DETAILED CONTENTS

	Preface Table of Cases Table of International Instruments	xv xvii xxiii
1	Introduction	1
2	Historical background	5
	Origins of international human rights 5	2.7.2 The modern law of slavery 152.8 Minority rights 16
	The eigtheenth century: revolutions and rights 6	2.8.1 The treaty approach to minorities 162.8.2 The link to nationalism 16
	The role of international law 7 The law of aliens 8 2.4.1 Reparations and reprisals 8 2.4.2 The two schools of thought 9 2.4.3 Contemporary law on aliens 10	 2.8.3 After the First World War 17 2.8.4 The Peace Conference 18 2.8.5 The League of Nations and minorities 19 2.8.6 The modern law on minorities 21
2.5	Diplomatic laws 11 2.5.1 The development of diplomatic law 11 2.5.2 Modern diplomatic law 11	 2.9 The International Labour Organization 22 2.10 After the Second World War 23
2.6	The laws of war—international humanitarian law 12 2.6.1 The laws of war 12 2.6.2 Humanitarian law 13 2.6.3 Modern humanitarian law and laws of	 2.10.1 The Potsdam Conference 23 2.10.2 Towards international protection of human rights 23 2.10.3 On the brink of the United Nations 24
2.7	war 14 Slavery 15 2.7.1 The development of the law 15	Cases 24 Reading 24 Websites 25
3	The United Nations	26
3.1	The United Nations Charter 26 3.1.1 The influence of the Nuremberg Criminal Tribunal 27 3.1.2 Developing international human rights law 28	 3.2.2 Protection of vulnerable groups 31 3.2.3 Slavery, torture, forced labour, and trafficking 34 3.2.4 Other human rights instruments 34
3.2	Building international human rights law 30 3.2.1 War crimes and crimes against humanity 30	3.3 The impact of the United Nations on international human rights 35 Reading 36 Websites 36
4	The International Bill of Human F	Rights 38
4.1	The Universal Declaration of Human Rights <i>39</i> 4.1.1 Is the Declaration binding? <i>39</i> 4.1.2 The importance of the Declaration <i>40</i>	 4.1.3 The content of the Declaration 41 4.1.4 Minority protection and the Universal Declaration 43 4.1.5 The importance of the Universal Declaration 43

4.1.2 The importance of the Declaration 40

4.2	The United Nations International Covenants	4.2.3 The International Covenant on Civil and Political Rights 49
	of 1966 45	4.3 Conclusions on the Bill of Human
	4.2.1 A family of universal	Rights 50
	rights? 46	Cases 52
	4.2.2 The International Covenant on Economic, Social and	Reading 52
	Cultural Rights 47	Websites 52
5	The United Nations organization	al structure 5
5.1	An overview of the United Nations organizational structure 53	5.6 The High Commissioner for Human Rights 64
5.2	The Security Council 54	5.6.1 Others 65
	5.2.1 Self-determination 55	5.7 Treaty-monitoring bodies 65
	5.2.2 United Nations interventions 55	5.7.1 Introduction 65
	5.2.3 Other situations 56	
	5.2.4 Sanctions 56	5.7.2 Human Rights Committee 66
	5.2.5 Conclusions 56	5.7.3 Committee on Economic, Social and Cultural Rights 69
5.3	The General Assembly 57	5.7.4 Committee against Torture 71
	5.3.1 Declarations on human rights issues 57	5.7.5 Committee on the Elimination of Raci
	5.3.2 Logistical support 58	Discrimination 73
	5.3.3 Receiving reports 58	5.7.6 Committee on the Elimination of
	5.3.4 General debates 58	Discrimination against Women 75
	5.3.5 Conclusions 59	5.7.7 Committee on the Rights of the
5.4	The International Courts 59	Child 78
	5.4.1 The International Court of Justice 59	5.7.8 Migrant Workers Committee 79
	5.4.2 The International Criminal Court 60	5.8 Others <i>79</i>
5.5	The Economic and Social Council 60	5.8.1 Truth Commissions 79
	5.5.1 The Commission on the Status of	5.9 Conclusions 80
	Women (CSW) 61 5.5.2 The Commission on Human Bights, 62	
	5.5.2 The Commission on Human Rights 62 5.5.3 The Sub-Commission on the	Cases 81
	Promotion and Protection of Human	Reading 81
	Rights 63	Websites 82
6	Regional protection of human rig	ghts 8
6.1	The advantages of regional systems 84	6.3.2 The Commonwealth of Independent States 88
	6.1.1 Drafting and adopting texts 84	6.3.3 Asia and the Pacific 89
	6.1.2 Accessibility 84	6.4 Conclusions on regional systems 90
	6.1.3 Enforceability 85	Cases 90
	The principal regional systems 86	Reading 90
6.3	Other regional initiatives 87	
	6.3.1 The Arab League 87	Websites 91
7	Europe	9
7 1	Council of Europe 92	7.3.1 The European Convention on
	The development of European human	the Protection of Human
1.2	rights protection 93	Rights and Fundamental
7 3	The Convention and associated	- Freedoms (the European
7.5	instruments 94	Convention) 94 7.3.2 The Protocols 95
		7.3.2 The Protocols 93 7.3.3 Other conventions 95
		7.3.3 Other Conventions 23

