

# Contents

List of Contributors	<i>page</i> xii
Preface	xiii
List of Abbreviations	xvi
<b>1 The Right to Equal Treatment and the Prohibition of Discrimination</b>	<b>1</b>
Janneke Gerards	
1.1 Introduction	1
1.2 European Instruments	2
1.2.1 ECHR	2
1.2.2 Council of Europe	14
1.2.3 European Union	15
1.3 International Instruments	23
1.3.1 ICCPR	23
1.3.2 CERD	27
1.3.3 CEDAW	27
1.3.4 Other International Instruments	28
1.4 Comparison and Integration	29
<b>2 Political Rights: The Rights to Vote and to Petition</b>	<b>31</b>
Hansko Broeksteeg	
2.1 Introduction	31
2.2 The Right to Vote	32
2.2.1 ECHR	32
2.2.2 Council of Europe	45
2.2.3 European Union	46
2.2.4 International Instruments	49
2.2.5 Comparison and Integration	50
2.3 Right to Petition	51
2.3.1 Introduction	51
2.3.2 European Union	51
<b>3 The Right to Freedom of Conscience, Thought, Belief and Religion</b>	<b>53</b>
Janneke Gerards	
3.1 Introduction	53

vi	<b>Contents</b>	
	3.2 European Instruments	54
	3.2.1 ECHR	54
	3.2.2 European Union	73
	3.3 International Instruments	77
	3.4 Comparison and Integration	80
	<b>4 The Right to Freedom of Expression and of Information</b>	<b>81</b>
	Janneke Gerards	
	4.1 Introduction	81
	4.2 European Instruments	82
	4.2.1 ECHR	82
	4.2.2 Council of Europe and OSCE	102
	4.2.3 European Union	103
	4.3 International Instruments	107
	4.3.1 ICCPR	107
	4.3.2 Other UN Instruments	113
	4.4 Comparison and Integration	114
	<b>5 The Right to Freedom of Association, Assembly and Demonstration</b>	<b>116</b>
	Janneke Gerards and Hansko Broeksteeg	
	5.1 Introduction	116
	5.2 European Instruments	117
	5.2.1 ECHR	117
	5.2.2 Council of Europe	141
	5.2.3 European Union	142
	5.3 International Instruments	144
	5.3.1 Freedom of Assembly and of Demonstration	144
	5.3.2 Freedom of Association	145
	5.4 Comparison and Integration	148
	<b>6 The Right to Respect for Private Life and Related Rights</b>	<b>150</b>
	Karin de Vries	
	6.1 Introduction	150
	6.2 Europe	151
	6.2.1 ECHR	151
	6.2.2 Other Council of Europe Instruments	182
	6.2.3 European Union	182
	6.3 International Instruments	189
	6.3.1 ICCPR	189
	6.4 Comparison and Integration	199

	Contents	vii
<b>7 The Right to the Protection of Personal Data</b>	<b>202</b>	
Friederike van der Jagt		
7.1 Introduction	202	
7.2 Europe	203	
7.2.1 ECHR	203	
7.2.2 Council of Europe	210	
7.2.3 European Union	211	
7.3 International	230	
7.3.1 International Covenant on Civil and Political Rights	230	
7.3.2 OECD Guidelines	230	
7.4 Comparison and Integration	231	
<b>8 The Right to Respect for Family Life and the Right to Marry</b>	<b>233</b>	
Mariëlle Bruning		
8.1 Introduction	233	
8.2 Europe	234	
8.2.1 Right to Respect for Family Life: ECHR	234	
8.2.2 Right to Respect for Family Life: European Union	245	
8.2.3 Right to Marry: ECHR	249	
8.2.4 Right to Marry: Council of Europe and Other Relevant European Instruments	253	
8.2.5 Right to Marry: European Union	253	
8.3 International	254	
8.3.1 ICCPR: Right to Family Life, Right to Marriage, Right to Found a Family	254	
8.3.2 CRC: Right to Family Life for Children	256	
8.4 Comparison and Integration	257	
<b>9 The Right to Liberty and the Principle of <i>Habeas Corpus</i></b>	<b>259</b>	
Jan Crijns		
9.1 Introduction	259	
9.2 Europe	260	
9.2.1 ECHR	260	
9.2.2 European Union	272	
9.3 International Instruments	274	
9.4 Comparison and Integration	280	
<b>10 Procedural Rights</b>	<b>282</b>	
Tom Barkhuysen and Michiel van Emmerik		
10.1 Introduction	282	
10.2 European Instruments	283	

