

# DIVERSITY AND EUROPEAN HUMAN RIGHTS

Rewriting Judgments of the ECHR



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CAMBRIDGE

# Diversity And European Human Rights Rewriting Judgments Of The Echr

**Mia Lövheim, Mikael Stenmark**



## **Diversity And European Human Rights Rewriting Judgments Of The ECHR:**

Diversity and European Human Rights Eva Brems, 2013 A demonstration of how European Court of Human Rights judgments might better accommodate the concerns of minorities      **Rewriting Children's Rights Judgments** Helen Stalford, Kathryn Hollingsworth, Stephen Gilmore, 2017-11-02 This important edited collection is the culmination of research undertaken by the Children's Rights Judgments Project This initiative involved academic experts revisiting existing case law drawn from a range of legal sub disciplines and jurisdictions and redrafting the judgment from a children's rights perspective The rewritten judgments shed light on the conceptual and practical challenges of securing children's rights within judicial decision making and explore how developments in theory and practice can inform and re invigorate the legal protection of children's rights Collectively the judgments point to five key factors that support a children's rights based approach to judgment writing These include using children's rights law and principles drawing on academic insights and evidence endorsing child friendly procedures adopting a children's rights focused narrative and using child friendly language Each judgment is accompanied by a commentary explaining the historical and legal context of the original case and the rationale underpinning the revised judgment including the particular children's rights perspective adopted the extent to which it addresses the children's rights deficiencies evident in the original judgment and the potential impact the alternative version might have had on law policy or practice Presented thematically with contributions from leading scholars in the field this innovative collection offers a truly new and unique perspective on children's rights      **Diversity and European Human Rights** Eva Brems, 2014-05-14 A demonstration of how European Court of Human Rights judgments might better accommodate the concerns of minorities      **Pluralising International Legal Scholarship** Rossana Deplano, 2019-12-27 This unique book examines the role non doctrinal research methods play in international legal research what do they add to the traditional doctrinal analysis of law and what do they neglect Focusing on empirical and socio legal methods it provides a critical evaluation of the breadth scope and limits of the representation of international law created by these often neglected methodologies      *Feminist Judgments in International Law* Loveday Hodson, Troy Lavers, 2019-09-05 The emergence of feminist rewriting of key judgments has been one of the most interesting recent developments in legal methodology This unique enterprise has seen scholars collaborate in the real world task of reassessing jurisprudence in light of feminist perspectives This important new volume makes a significant contribution to the endeavour exploring how key judgments in international law might have differed if feminist judges had sat on the bench This collection asks whether feminist perspectives can offer meaningful and viable alternatives to international law norms and if so whether that application results in distinguishable differences in outcomes It answers these questions with particular reference to sources of international law the public and private divide State responsibility State immunities treaty law State sovereignty human rights protection global governance and the concept of violence in international law This landmark publication offers a truly

innovative reassessment of international law Winner of the 2020 ASIL Certificate of Merit for a Preeminent Contribution to Creative Scholarship      *Northern / Irish Feminist Judgments* Máiréad Enright, Julie McCandless, Aoife

O'Donoghue, 2017-02-09 The Northern Irish Feminist Judgments Project inaugurates a fresh dialogue on gender legal judgment judicial power and national identity in Ireland and Northern Ireland Through a process of judicial re imagining the project takes account of the peculiarly Northern Irish concerns in shaping gender through judicial practice This collection following on from feminist judgments projects in Canada England and Australia takes the feminist judging methodology in challenging new directions This book collects 26 rewritten judgments covering a range of substantive areas As well as opinions from appellate courts the book includes first instance decisions and a fictional review of a Tribunal of Inquiry Each feminist judgment is accompanied by a commentary putting the case in its social context and explaining the original decision The book also includes introductory chapters examining the project methodology constructions of national identity theoretical and conceptual issues pertaining to feminist judging and the legal context of both jurisdictions The book shines a light on past and future possibilities and limitations for judgment on the island of Ireland This book provides a rich and expansive addition to the feminist judgments catalogue The judgments demonstrate powerfully how Northern Irish judges have contributed to the gendered politics of national identity and how the narrow subject positions they have created for women and others could have been so much wider and more open Professor Rosemary Hunter School of Law Queen Mary University London The Northern Irish Feminist Judgments Project is inspirational reading for anyone interested in feminism or Irish studies It is a model of how to conduct feminist enquiry Its most innovative contribution to scholarship and politics is how the rewriting of landmark legal judgments from a feminist perspective allows us to imagine and therefore begin to construct a more egalitarian a more just future Associate Professor Katherine O'Donnell School of Philosophy University College Dublin If you let it this book will make you think It made me think it reminded me I suppose that legal writing can be wonderful rigorous creative deeply observant provocative Read it and see what it makes you think Professor Thérèse Murphy School of Law Queen's University Belfast      **A Constructive Critique of Religion** Mia Lövheim, Mikael