7.4	The institutional framework 97 7.4.1 The Secretary-General 98 7.4.2 The Committee of Ministers 98 7.4.3 The Parliamentary Assembly 99	 7.6.1 The Office for Democratic Institutions and Human Rights 106 7.6.2 The High Commissioner on National Minorities 107 7.6.3 The Representative on Freedom of the
	 7.4.4 The European Court of Human Rights 99 7.4.5 The European Commissioner on Human Rights 100 7.4.6 The European Commission on Human Rights 100 	Media 107 7.7 European Union 108 7.7.1 The European Court of Justice and
7.5	Implementing human rights 101 7.5.1 The Strasbourg machinery (original and now) 101 7.5.2 Inter-State complaints 101 7.5.3 Individual complaints 101	rights in the European Union 110 7.7.3 The Charter of Fundamental Rights of the European Union 110 7.7.4 Social policy 111 7.8 Conclusions 111
7.6	Organization for Security and Cooperation in Europe 105	Cases 112 Reading 113 Websites 114
8	The Organization of American S	States 115
	The development of American human rights 115 The Declaration and the	8.3.4 The General Assembly 124 8.3.5 The Inter-American Commission of Women 124
	Conventions 116 8.2.1 The American Declaration 116 8.2.2 The American Convention 117 8.2.3 Additional Protocols 117 8.2.4 Other conventions and instruments 118	 8.4 Implementing human rights 124 8.4.1 Monitoring human rights outwith the Convention 125 8.4.2 Convention—reports 126 8.4.3 Convention—inter-State complaints 126
8.3	The institutional framework 120 8.3.1 The Inter-American Commission on Human Rights 120 8.3.2 The Inter-American Court of Human Rights 122 8.3.3 The Inter-American Council for Integral Development 123	8.4.4 Convention—individual complaints 127 8.5 Conclusions 128 Cases 130 Reading 130 Websites 131
9	The African Union	132
9.1	Development of human rights protection 133	9.3.2 The African Court on Human and Peoples' Rights 137
9.2	The African Charter and other instruments 133 9.2.1 The African Charter on Human and Peoples' Rights 133	 9.3.3 The Assembly of Heads of State and Government 139 9.3.4 The role of Non-Governmental Organizations (NGOs) 139
	9.2.2 The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa 1969 135	9.4.2 Inter-State complaints 140
	9.2.3 The African Charter on the Rights and Welfare of the Child 1990 135	9.4.3 Individual complaints 141 9.5 Conclusions 142
0.3	9.2.4 Protocol on Women's Rights 136	Cases 143
9.3	Institutional framework 136 9.3.1 The African Commission on Human	Reading 143

Websites 144

and Peoples' Rights 136

10.2 10.3 10.4	The reports system 146 Inter-State complaints 147 Individual complaints 148 Rapporteurs and special investigators 149 Ancillary bodies 150 10.5.1 United Nations bodies 150 10.5.2 International Committee of the Red Cross 151 10.5.3 Non-Governmental Organizations (NGOs) 152 10.5.4 Individuals 153	 10.6.1 Ratifications, declarations, and reservations 154 10.6.2 State reports—quantity and quality 156 10.6.3 The committees—composition, role, and functions 159 10.6.4 Resources 160 10.6.5 Implementation and sanctions 163 10.6.6 Individual petition 165 10.7 Pluralism and homogeneity 166 10.8 Reform? Some observations 167 Cases 168
10.6	Overview of problems with the system 153	Reading 169 Websites 170
11	Substantive rights—general comm	nents 17
	Content of rights 171 State discretion and other limitations 172 11.2.1 State discretion 172 11.2.2 Clash of rights 173 11.2.3 Derogations 174 11.2.4 Reservations 176 11.2.5 Declarations 178	11.2.6 Denunciations 179 11.3 Interpretation and application 180 11.4 Examining human rights 180 Cases 182 Reading 182 Websites 183
12	Equality and non-discrimination	184
12.3	The concept of equality 184 The prohibition on discrimination 185 Sex discrimination 186 12.3.1 The Declaration on the Elimination of Discrimination against Women 187 12.3.2 Developing the law 188 12.3.3 The Convention on the Elimination of all Forms of Discrimination against Women 189 12.3.4 Strengthening women's rights 190 Race discrimination 191	 12.5.1 Developing the international prohibition 195 12.5.2 Developing the Declaration 197 12.5.3 Content of the Declaration 197 12.5.4 Developing the concept 199 12.5.5 Special thematic Rapporteurs on religious intolerance and discrimination 199 12.5.6 Conclusions 200 12.6 Other grounds of discrimination 200 12.6.1 Language 200 12.6.2 Others 202
	 12.4.1 Development of international law 192 12.4.2 The Declaration and the Convention 192 12.4.3 Definition of 'racial discrimination' 193 12.4.4 Conclusions 194 Religious discrimination 195 	12.7 Conclusions 202 Cases 203 Reading 203 Websites 204

