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978-1-107-01624-8 - The Cambridge Companion to Human Rights Law

Edited by Conor Gearty and Costas Douzinas

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The Cambridge Companion to Human Rights Law

Human rights are considered one of the big thoughts of the early twenty-first century. This book presents in an authoritative and readable form the variety of platforms on which human rights law is practised today, reflecting also on the dynamic inter-relationships that exist between these various levels. The collection has a critical edge. The chapters engage with how human rights law has developed in its various subfields, what (if anything) has been achieved and at what cost, in terms of expected or unexpected side-effects. The authors pass judgment about the consistency, efficacy and success of human rights law (set against the standards of the field itself or other external goals). Written by world-class academics, this *Companion* will be essential reading for students and scholars of human rights law.

Conor Gearty is Professor of Human Rights Law at the London School of Economics and Political Science. He is a specialist in European and UK human rights law, as well as in terrorism law and civil liberties, on each of which subjects he has written extensively. He is also a barrister and a founding member of Matrix Chambers from where he continues to practise.

Costas Douzinas is Professor of Law and Director of the Birkbeck Institute for the Humanities. In his many books, and the talks he has given around the world, he has developed a position on human rights that seeks to retain the radical and emancipatory power of the term and practice without however accepting the arid and self-interested arguments of the powerful (of both the scholarly and political variety).

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and

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Contents

<i>Preface</i>	<i>page</i> vii
<i>Notes on contributors</i>	ix
<i>List of acronyms and abbreviations</i>	xiii
Introduction	
Costas Douzinas and Conor Gearty	1
Part I All kinds of everyone	15
1 'Framing the project' of international human rights law: reflections on the dysfunctional 'family' of the Universal Declaration	
Anna Gear	17
2 Restoring the 'human' in 'human rights': personhood and doctrinal innovation in the UN disability convention	
Gerard Quinn with Anna Arstein-Kerslake	36
3 The poverty of (rights) jurisprudence	
Costas Douzinas	56
Part II Interconnections	79
4 Foundations beyond law	
Florian Hoffmann	81
5 The interdisciplinarity of human rights	
Abdullahi A. An-Na'im	97
6 Atrocity, law, humanity: punishing human rights violators	
Gerry Simpson	114
7 Violence in the name of human rights	
Simon Chesterman	134

vi Contents

8	Reinventing human rights in an era of hyper-globalisation: a few wayside remarks Upendra Baxi	150
	Part III Platforms	171
9	Reconstituting the universal: human rights as a regional idea Chaloka Beyani	173
10	The embryonic sovereign and the biological citizen: the biopolitics of reproductive rights Patrick Hanafin	191
11	Spoils for which victor? Human rights within the democratic state Conor Gearty	214
12	Devoluted human rights Chris Himsworth	231
13	Does enforcement matter? Gerd Oberleitner	249
	Part IV Pressures	269
14	Winners and others: accounting for international law's favourites Margot E. Salomon	271
15	Resisting panic: lessons about the role of human rights during the long decade after 9/11 Martin Scheinin	293
16	What's in a name? The prohibitions on torture and ill treatment today Manfred Nowak	307
17	Do human rights treaties make enough of a difference? Samuel Moyn	329
	<i>Index</i>	348

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Edited by Conor Gearty and Costas Douzinas

Frontmatter

[More information](#)

Preface

This study was planned and brought to fruition over the past couple of years. It has been the source of many thoroughly enjoyable excuses for conversation between the two of us, and also provided the platform for a quite extraordinarily energetic and creative conference at Birkbeck College in London in November 2011. Our idea for the conference was to bring together not only the contributors to this volume but also to a sister volume that we are editing. The result was a four-day event marked by papers that combined strong interdisciplinary engagements with fascinating multidisciplinary styles. Like blindfolded wine tasters we played the game of telling discipline from style without checking first who the speaker was and we were not often wrong – our lawyers, a good proportion of this volume's contributors, did not let us down, demonstrating that good lawyers can always engage with the world outside without sacrificing the analytical strengths that have made them excellent in their own field in the first place.

