

# TABLE OF CONTENTS

ABBREVIATIONS .....	xvii
---------------------	------

<i>PART I: AN INTEGRATED APPROACH TO GLOBAL CONCERNS</i> .....	1
--	---

## CHAPTER 1

### HUMAN RIGHTS, DEVELOPMENT AND NEW DUTY-BEARERS

MARGOT E. SALOMON, ARNE TOSTENSEN and WOUTER VANDENHOLE .....	3
---	---

The International Political Economy .....	3
World Poverty and Development .....	7
Legal Implications .....	11
The Dual Thrust of the Book .....	17
The Structure of the Book .....	18

## CHAPTER 2

### THE THREE PILLARS OF THE UNITED NATIONS: SECURITY, DEVELOPMENT AND HUMAN RIGHTS

MANFRED NOWAK .....	25
---------------------	----

Three Pillars of the United Nations .....	25
Reality During the Cold War .....	27
Human Rights Become Part of the Development and Security Discourse .....	28
The Concept of Human Development .....	29
The Concept of Human Security .....	31
Interdependence of Security, Development and Human Rights as a Basis for the Comprehensive Reform of the United Nations .....	35
Reality in the Post-9/11 Period .....	36
Conclusion .....	39

<b>CHAPTER 3</b>	
<b>TERRORISM AND POVERTY: IS THERE A CAUSAL RELATIONSHIP?</b>	
IVAN MANOKHA .....	43
Introduction .....	43
Historical Development of Islamic Fundamentalism .....	46
New ‘Social Bandits’ .....	51
Conclusion .....	61
<b>CHAPTER 4</b>	
<b>DOES HUMAN RIGHTS-BASED DEVELOPMENT MAKE A DIFFERENCE?</b>	
HANS-OTTO SANO .....	63
Introduction .....	63
Human Rights-Based Development .....	64
Criticisms of Human Rights-Based Development .....	65
How Does Human Rights-Based Development Make a Difference? .....	68
The Link Between Local and Global Actions .....	68
Strengthening National Movements and Advocacy .....	70
Human Rights-Based Development: A Stronger Grip on Accountability ..	72
Improvements for the Poor and Marginalised Groups? .....	75
Conclusion .....	77
<b>PART II: NEW DUTY-BEARERS .....</b>	<b>81</b>
<i>The EU</i> .....	83
<b>CHAPTER 5</b>	
<b>EU AND DEVELOPMENT: EXTRATERRITORIAL OBLIGATIONS UNDER THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS</b>	
WOUTER VANDENHOLE .....	85
Introduction .....	85
Extraterritorial Obligations Under the ICESCR .....	86
Applicability of Extraterritorial Obligations Under the ICESCR to the EU ....	98
Extraterritorial Obligations Under the ICESCR Incumbent on the EU .....	100

Issues of Concern .....	102
The Obligation to Respect .....	103
The Obligation to Protect .....	104
The Obligation to Fulfil .....	105
Conclusion .....	106

## CHAPTER 6

### HUMAN RIGHTS IN EU DEVELOPMENT COOPERATION: A PRACTITIONER'S PERSPECTIVE

MERCEDES GARCÍA PÉREZ .....	107
Introduction .....	107
The Consultation Procedure in the ACP–EC Partnership Agreement .....	110
Case Studies .....	114
Zimbabwe .....	114
Togo .....	116
Mauritania .....	117
Conclusion .....	119
Conditions for the Success of Article 96 Consultations .....	119
Systematic Follow-Up .....	120
Clear Objectives and Benchmarks .....	120
Coherence, Coordination Between the Different EU Institutions and Complementarity with Other International Actors .....	120
Transparency and Civil Society Involvement .....	121
How to Do Better? .....	122

## CHAPTER 7

### CONDITIONAL PARTNERS? HUMAN RIGHTS IN EU–ACP RELATIONS

HUGO STOKKE .....	125
Introduction .....	125
Concepts of Partnership .....	126
The Evolution of EU Partnership with Third Countries .....	131
The Agreements: Principles and Procedures .....	135
Practical Experiences with the Agreements .....	140
Conclusion .....	148