10 Monitoring, implementing, and enforcing human rights

145

13	The right to life	205
	Right to life 205 13.1.1 A positive obligation to protect life 206 13.1.2 Parameters of life 207 Permissible deprivation of life 208	 13.3.3 Genocide as an international crime 215 13.3.4 The work of the International Criminal Tribunals 216 13.3.5 Conclusions on the prohibition of
	13.2.1 Death penalty 208 13.2.2 Death by actions of State security forces 210	genocide 217 13.4 Conclusions 218
13.3	13.2.3 Death during armed conflict 212 Genocide 213 13.3.1 Definition of genocide 213 13.3.2 The Genocide Convention 214	Cases 218 Reading 219 Websites 219
14	Freedom from torture, cruel, inhutreatment or punishment	uman and degrading
	A hierarchy of rights? 220 14.1.1 The extension to mental suffering 221 Torture 221 14.2.1 The international position 222 14.2.2 The Inter-American system 223 14.2.3 The European system 223	14.3.1 Corporal punishment 226 14.3.2 Death row phenomenon 228 14.4 The treatment of detainees 229 14.4.1 The international position 229 14.4.2 The regional position 230 14.5 Emergency situations 231
14.3	 14.2.4 Threat of torture 224 14.2.5 Scientific and medical experimentation 225 14.2.6 Compensation for victims 226 Inhuman or degrading treatment or punishment 226 	14.6 Conclusions 232 Cases 232 Reading 232 Websites 233
15	The right to liberty of person	234
	Slavery and servitude 234 15.1.1 Slavery 235 15.1.2 Slave trade and trafficking 236 15.1.3 Analogous practices 237 15.1.4 Forced or compulsory labour 238 Liberty and security of person 240 15.2.1 Deprivation of liberty 240 15.2.2 Grounds of detention 241	15.2.3 Procedural guarantees 244 15.2.4 Derogations from the provisions 246 15.3 Conclusions 246 Cases 247 Reading 247 Websites 248
16	Equality before the law—the right	t to a fair trial 249
16.1	Recognition, equality, and access issues 250 16.1.1 Recognition as a person before the law 250	 16.2 Prohibition on retroactive penal legislation 253 16.2.1 National and international crimes 254 16.2.2 Defining crimes 254