Human rights law has migrated from a little-known corner of international law to the whole of law and to the entirety of social relations. To collate a compendium on human rights law is an impossible task. A compendium is a 'shortcut across a mountain' and by extension a shortening, an abridgment, an abbreviation. Can such heavy concepts as those entailed in human rights law be shortened or abridged? A compendium must be a shortcut to the most weighty matter, to gains saved over centuries. Can there be a shortcut for human rights law? In this sense, we freely acknowledge that the present collection is caught in a paradox that can be resolved only partially. We have done our best in the selection of contributors to capture the international nature of our subject and the vibrancy of current debates within it. Of course we would have liked an even wider range of writers, from more places and different backgrounds, but the demands of space precluded this.

We are grateful to the Leverhulme Trust for funding the conference, the Birkbeck Law School, the LSE Department of Law and the Birkbeck Institute for the Humanities for their support in hosting the conference and to

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Frontmatter

[More information](#)

viii Preface

Cambridge University Press for generously sponsoring the conference reception. We are also particularly grateful to Valerie Kelley for her efficient and elegant organisation of the event and to Julia Eisner for her support. And finally we are immensely grateful to our editor at the Press Sinéad Moloney for having conceived the idea of this book and, having approached us to write it, given us her full support throughout the editing process.

Costas Douzinas and Conor Gearty

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Frontmatter

[More information](#)

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978-1-107-01624-8 - The Cambridge Companion to Human Rights Law

Edited by Conor Gearty and Costas Douzinas

Frontmatter

[More information](#)

x Notes on contributors

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Frontmatter

[More information](#)

and human rights and has had a particular interest in Scottish devolved government and inter-governmental relationships within the UK.

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Frontmatter

[More information](#)

xii Notes on contributors

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Acronyms and abbreviations

ACESCR	American Convention on Economic, Social and Cultural Rights
ACHR	American Convention on Human Rights
APC	African, Pacific and Caribbean
ART	assisted reproductive technology
ASEAN	Association of Southeast Asian Nations
ASP	Acts of the Scottish Parliament
BIT	Bilateral Investment Treaty
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCPR	Covenant on Civil and Political Rights
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CERD	International Convention on the Elimination of all Forms of Racial Discrimination
CHM	common heritage of mankind
CIDT	cruel, inhuman or degrading treatment or punishment
CPT	European Committee for the Prevention of Torture
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRT	Convention on the Rights of the Child
CSW	Commission on the Status of Women
CTITF	Counter-Terrorism Implementation Task Force
DRC	Democratic Republic of the Congo
DRD	Declaration on the Right to Development
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECOSOC	Economic and Social Council
ECtHR	European Court of Human Rights
GATT	General Agreement on Tariffs and Trade
HRA	Human Rights Act (UK)

xiv Acronyms and abbreviations

IACHR	Inter-American Court on Human Rights
ICC	International Criminal Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IIA	International Investment Agreement
ILO	International Labor Organization
INTERFET	International Force for East Timor
JCPC	Judicial Committee of the Privy Council
MP	Member of Parliament (Westminster)
MSP	Member of the Scottish Parliament
NATO	North American Treaty Organisation
NGO	non-governmental organisation
NIEO	New International Economic Order
NIO	New Informational Order
NPM	national preventive mechanism
OAS	Organisation of African States
OAS	Organization of American States
OAU	Organisation of African Unity
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner of Human Rights
OPCAT	Optional Protocol to the Convention against Torture
PPP	purchasing power parity
PSNR	principle of permanent sovereignty over natural resources
PTSD	post-traumatic stress disorder
R2P	responsibility to protect
SHRC	Scottish Human Rights Commission
SNP	Scottish National Party
TNC	transnational corporation
UDHR	Universal Declaration of Human Rights
UN	United Nations

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UNCAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCLOS	UN Convention on the Law of the Sea
UNDP	UN Development Programme
UNHCR	UN High Commissioner for Refugees
UPR	Universal Periodic Review
WARM	World Association for Reproductive Medicine
WTO	World Trade Organization