECHR rights, 42–6, 68
 socio-economic norms, 60–1
 socio-economic rights
 adjudication of, 41
 balancing of, 226–7
 core rights and, 11–12
 protection of, 294–5
 cultural rights and, 14–15
 defined, 14–15
 directive principles and, 6
 ECHR protections of, 121–2, 214–19
 future of, 293–4
 ECtHR practices and, criticism of, 81–6
 ECtHR protections of, 214–19
 absolute-absolute core rights, 216

- socio-economic rights (cont.)
 absolute-relative core rights,
 213–19
 consensus and, 218–19
 determination of core content,
 215–18
 future of, 295
 goals of, 215
 relative-absolute core rights,
 216–17
 relative-relative core rights, 217
 expertise and, 25–6
 future of, 291–8
 to health, 51–2
 legitimacy and, 25–6
 minimum levels of, 221–3. *See also*
 minimum core obligations
 prohibition of torture and, 49–52
 protection of, 1, 9–15
 protection of property and, 55–7
 respect for private and family life
 and, 52–4
 right to social security, 56
 under South African Constitution,
 152–4
 adjudication of, 150–6, 167–8
 South African Constitutional Court
 and, 155–6
 subsidiarity and, 25–6
 South Africa, core rights in, 150–70
 Constitutional Court responses to,
 201–2
 reasonableness approach to, 165–70
 South African Constitution, 151–4
 children's rights under, 153
 educational rights under, 153
 goal of, 168–9
 health rights under, 153
 housing rights under, 153
 limitation clauses in, 154
 minimum core obligations rejected
 under, 162–3
 right to health under, 153
 social security rights under, 153
 socio-economic rights under, 152–4
 adjudication of, 150–6, 167–8
 transformative character of, 154–5
 South African Constitutional Court,
 151, 211
 rejection of core rights, 201–2
 socio-economic rights and, violations
 of, 155–6
 speech. *See* freedom of speech
 stages, of rights adjudication, 88–117,
 160
 Strasbourg Court. *See* European Court
 of Human Rights
 strategic requirements, 194–5
 structural margin of appreciation, 117
 subsidiarity
 ECtHR and, 39
 socio-economic rights and, 25–6
 subsistence minimum, right to, 65
 core socio-economic content and,
 195–6
 in Germany, 170–6, 195–6
Bundesverfassungsgericht, 229
 calculation of, 175
 compliance with, 174
 protection of, 173–4
 substantive margin of appreciation, 117
 supranational courts. *See specific courts*
 supranational protection
 adjudication of fundamental rights
 and, 113–14
 ECtHR and, 2–3, 7–8, 297
 teleological interpretation, of
 fundamental rights, 64–5, 97
 textual interpretation, of fundamental
 rights, 96
 torture, prohibition of, 49–52
 trumps, rights as, 93
 UDHR. *See* Universal Declaration of
 Human Rights
 Universal Declaration of Human Rights
 (UDHR), 27
 indivisibility thesis and, 70–1
 scope of rights under, 143–4
 Vienna Convention on the Law of
 Treaties (VCLT)
 ECHR and, 63, 77

INDEX

329

- vulnerable individuals, 225. *See also*
 disadvantaged and marginalized
 individuals and groups
 Roma people as, 242–8
- Wesensgehaltsgarantie* (guarantee of
 the essence of rights), 126–30.
See also minimum core
 obligations
 absolute core rights and, 133–6, 203
 applicability of, scope of, 129–30
 defined, 122
 drafting of, 123–5
- human dignity and, 135
 individual liberty and, 123
 legislative and other powers and,
 127–8
 objective protections under, 130–3
 prima facie rights and, 139
 redundancy of, 137
 relative core rights and, 123
 relative theories on, 138–40,
 205–6
 subjective protections under, 130–3
- World Health Organization (WHO),
 181