16.2.3 Examples of violations 254

16.3.1 The treaty-monitoring bodies? 256

16.3 What are 'courts and

tribunals'? 255

16.1.2 Lack of capacity to enter legal

16.1.5 A right of access to a court? 252

16.1.3 Problems with defining 'persons' 251

16.1.4 Equality of persons before the law 252

obligations 251

16.4	An independent and impartial court 256	16.6.4 Legal aid 263 16.6.5 Trial within a reasonable time 264	
1 / -	16.4.1 Jurisprudence 256	16.6.6 Public hearing 265	
	Presumption of innocence 258	16.6.7 Double jeopardy 265	
10.0	Minimum guarantees for criminal trials 260	16.6.8 Appeal hearing 266	
	16.6.1 The language of the trial and	16.7 Conclusions 266	
	charges 260	Cases 267	
	16.6.2 Adequate time and facilities to prepare and conduct a defence 262	Reading 268	
	16.6.3 Trial in absentia 263	Websites 268	
17	The right to self-determination	269	
17.1	The right to self-determination 269	17.4.3 Different covenants, different	
17.2	The origins of the right to self-	rights? 277 17.4.4 Autonomy for minority and indigenou	
	determination 270	groups 278	
	17.2.1 After the First World War 271 17.2.2 The era of the League of Nations 271	17.4.5 Self-determination and the African Charter 279	
17.3	The United Nations, decolonization,	17.5 Claiming self-determination 280	
17 /	and self-determination 272	17.6 Conclusions 281	
17.4	Self-determination today 274 17.4.1 Examples of non-colonial	Cases 281	
	self-determination 274	Reading 282	
	17.4.2 Secession <i>276</i>	Websites 283	
18	Freedom of expression	284	
18.1	Freedom of expression 285	18.4.2 War/public emergency 290	
18.2	Freedom of the press and media 286	18.4.3 National security/public order 290	
	18.2.1 State-owned media 287	18.4.4 Public health and morals 292	
	18.2.2 Regional developments 287 18.2.3 Link to human rights education 287	18.4.5 The rights and reputations of others 293	
18.3	Overlap with freedom of	18.5 Conclusions 294	
	correspondence 288	Cases 294	
18.4	Exceptions 288	Reading 295	
	18.4.1 Propaganda for war or national, racial, or religious hatred 289	Websites 295	
19	The right to work	290	
19.1	The right to work 296	19.2.3 Holidays 303	
	19.1.1 An absolute right? 297	19.2.4 Remuneration 304	
	19.1.2 The duty incumbent on States 297	19.2.5 Link to adequate standard of	
	19.1.3 Components of the right to work 298	living 305	
	19.1.4 Freedom from arbitrary dismissal 299 19.1.5 Equality 300	19.3 The right to equal pay for equal work 305	
19.2	The right to just and favourable	19.4 Conclusions 308	
	conditions of work and remuneration 301	Cases 308	
	19.2.1 Conditions of work 301	Reading 308	
	19.2.2 Working time and rest periods 302	Websites 309	

20	The right to education and huma	n rights education	310
	The right to education 311 20.1.1 Access to education 311 20.1.2 Nature of education 314 20.1.3 Academic freedom 316 20.1.4 The United Nations Special Rapporteur on the right to education 317 The right to human rights education 317 20.2.1 Links to other human rights 318	20.2.2 Achieving universal education on human rights 318 20.2.3 Teaching non-discrimination 319 20.2.4 The United Nations Decade of Hu Rights Education 320 20.3 Conclusions 321 Cases 322 Reading 322 Websites 323	
21	Minority rights		324
21.2	Background 324 The need for minority protection 325 21.2.1 Rationalizing minority protection 326 21.2.2 The Universal Declaration and minority rights 326 Defining 'minorities' 327 21.3.1 Article 27 of the International Covenant on Civil and Political Rights 327 21.3.2 Tests employed to determine minority status 328 The scope of the international provisions 329 21.4.1 The right to enjoy one's culture 330	21.4.2 The right to profess and practise religion 332 21.4.3 The right to use one's own language 333 21.4.4 Using the International Covenant 21.4.5 The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities 1992 334 21.5 Regional developments 335 21.5.1 European developments 335 21.6 Conclusions 337 Cases 337 Reading 337 Websites 338	334
22	Group rights		339
22.2	2.1 Towards group rights 340 2.2 Indigenous peoples 340 2.2.2.1 Historical issues 340 2.2.2.2 Claims of indigenous peoples 341 2.2.2.3 International Developments 343 2.2.2.4 Regional Developments 345 2.3 Women 346 2.2.3.1 Historical issues 346 2.2.3.2 Rights of Women 346 2.2.3.2 Rights of Women 346 2.2.3.3 International developments 348 2.2.3.4 Regional developments 349 2.4 Children 350 2.5 Children's rights and the United Nations Convention on the Right the Child 351 2.4.3 International Developments 354 2.5 Refugees 355 2.5.1 Historical issues 356 2.5.2 Refugees' rights and the 1951 Convention 356 2.5.3 The United Nations High Commissioner for Refugees 358 2.5.4 Regional Developments 358 2.5.5 Developments 360 Cases 360 Reading 361 Websites 362		of

23 Looking to the future		36
23.1 Reform of the institutional	23.4 More rights? 366	

- procedure? 363
- 23.2 More effective enforcement of human rights? *364*23.2.1 Spreading responsibility *364*
- 23.3 Greater popular awareness? 365
- 23.4 More rights? 366
 23.4.1 The right to development 366
 23.4.2 Environmental rights 368
 23.4.3 Beneficiaries of rights 369
 23.5 Conclusions 370
 Reading 370
 Websites 371

Index

373