Contents

Ac	cknowledgements	V
Ta	ble of Cases	ix
Ta	ble of Legislation	XXV
1	'Equality', 'Discrimination' and the Law: an Introduction	1
	Structure of the Book	3
	The Legal Framework	6
	The Equality Act 2010	6
	EU Law	8
	Human Rights Act 1998/Article 14	9
	The Common Law	10
	'Equality' and 'Discrimination'	14
	'Formal' and 'Substantive' Equality	20
	Dignity and Equality	23
	Alternative Conceptions of Equality	33
2	Defining the Protected Characteristics	38
	Introduction	38
	The US Equal Protection Clause: the Roots of the Ground-Based	
	Approach	39
	Canada: 'Enumerated' and 'Analogous' Grounds	49
	Choosing Grounds: Avoiding Essentialism	52
	Challenging a Grounds-Based Approach	54
	'Status' and Inequality	60
	Avoiding Over-Stretch	63
	Competing Private Interests	63
	Reconsidering 'Protected Characteristics'	66
3	'Equality' and '(A)symmetry'	70
	Introduction	70
	International Comparisons	75
	Canada	75
	South Africa	77
	The EU	79
	The United States	81
	A Question of Principle?	88
	'Groups', 'Discrimination' and Disadvantage	90

viii Contents

	Anti-Essentialist Asymmetry	95
	Conclusion	96
4	The Evolution of Equality Law	101
	Introduction	101
	Domestic Law	106
	'Likeness' as a Method of Rationing: a Canadian Alternative?	118
	Developments in the European Court of Human Rights	123
5	Competing Equalities	135
	Introduction	135
	The Legal Framework: Domestic	136
	The Legal Framework: The European Convention on Human Rights	141
	Religious Wars? Religion, Belief and Conflict	150
	Defending the Indefensible?	150
	Bending the Equality Act Out of Shape?	156
	The European Convention: A 'Religious Right' to Discriminate?	157
	Discrimination Because of the Beliefs of Others: A Convention Right?	159
	Domestic Law, Discrimination and Religion/Belief	166
	What Room for Protection of Individual Belief?	167
	The Case for Limited Statutory Regulation of 'Religious'	
	Discrimination	169
	Religious Collectives: The Scope of Exemptions	174
6	Multiculturalism and Equality	182
	Introduction	182
	'Multiculturalism'	187
	Multiculturalism and Equality	193
	Striking a Balance? The Example of Religious Family 'Law'	202
	The Privatisation of Family Law	209
	Conclusions	224
7	Conclusion	227
Bi	Bibliography	
Index		251