Contents

Lis	t of Figures	page x
Lis	t of Contributors	xi
Ack	knowledgements	xxiii
	Introduction Andreas von Arnauld, Kerstin von der Decken and Mart Susi	1
	PART I CROSS-CUTTING OBSERVATIONS	
1	Recognition of New Human Rights: Phases, Techniques and the Approach of 'Differentiated Traditionalism' Kerstin von der Decken and Nikolaus Koch	7
2	Novelty in New Human Rights: The Decrease in Universality and Abstractness Thesis Mart Susi	21
3	Rhetoric of Rights: A Topical Perspective on the Functions of Claiming a 'Human Right to' Andreas von Arnauld and Jens T. Theilen	34
	PART II PUBLIC GOOD RIGHTS	
	THE RIGHT TO WATER	
4	Access to Water as a New Right in International, Regional and Comparative Constitutional Law Danwood M. Chirwa	55
5	Something Old, Something New, Something Borrowed and Something Blue: Lessons to be Learned from the Oldest of the 'New' Rights – the	
	Human Right to Water Pierre Thielbörger	70

RIGHTS	TO HOU	SING A	ND T	TO I	LAND
--------	--------	--------	------	------	------

6	The Human Right to Adequate Housing and the New Human Right to Land: Congruent Entitlements Miloon Kothari	81
7	The Human Right to Land: 'New Right' or 'Old Wine in a New Bottle'? Jérémie Gilbert	97
	THE RIGHT TO HEALTH	
8	The Right to Health under the ICESCR: Existing Scope, New Challenges and How to Deal with It Eibe Riedel	107
9	Strong New Branches to the Trunk: Realising the Right to Health Decentrally Stefan Martini	124
	THE RIGHT TO A CLEAN ENVIRONMENT AND RIGHTS OF THE ENVIRONMENT	
10	The Human Right to a Clean Environment and Rights of Nature: Between Advocacy and Reality Günther Handl	137
11	The Right to Environment: A New, Internationally Recognised, Human Right Luis E. Rodríguez-Rivera	154
	PART III STATUS RIGHTS	
	RIGHTS OF OLDER PERSONS	
12	The Inter-American Convention on Protecting the Human Rights of Older Persons Luis Humberto Toro Utillano	167
13	The Status of the Human Rights of Older Persons Tiina Pajuste	183
	RIGHTS TO GENDER IDENTITY	
4	Gender Recognition as a Human Right Holning Lau	193
5	Pre-existing Rights and Future Articulations: Temporal Rhetoric in the Struggle for Trans Rights Jens T. Theilen	207

Contents	vii

	RIGHTS OF INDIGENOUS PEOPLES	
16	The Rights of Indigenous Peoples: Everything Old Is New Again Dinah Shelton	217
17	The Evolution and Revolution of Indigenous Rights Fergus MacKay	233
	ANIMAL RIGHTS	
18	Animal Rights Tomasz Pietrzykowski	243
19	Sentience, Form and Breath: Law's Life with Animals Yoriko Otomo	253
	PART IV NEW TECHNOLOGY RIGHTS	
	THE RIGHT TO INTERNET ACCESS	
20	The Right to Internet Access: Quid Iuris? Oreste Pollicino	263
21	The Case for the Right to Meaningful Access to the Internet as a Human Right in International Law Başak Çalı	276
	THE RIGHT TO BE FORGOTTEN	
22	The Right to Be Forgotten Mart Susi	287
23	The RTBF 2.0 Oscar Raúl Puccinelli	300
	REPRODUCTIVE RIGHTS	
24	The Fruits of Someone Else's Labour: Gestational Surrogacy and Rights in the Twenty-First Century Mindy Jane Roseman	311
25	Birthing New Human Rights: Reflections around a Hypothetical Human Right of Access to Gestational Surrogacy Eva Brems	326
	GENETIC RIGHTS	
26	The Relevance of Human Rights for Dealing with the Challenges Posed by Genetics Roberto Andorno	335

27	The Challenge of Genetics: Human Rights on the Molecular Level? Judit Sándor	350
	PART V AUTONOMY AND INTEGRITY RIGHTS	
	THE RIGHT TO BODILY INTEGRITY	
28	The Right to Bodily Integrity: Cutting Away Rhetoric in Favour of Substance A. M. Viens	363
29	From Bodily Rights to Personal Rights Thomas Douglas	378
	THE RIGHT TO MENTAL INTEGRITY	
30	The Nascent Right to Psychological Integrity and Mental Self-Determination Jan-Christoph Bublitz	387
31	Critical Reflections on the Need for a Right to Mental Self-Determination Sabine Michalowski	404
	RIGHTS RELATING TO ENFORCED DISAPPEARANCE	
32	Rights Related to Enforced Disappearance: New Rights in the International Convention for the Protection of All Persons from Enforced Disappearance María Clara Galvis Patiño	415
33	The Emergence of the Right Not to Be Forcibly Disappeared: Some Comments Kohki Abe	428
	THE RIGHT TO DIPLOMATIC AND CONSULAR PROTECTION	
34	The Emergent Human Right to Consular Notification, Access and Assistance David P. Stewart	439
35	From a Human Right to Invoke Consular Assistance in the Host State to a Human Right to Claim Diplomatic Protection from One's State of Nationality? Frédéric Mégret	453
	PART VI GOVERNANCE RIGHTS	
	THE RIGHT TO DEMOCRACY	
36	Remnants of a Constitutional Moment: The Right to Democracy in International Law Sigrid Boysen	465

37	The Human Right to Democracy in International Law: Coming to Moral Terms with an Equivocal Legal Practice Samantha Besson	481
	THE RIGHT TO GOOD ADMINISTRATION	
38	A Right to Administrative Justice: 'New' or Just Repackaging the Old? Hugh Corder	493
39	The African Right to Administrative Justice versus the European Union's Right to Good Administration: New Human Rights? Bucura C. Mihăescu-Evans	507
	THE RIGHT TO FREEDOM FROM CORRUPTION	
40	Anti-Corruption: Recaptured and Reframed Andrew Spalding	517
41	Towards a Human Rights Approach to Corruption Kolawole Olaniyan	531
	THE RIGHT OF ACCESS TO LAW	
42	Bentham Redux: Examining a Right of Access to Law Simon Rice	541
43	A Right of Access to Law – or Rather a Right of Legality and Legal Aid? Janneke Gerards	555
Ind	lex -	562