Stenmark, 2020-02-06 Why do some strategies for critique of religion seem to be more beneficial for constructive engagement whereas others increase intolerance polarization and conflict Through an analysis of the reasons underpinning a critique of religion in institutional contexts of secular democratic societies *A Constructive Critique of Religion* explores how constructive interaction and critique can be developed across diverse interests It shows how social and cultural conditions shaping these institutions enable and structure a critical and constructive engagement across diverging worldviews A key argument running through the book is that to develop constructive forms of critique a more thorough and systematic investigation of resources for criticism located within religious worldviews themselves is needed Chapters also address how critique of Islam and Christianity in particular is expressed in areas such as academia the law politics media education and parenting with a

focus on Northern Europe and North America The interdisciplinary approach which combines theoretical perspectives with empirical case studies contributes to advancing studies of the complex and contentious character of religion in contemporary society

**Constitutions and Religion** Susanna Mancini, 2020-11-27 Constitutions and Religion is the first major reference work in the emerging field of comparative constitutional law and religion It offers a nuanced array of perspectives on various models for the treatment of religion in domestic and supranational legal orders *Current Law Index*, 1995

**The European Court of Human Rights and the Rights of Marginalised Individuals and Minorities in National Context** Dia Anagnostou, Evangelia Psychogiopoulou, 2010 This volume examines the effects of Strasbourg Court jurisprudence for protecting the rights of marginalised individuals and minorities It argues that its consequences vary depending upon the diverse social legal and institutional context that shapes litigation and judicial approaches in each country

**Judgments of the European Court of Human Rights - Effects and Implementation** Anja Seibert-Fohr, Mark E. Villiger, 2017-05-15 This volume deals with the domestic effects of judgments of the European Court of Human Rights as a challenge to the various levels of legal orders in Europe The starting point is the divergent impact of the ECtHR's jurisdiction within the Convention States The volume seeks new methods of orientation at the various legal levels given the fact that the Strasbourg case law is increasingly important for most areas of society Topical tendencies in the case law of the Court are highlighted and discussed against the background of the principle of subsidiarity The book includes a detailed analysis of the scope reach consequences and implementation of the Court's judgments and of the issue of concomitant damages At the same time the volume deals with the role of domestic jurisdictions in implementing the ECtHR's judgments Distinguished Judges legal academics and practitioners from various Council of Europe States are among the contributors to this volume which succeeds in bringing divergent points of view into the discussion and in developing strategies for conflict resolution

*Shaping Rights in the ECHR* Eva Brems, Janneke Gerards, 2014-01-23 In fundamental rights adjudication a court first has to determine whether the interest at stake falls within the scope of the fundamental right invoked Whether or not an individual interest falls within the scope or ambit of one of the fundamental rights protected by the European Convention on Human Rights determines whether or not the European Court of Human Rights can decide on the merits of a case This volume brings together a variety of legal scholars in order to examine the scope of fundamental rights Topics range from the nature of human rights and the real or imagined risk of rights inflation to theories of positive obligations and social and economic rights It contains contributions of a theoretical nature as well as analytical overviews of the ECtHR's approach In addition comparisons are made with domestic EU and international law

**A Europe of Rights** Helen Keller, Alec Stone Sweet, 2008 In this book a team of distinguished scholars trace and evaluate comparatively the impact of the ECHR and the European Court of Human Rights on law and politics in eighteen national systems Ireland UK France Germany Italy Spain Belgium Netherlands Norway Sweden Greece Turkey Russia Ukraine Poland Slovakia and Austria Switzerland Although the Court's jurisprudence has provoked significant

structural procedural and policy innovation in every State examined its impact varies widely across States and legal domains The book charts this variation and seeks to explain it Across Europe national officials in governments legislatures and judiciaries have chosen to incorporate the ECHR into domestic law and they have developed a host of mechanisms designed to adapt the national legal system to the ECHR as it evolves But how and why State actors have done so varies in important ways and these differences heavily determine the relative status and effectiveness of Convention rights in national systems Although problems persist the book shows that national officials are gradually but inexorably being socialized into a Europe of rights a unique transnational legal space now developing its own logics of political and juridical legitimacy BOOK JACKET