10.2.1	ECHR	283
10.2.2	Council of Europe	293
10.2.3	European Union	294
10.3	International Instruments	299
10.4	Comparison and Integration	303
10.5	Further Special Requirements in Criminal Matters	303
10.5.1	Prohibition of Retroactive Effect and <i>Lex Mitior</i>	303
10.5.2	The <i>Ne Bis in Idem</i> Principle	306
10.5.3	The Right to Appeal in Criminal Cases	308
<b>11</b>	<b>The Right to Life and the Prohibition of the Death Penalty</b>	<b>309</b>
	Janneke Gerards	
11.1	Introduction	309
11.2	European Instruments	310
11.2.1	ECHR	310
11.2.2	Council of Europe	331
11.2.3	European Union	331
11.3	International Instruments	333
11.3.1	ICCPR: Article 6 and General Principles	333
11.3.2	Effective Protection of the Right to Life	335
11.3.3	The Death Penalty	338
11.4	Comparison and Integration	338
<b>12</b>	<b>The Prohibition of Torture and Inhuman and Degrading Treatment</b>	<b>340</b>
	Jan-Peter Loof	
12.1	Introduction	340
12.2	European Instruments	341
12.2.1	ECHR	341
12.2.2	Council of Europe	363
12.2.3	European Union	366
12.3	International Instruments	369
12.3.1	Articles 7 and 10 ICCPR	369
12.3.2	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	381
12.4	Comparison and Integration	387
<b>13</b>	<b>The Prohibition of Slavery, Servitude and Forced Labour</b>	<b>389</b>
	Barend Barentsen	
13.1	Introduction	389
13.2	European Instruments	390

	Contents	ix
13.2.1 ECHR	390	
13.2.2 Council of Europe	400	
13.2.3 European Union	401	
13.3 International Instruments	402	
13.3.1 ILO Conventions, Protocols and Recommendations	402	
13.3.2 Other International Treaty Provisions	404	
13.4 Comparison and Integration	406	
<b>14 The Right to Property</b>	<b>408</b>	
Tom Barkhuysen and Michiel van Emmerik		
14.1 Introduction	408	
14.2 European Instruments	408	
14.2.1 ECHR	408	
14.2.2 Council of Europe	418	
14.2.3 European Union	418	
14.3 International Instruments	421	
14.4 Comparison and Integration	422	
<b>15 The Right to Education</b>	<b>424</b>	
Janneke Gerards		
15.1 Introduction	424	
15.2 European Instruments	425	
15.2.1 ECHR	425	
15.2.2 Council of Europe	432	
15.2.3 European Union	433	
15.3 International Instruments	437	
15.3.1 ICCPR	437	
15.3.2 ICESCR	437	
15.3.3 CRC	438	
15.3.4 Other UN Treaties	438	
15.3.5 Soft Law	439	
15.4 Comparison and Integration	440	
<b>16 The Right to Freedom of Movement and the Right to Leave the Country</b>	<b>442</b>	
Janneke Gerards		
16.1 Introduction	442	
16.2 European Instruments	443	
16.2.1 ECHR	443	
16.2.2 European Union	452	

x	<b>Contents</b>	
	16.3 International Instruments	459
	16.4 Comparison and Integration	462
	<b>17 The Right to Collective Action</b>	<b>464</b>
	Barend Barentsen	
	17.1 Introduction	464
	17.2 European Instruments	465
	17.2.1 ECHR	465
	17.2.2 European Social Charter	466
	17.2.3 European Union	469
	17.3 International Instruments	471
	17.3.1 ILO	471
	17.3.2 ICESCR	472
	17.4 Comparison and Integration	473
	<b>18 The Right to Social Assistance and Social Security</b>	<b>475</b>
	Barend Barentsen	
	18.1 Introduction	475
	18.2 European Instruments	477
	18.2.1 Council of Europe	477
	18.2.2 European Union	481
	18.3 International Instruments	483
	18.3.1 ILO	483
	18.3.2 ICESCR	484
	18.3.3 CRC	485
	18.4 Comparison and Integration	485
	<b>19 The Right to Health</b>	<b>487</b>
	Janneke Gerards	
	19.1 Introduction	487
	19.2 European Instruments	488
	19.2.1 ECHR	488
	19.2.2 Council of Europe	496
	19.2.3 European Union	500
	19.3 International Instruments	503
	19.4 Comparison and Integration	506
	<b>20 The Right to Environmental Protection and Sustainable Development</b>	<b>508</b>
	Janneke Gerards	
	20.1 Introduction	508

	<b>Contents</b>	<b>xi</b>
20.2 European Instruments	509	
20.2.1 ECHR	509	
20.2.2 Council of Europe	516	
20.2.3 European Union	516	
20.3 International Instruments	518	
20.4 Comparison and Integration	521	
<b>21 The Rights of Vulnerable Persons</b>	<b>522</b>	
Aart Hendriks		
21.1 Introduction	522	
21.2 Rights of Women	523	
21.2.1 Introduction	523	
21.2.2 European Instruments	524	
21.2.3 International Instruments	527	
21.3 Rights of the Child	528	
21.3.1 European Instruments	528	
21.3.2 International Instruments: CRC	530	
21.4 Rights of Persons with Disabilities	531	
21.4.1 European Instruments	531	
21.4.2 International Instruments	536	
21.5 Rights of Other Persons	537	
21.5.1 Rights of Elderly Persons	537	
21.5.2 LGBTI+ Rights	538	
21.5.3 Rights of Non-nationals	540	
21.6 Rights of Groups	543	
21.6.1 Introduction	543	
21.6.2 Europe	543	
21.6.3 International Instruments: ICCPR	545	
Index	547	