

Table of Contents

<i>Table of Cases</i>	xi
<i>Table of Legislation</i>	xxvii
<i>List of Abbreviations</i>	li
1 Introduction	1
I The New Paradigm of International Law: The Individual and Human Rights	1
II The Concept of Human Rights	3
III The Boundaries of Human Rights	7
IV Repercussions of Human Rights Claims for the Balance between State and Society	8
V The Moral Foundations of Human Rights	9
VI Human Rights—Harbingers of an Individualistic Society?	10
VII Provisional Summary and Outlook	10
2 History of Human Rights	12
I Human Rights and the Rise of the State in Europe	12
II International Protection of Human Rights: A Latecomer in History	14
III From the Sixteenth Century to 1776	15
IV From 1776 to 1914	19
V Between the Two World Wars	22
VI The Great Leap Forward: 1945	27
3 Development of the Current System of International Protection of Human Rights	30
I The Three Stages	30
II Universal Declaration of Human Rights	32
III European Convention on Human Rights and European Social Charter	34
IV The Two UN Covenants on Human Rights	35
V The Legal Framework Established by the UN Specialized Agencies	36
VI American Convention on Human Rights	38
VII African Charter of Human and Peoples' Rights	38
VIII Regional Instruments in Asia	39
IX Charter of Fundamental Rights of the European Union	40
X Customary Law	42
XI <i>Jus Cogens</i>	44
XII Soft Law	45

4	Universality of Human Rights	47
I	Introductory Considerations	47
II	The Legal Dimension	50
III	The Value Dimension	57
IV	The Empirical Dimension	70
V	Conclusion	71
5	Conceptual Foundations of Human Rights	73
I	Introductory Considerations	73
II	Equality and Non-Discrimination	73
III	Human Dignity	85
IV	The Rule of Law	91
6	Determinative Legal Parameters of Human Rights	95
I	Introductory Considerations	95
II	Scope of Application of International Human Rights	95
III	Subsidiarity	103
IV	Restriction (Clawback) Clauses	104
V	Margin of Appreciation	107
VI	Principle of the Most Favourable Rule	110
7	Right Holders and Duty Bearers	112
I	Right Holders	112
II	Duty Bearers	119
8	From 'Negative' to Positive Duties—The Different 'Generations' of Human Rights	136
I	Unity and Diversity of Human Rights	136
II	Development of First Generation and Second Generation Rights at National Level	137
III	Contents of the International Bill of Human Rights	140
IV	The Unity, and the Difference in Character, of First Generation and Second Generation Rights	146
V	Third Generation Rights	149
9	The General Framework of Human Rights	155
I	Introductory Considerations	155
II	Democracy	155
III	Good Governance	158
IV	Human Security	159
V	Globalization	161
VI	The Shadow of Terrorism	162
VII	Conclusion	164

10	Implementation at National Level	165
I	Introductory Considerations	165
II	Relationship between International Law and Domestic Law in the Field of Human Rights	165
III	Place of Human Rights Instruments in the Domestic Legal Order	176
IV	Implementation of Human Rights Obligations by Special Institutions	180
V	Other Modalities of Implementation	180
11	The Work of Political Bodies of International Organizations	183
I	United Nations	183
II	European Union	206
III	Council of Europe	210
IV	Organization for Security and Co-operation in Europe	211
V	Conclusion	213
12	The Work of Expert Bodies: Examination of State Reports	214
I	Introductory Considerations	214
II	Reporting Systems at Regional Level	216
III	Reporting Systems at UN Level	219
13	The Work of Expert Bodies: Complaint Procedures and Fact-finding	238
I	Complaint Procedures	238
II	Fact-finding	271
III	Conclusion	276
14	Supervision by International Tribunals	277
I	Introductory Considerations	277
II	Worldwide Level	278
III	Regional Level	286
15	Enforcement by States and the Role of Non-Governmental Organizations	311
I	General Considerations	311
II	Action By States	312
III	Action by Non-Governmental Organizations	327
16	Mitigating the Effects of Armed Conflict: Humanitarian Law	337
I	General Considerations	337
II	Brief Historical Survey	342
III	Prohibition of Specific Weapons	345
IV	Legal Sources	347
V	Main Issues	350
VI	Ensuring Observance of, and Respect for, Humanitarian Law	360

17 Criminal Prosecution of Human Rights Violations	365
I General Considerations	365
II National Prosecution	366
III International Prosecution	379
IV A Summary Balance Sheet of the Ad Hoc Tribunals	389
V Conclusion	397
18 Reparation—Civil Claims Against Human Rights Violators	399
I General Considerations	399
II Redress Afforded by the International Community	400
III A Cause of Action Under Specific International Regimes	401
IV Individual Claims Under General International Law	415
V Procedures Under Domestic Law	419
VI Immunity	423
19 Time for Hope, or Time for Despair?	431
<i>Index</i>	435