The European Court of Human Rights Helmut P. Aust, Esra Demir-Gürsel, 2021-04-30 This insightful book considers how the European Court of Human Rights ECHR is faced with numerous challenges which emanate from authoritarian and populist tendencies arising across its member states It argues that it is now time to reassess how the ECHR responds to such challenges to the protection of human rights in the light of its historical origins **The Impact of the European**

**Convention on Human Rights on Private International Law** Louwrens R. Kiestra, 2014-09-11 In this book the interaction between the rights guaranteed in the European Convention of Human Rights ECHR and private international law has been analysed by examining the case law of the European Court of Human Rights the Court and selected national courts In doing so the book focuses on the impact of the ECHR on the three main issues of private international law jurisdiction applicable law and the recognition and enforcement of foreign judgments Next to a list of cases consulted and a comprehensive bibliography the book offers brief introductions to PIL and the ECHR for readers who are less familiar with either of the topics This makes the book not only a valuable tool for specialists and practitioners in the fields covered but at the same time a well documented basis for students and starting researchers specializing in either or both directions **Transitional**

**Jurisprudence and the European Convention on Human Rights** Antoine Christian Buyse, Michael Hamilton, 2011 The European Convention on Human Rights has been a standard setting text for transitions to peace and democracy in states throughout Europe This book analyses the content role and effects of the jurisprudence of the European Court relating to societies in transition It features a wide range of transitional challenges from killings by security forces in Northern Ireland to property restitution in East Central Europe and from political upheaval in the Balkans to the position of religious minorities and Roma Has the European Court developed a specific transitional jurisprudence How do politics affect the ways in which the Court's judgments are implemented Does the Court's case law itself become woven into narratives of struggle in transitional societies This book seeks to answer these questions by highlighting the unique role of Europe's main guardian of human rights the Court in Strasbourg It includes a comparison with the Inter American and African human rights systems

**Reforming the European Convention on Human Rights** Council of Europe. Steering Committee for Human Rights, Council of Europe, 2009-01-01 The European ministerial conference on human rights meeting in Rome on the 50th

anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms emphasised two crucial elements the responsibility of member states Parties to the Convention to ensure constantly that their law and practice conform to the Convention and to execute the judgments of the European Court of Human Rights that urgent measures be taken to assist the Court in carrying out its functions given the ever increasing number of applications An in depth reflection should be started as soon as possible on the various possibilities and options with a view to ensuring the effectiveness of the Court in the light of this new situation The Rome conference has sparked intensive work Ever since January 2001 the intergovernmental co operation activities of the Steering Committee for Human Rights CDDH of the Council of Europe have concentrated on developing normative instruments of which the most important has been Protocol No 14 to the Convention This work has benefited greatly from high level debates during a series of round table discussions within working groups and at seminars organised mainly by the successive presidencies of the Committee of Ministers The present volume contains a record of this work

Rewriting Rights in Europe Linda Hancock, Carolyn O'Brien, 2000 This text tackles a wide range of issues relating to rights citizenship and sovereignty in a European context Such issues are of concern elsewhere with regeads to shifting conceptions and practices in international human rights This book looks at the question of how much European rights and human rights interact and how much they must do so if Europe as a whole is to be an arena of belonging and effective participation for all its residents This book reflects the focus on rights in Europe looking at debates concerning immigration and minority rights concerns about social exclusion social protection war crimes human rights women s rights and other topics

**The implementation of judgments of the European Court of Human Rights** Council of Europe, 2018-01-17 Delays in implementing the Court s judgments lack of political will in certain states parties attempts to discredit the Court In ratifying the European Convention on Human Rights the signatory states accept the Court s jurisdiction and authority and undertake to abide by the final judgment of the Court in any case to which they are parties Article 46 of the Convention While certain member states have made real progress in implementing the judgments of the European Court of Human Rights some others face serious structural and political problems forming real pockets of resistance that delay or prevent the execution of judgments The Committee of Ministers is still supervising the execution of some 10 000 judgments although they are not all at the same stage of implementation This publication highlights the difficulties in implementing certain judgments encountered in the 10 countries which have the highest number of non implemented judgments against them Italy the Russian Federation Turkey Ukraine Romania Hungary Greece Bulgaria the Republic of Moldova and Poland It also analyses judgments whose execution raises complex political issues

**Is There a European Law of Human Rights?** Danilo Alberto Leonardi, 1994

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