<i>World Bank, IMF, and WTO</i> .....	151
---------------------------------------	-----

**CHAPTER 8  
INTERNATIONAL ECONOMIC GOVERNANCE AND HUMAN  
RIGHTS ACCOUNTABILITY**

MARGOT E. SALOMON .....	153
Introduction .....	153
Locating Human Rights in the Rationales and Mandates of the IFIs .....	156
Negative Inter-Institutional Policy Coherence .....	170
Legal Bases and Avenues for Human Rights Accountability .....	174
Conclusion .....	181

**CHAPTER 9  
THE BRETTON WOODS INSTITUTIONS:  
HUMAN RIGHTS AND THE PRSPs**

ARNE TOSTENSEN .....	185
Introduction .....	185
The ‘Politicisation’ Debate .....	187
Broadening the Development Concept .....	193
Towards a Poverty Reduction Agenda .....	195
The HIPC Initiative .....	197
Designing a PRSP .....	198
African PRSPs .....	201
Malawi .....	201
Tanzania .....	204
Uganda .....	206
Conclusion .....	209

**CHAPTER 10  
SECURING INTELLECTUAL PROPERTY OBJECTIVES:  
NEW APPROACHES TO HUMAN RIGHTS CONSIDERATIONS**

RUTH L. OKEDIJI .....	211
Introduction .....	211
The Global Welfare Paradigm in Human Rights and Intellectual Property Policy .....	214

Content, Means and Ends in Human Rights .....	214
The Nature and Function of Intellectual Property Rights in International Human Rights Documents .....	218
Human Rights Elements in Intellectual Property .....	221
Structuring Welfare as a Component of Global Intellectual Property Regulation .....	225
The Imperative of Welfare in Global Intellectual Property Regulation ...	226
Using Human Rights to Promote Intellectual Property Objectives .....	227
Welfare Concerns of the Global Intellectual Property System .....	229
New Approaches and Old Actors in Securing Intellectual Property Objectives	232
Situating Responsibility and Accountability for Adverse Human Rights Consequences of TRIPS Enforcement .....	232
Trade-Related Human Rights Violations: Enforcing Intellectual Property Goals in the WTO Regime .....	234
WTO Accountability .....	235
State Accountability Under the TRIPS Agreement .....	238
Host country responsibility .....	239
Home country responsibility .....	240
Corporate responsibility .....	241
Conclusion .....	242
 <i>Business</i> .....	 243
 <b>CHAPTER 11</b> <b>A POVERTY PERSPECTIVE ON HUMAN RIGHTS AND BUSINESS</b>	
KARIN BUHMANN .....	245
Introduction .....	245
Poverty, Human Rights and Business .....	248
Legal Regime .....	250
Regulatory Initiatives: UN Norms, Global Compact, EU .....	253
Responsibilities .....	259
Conclusion .....	262

<b>CHAPTER 12</b>	
<b>PROJECT FINANCING IN DEVELOPING COUNTRIES: ECONOMICS, MORALS AND LAW</b>	
TOM SORELL .....	265
Project Finance, Economic Agents, and Moral, Legal and Political Agents ...	267
The Moral Responsibilities of Governments and Sponsors: The Case of BTC .	269
Externally Imposed Human Rights Obligations: Chad-Cameroon Pipeline ..	272
Sponsors and the Influence of Private Banks Subscribing to the Equator Principles .....	274
Sponsors' Responsibilities as Multinational Companies: The Implications of the UN Norms .....	275
The Special Responsibilities of Sponsors in Project Finance .....	279
Legal Obligations? The Applicability of the Norms to Sponsors as Opposed to All Multinationals .....	281
 <i>PART III: CASE STUDIES</i> .....	 283
 <b>CHAPTER 13</b>	
<b>POVERTY, HUMAN RIGHTS AND JUSTICE SECTOR REFORM IN KENYA AND UGANDA</b>	
BÅRD A. ANDREASSEN .....	285
Introduction .....	285
Governance Reform, Poverty and Human Rights .....	288
Analytical Framework for Assessing the Kenyan and Ugandan Case: What Can a Human Rights-Based Approach Offer Justice Reform Programmes? ..	291
Presentation of the Kenyan and Ugandan Case .....	295
GJLOS – The Background .....	296
The Purposes and Structure of the GJLOS .....	297
Project Phases and Components .....	299
Governmental Commitment and the Role of Donors .....	299
Lessons from the Implementation of the GJLOS .....	301
The Context and Purposes of the Justice, Law and Order Sector Reform in Uganda .....	303
Lessons from J/LOS .....	305
Analysis of the Two Cases .....	308

