## Contents

Table of Cases	xi
Table of Legislation	xiii
List of Abbreviations	XV
Introduction to the Argument	1
I. Why (Public Law) Rights?	3
II. The Waning of the Modern State	5
III. The Problem of the Modern Lion	8
IV. Diagnosing the Problem	10
V. A New Diagnosis, A New Remedy	17
1. Setting the Scene	25
I. An Introduction to 'Horizontality'—The Centrality of the	
State as Duty-Bearer	28
II. Horizontalization: Problems with Existing Institutional Methods	33
III. The Structure of Rights and the Allocation of Duties	41
2. Moral Argument and Positive Law: A Method for Constructing	
A Model of Rights	45
I. Laying the Methodological Foundations	45
II. Reflective Equilibrium of Theory and Practice	51
Conclusion	64
3. Duelling Concepts in Rights Theory	65
I. Introduction	65
II. The Dichotomy	65
Conclusion	74
4. Constraint and Value	76
I. Concepts and Norms in Rights Theory	76
II. Constraint, Value, and Normative Accounts of Rights	78
Conclusion	98
5. A Model of Rights: From Rights Theory to Public Law	100
I. Constructing a Model of Public Law Rights	101
II. Does a Dualistic Model Account for Public Law Rights?	110
III. The Problem of Translatability: The Structure of	
Public Law Rights	113

## Contents

	6.	Indeterminacy	121
		I. The Dualistic Model of Public Law Rights and the Challenge Application in the Private Sphere	of 121
		II. A More Fundamental Indeterminacy in a Dualistic Model	131
		III. Indeterminacy and the Insufficiency of the Dualistic Model	145
	7.	Relationality in the Model of Rights	150
		I. The Missing Piece	150
		II. What is Relational Context?	166
		III. Two Kinds of Objections	178
		Conclusion	186
	8.	Relations of Dependency and the Model of Rights	188
		I. Argument for Interpersonal Dependency as the	
		Third Pillar in the Model of Rights	188
		II. Defining Dependency	190
		III. Unpacking the Relation of Individual and State	198
		IV. The Justification of Rights Against the State: Control,	
		Authority, and Violability	206
	9.	The Model of Rights in Practice	220
		I. Six Cases: The Need for Principled Limitation of Scope	220
		II. The Merits of the Three-Dimensional Model of Rights:	
		Limits on the Applicative Scope of Obligations	223
		III. Illustrating the Applicative Implications of the	
		Three-Dimensional Model	227
Conclusion: Implications for Private Law		240	
		I. Core Rights and Private Law	242
		II. Personal Independence Rights and Tort Rights—Interpretive	212
		Implications	245
			21)
	Ril	bliography	253
		dex	263
			~ ~ ~