
CONTENTS

<i>Foreword</i>	v
<i>Acknowledgements</i>	vii
1. Introduction	1
1.1. The Book's Dual Pursuit	1
1.2. The Approach Taken	3
1.3. The Book's Structure	6
2. What Is an 'Absolute Right'? A Conceptual Framework on Applicability and Specification	9
2.1. Introduction: Interrogating the Concept of an 'Absolute Right'	9
2.2. The Applicability Parameter: Absolute Rights as Non-displaceable Entitlements.....	10
2.3. The Applicability Parameter Affirmed in ECtHR Doctrine.....	15
2.4. The Specification Parameter: Significance and Implications	17
2.5. Conclusion.....	26
3. Delimiting the Absolute: How Should the ECtHR Approach the Specification of Article 3 ECHR?	27
3.1. Introduction	27
3.2. Specifying Article 3 ECHR: The ECtHR's Task.....	28
3.3. The Words, and Wrongs, Themselves	38
3.4. Article 3's Negative and Positive Obligations	50
3.5. Conclusion.....	56
4. The Specification of Torture under Article 3 ECHR	58
4.1. Introduction	58
4.2. Torture as an Aggravated Wrong within Article 3	58
4.3. Distinguishing Torture: From Intensity of Suffering to Severity of Treatment	60
4.4. Conclusion.....	86
5. The Article 3 'Threshold': The Specification of Inhuman or Degrading Treatment or Punishment	88
5.1. Introduction	88
5.2. Starting Points in Identifying Inhumanity and Degradation	88

5.3.	The Court's 'Relative' Assessment in Light of the Legitimate Specification Criteria.....	93
5.4.	'All the Circumstances of the Case' (?) and Legitimate Specification	112
5.5.	Inhumanity and Degradation in the Context of Punishment.....	113
5.6.	Conclusion.....	126
6.	The Specification of Positive Obligations under Article 3 ECHR.....	128
6.1.	Introduction	128
6.2.	What Are Positive Obligations?.....	129
6.3.	The Circumstances in Which Positive Obligations Arise under Article 3 ECHR.....	130
6.4.	The Substantive Scope of Positive Obligations under Article 3.....	138
6.5.	The Specification of Positive Obligations under Article 3 in Light of the Absoluteness Starting Point.....	151
6.6.	Rethinking Positive Obligations' Coercive Orientation.....	154
6.7.	Conclusion.....	158
7.	Specifying the <i>Non-Refoulement</i> Duty under Article 3 ECHR.....	159
7.1.	Introduction	159
7.2.	The Nature of the Central Obligation	160
7.3.	The <i>Non-Refoulement</i> Duty Seen Through the Applicability Parameter.....	164
7.4.	The Specification of the <i>Non-Refoulement</i> Duty under Article 3 ECHR.....	167
7.5.	Real Risk	183
7.6.	Conclusion.....	194
8.	Conclusion	196
8.1.	What Are (the Implications of) Absolute Rights?.....	196
8.2.	Context, Justificatory Reasoning and the Legitimate Specification of Article 3 ECHR.....	198
8.3.	Positive Duties to Protect – And Their Limits.....	200
8.4.	Between the Certain and the Right.....	201
8.5.	Defending and Upholding the Right Not to Be Subjected to Torture or Inhuman or Degrading Treatment or Punishment: The Future.....	202
	<i>Index</i>	205