<b>CHAPTER 14</b>	
<b>A HUMAN RIGHTS-BASED APPROACH TO POVERTY REDUCTION IN MACEDONIA</b>	
KARIN LUKAS .....	313
Introduction .....	313
Macedonia and the MDGs .....	314
MDG 1: Reduction of Poverty and Social Exclusion – Visible Inequalities	315
MDG 2: Attaining Universal Primary Education for All – Inadequate Access of Mountain Village Populations and Minority Rights Issues .....	316
MDG 3: Promoting Gender Equality and Empowering Women – The Gender Equality Committees in Local Self-Government .....	319
Inter-Ethnic Relations: The ‘Hidden Agenda’ in Macedonia .....	320
The Missing Link? The Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies .....	322
Piloting the Guidelines in Macedonia .....	324
Identification of the Poor .....	324
Recognition of the Relevant Normative National and International Human Rights Framework .....	325
Equality and Non-Discrimination .....	326
Progressive Realisation of Human Rights .....	326
Participation and Empowerment .....	327
Monitoring and Accountability .....	328
Conclusion .....	328
<b>CHAPTER 15</b>	
<b>THE RIGHT TO EDUCATION: INSTRUMENTAL RIGHT PAR EXCELLENCE</b>	
MAIJA MUSTANIEMI-LAAKSO .....	331
Introduction .....	331
Right to Education – A Crucial Entry Point to Development .....	333
Right to Education – What Human Rights Obligations for the Donor States?	335
Transnational Obligations Arising Under Economic, Social and Cultural Rights .....	335
Scope and Content of States’ Transnational Obligation to Realise and Respect the Right to Education .....	339
Obligation to Respect .....	339
Obligation to Fulfil .....	344
Conclusion .....	349

<b>CHAPTER 16</b>	
<b>THE RIGHT TO HEALTH AND THE MDGs:</b>	
<b>CONFRONTING HIV/AIDS IN AFRICA</b>	
NSONGURUA J. UDOMBANA .....	353
The Right to Health as a Legal and Moral Imperative .....	353
Health as a Legal Imperative .....	354
Health as a Moral Imperative: the MDGs' Promise .....	359
Realising the Promise of the MDGs .....	361
Domestic Remedies .....	361
International Solidarity .....	365
Conclusion .....	369
<b>CHAPTER 17</b>	
<b>FROM 'SACRED COMMITMENT' TO JUSTICIABLE NORMS:</b>	
<b>INDIGENOUS PEOPLES' RIGHTS IN THE INTER-AMERICAN SYSTEM</b>	
FERGUS MACKAY .....	371
Introduction .....	371
The Inter-American System and the 'Sacred Commitment' .....	374
Justiciable Norms .....	378
Lands, Territories and Resources .....	379
Freedom from Unwanted Development Activities .....	385
Indigenous Development .....	390
Conclusion .....	393
<b>CONCLUSIONS</b>	
<b>NEW HUMAN RIGHTS DUTY-BEARERS:</b>	
<b>A CONVERSATION ON POLICY IMPLICATIONS</b>	
HADEWYCH HAZELZET, MARGOT E. SALOMON, ARNE TOSTENSEN and WOUTER VANDENHOLE .....	395
Introduction .....	395
Main Arguments and Findings .....	396
Debating Human Rights and New Duty-Bearers .....	399
Policy Implications for New Duty-Bearers .....	402
The Bretton Woods institutions and the WTO .....	403
The European Union .....	407



Table of Contents

Corporations .....	411
Future Perspectives .....	413
<b>ABOUT THE AUTHORS</b> .....	<b>417</b>
<b>INDEX</b> .....	<b>423</b>

