Bernd Kannowski | Kerstin Steiner (eds.)

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International and Regional Human Rights: Friends or Foe?

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This book was published with the support of the Africa Multiple Cluster of Excellence at the University of Bayreuth, funded by the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) under Germany's Excellence Strategy – EXC 2052/1 – 390713894.

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at http://dnb.d-nb.de

ISBN 978-3-8487-7646-7 (Print)
978-3-7489-1025-1 (ePDF)

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library.

ISBN 978-3-8487-7646-7 (Print)
978-3-7489-1025-1 (ePDF)

Library of Congress Cataloging-in-Publication Data
Kannowski, Bernd | Steiner, Kerstin
Regional Human Rights
International and Regional Human Rights: Friends or Foe?
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203 pp.
Includes bibliographic references.

ISBN 978-3-8487-7646-7 (Print)
978-3-7489-1025-1 (ePDF)

Onlineversion
Nomos eLibrary

1st Edition 2021

Foreword

Bernd Kannowski

1. On the subject

Why does regional human rights exist at all? Is human rights not, by its very nature, universal and thus not regional?[1] Is regional human rights not superfluous if there are international instruments to protect human rights? There are—to name but three prominent documents—two international agreements adopted by the United Nations (UN) in 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and, above all and most notably, the Universal Declaration of Human Rights (UDHR) adopted by the UN General Assembly in 1948. Indeed, the UN was initially sceptical about regional human rights instruments, fearing that such efforts could fragment the combined forces and thus weaken the protection provided by human rights.[2] Later, however, the UN abandoned this position and actively supported the creation of a regional human rights protection system in Africa.[3]

One simple reason why regional human rights protection exists at all is that the UDHR—which stands at the beginning of international protection of human rights—is by no means the starting point of the history of human rights as a whole. Having originated as a philosophical and religious idea, in the course of the nineteenth century, human rights was codified in the constitutions of several European states (which were then

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1 Kriesel, *Peoples' Rights: Gruppenrechte im Völkerrecht* (2020), 9-12, sketches the problem and summarises the different positions.

2 "For a long time, regionalism [...] was not popular at the United Nations; there was often a tendency to regard it as the expression of a breakaway movement, calling the universality of human rights into question.", Vasak, 'Introduction to Section 15' in Karel Vasak (ed.), *The International Dimension of Human Rights vol. 2* (1982), 451 (451); Smith, *International Human Rights Law* (2020), 72.

3 For a detailed survey see Rubner, *The origins of the 1981 African Charter on Human and Peoples' Rights, doctoral thesis* (2011), 213; see also Vasak, 'Introduction to Section 15', 451.

monarchies);[4] however, as these rights were solely granted to their own subjects, the proper term for them should be 'civil rights' (*droits du citoyen*, *Bürgerrechte*). We can describe this phenomenon as a codification or nationalisation of human rights,[5] which was followed by an 'internationalisation of human rights' as realised by the UDHR.[6] And it was not in Europe alone that numerous protection instruments at the regional level preceded the international ones; Pan-American conferences on various human rights issues were held long before the inception of the UN.[7] In addition, a Central American Court of Justice had also existed since 1907.[8] Thus, looking into different regional human rights systems may help explain 'the convergences and divergences' in the overall development of human rights.[9]

Furthermore, regional human rights protection is highly significant in practice for the simple reason that it is more enforceable than at an international level. As it is well known, the UDHR is only a recommendation and therefore not legally binding. Although that is not the case with the two international treaties of 1966 mentioned above (the ICESCR and the ICCPR), the rights granted therein to individuals are not justiciable either, because there exists no court to enforce them.[10]

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4 Wolgast, *Geschichte der Bürger- und Menschenrechte* (2009), 107.

5 Oestreich, *Geschichte der Menschenrechte und Grundfreiheiten im Umriß (Historische Forschungen 1)* (1978), 102; Haratsch, *Die Geschichte der Menschenrechte (Studien zu Grund- und Menschenrechten 7)*, (2010), 50.

6 Joas, 'Einführung: Sind die Menschenrechte westlich?' in Kühnlein and Wils (eds.), *Der Westen und die Menschenrechte. Im interdisziplinären Gespräch mit Hans Joas* (2019), 13.

7 Shelton, 'The Promise of Regional Human Rights Systems' in Weston and Marks, *The Future of International Human Rights* (1999), 351 (353).

8 Shelton, 'The Promise of Regional Human Rights Systems' in Shelton and Carozza (eds), *Regional protection of human rights* (2013), 11 (11).

9 Çalı, Madsen and Viljoen, 'Comparative regional human rights regimes: Defining a research agenda' (2018) 16 *International Journal of Constitutional Law*, 128 (128).

10 There are committees that deal with complaints about violations of the international treaties, such as, above all, the UN Human Rights Committee. On the current state and activities of these committees, see Keller and Heri, 'The Committees on Human Rights and Economic, Social and Cultural Rights' in Chesterman, Malone and Santiago Villalpando with Alexandra Ivanovic (eds.), *The Oxford Handbook of United Nations Treaties* (2019), 413; Principi, 'International Mechanisms to implement U.N. Human Rights Decisions, notably of the U.N. Human Rights Committee. How can these Mechanisms assist States to fulfil their Good Faith Obligations?' 37 *Human Rights Law Journal* (2017), 237; However, the power and influence of these committees are limited, as demonstrated by Emma Henderson's contribution to this volume, 133: "The decisions of treaty bodies are only as effective as the willingness of federal governments to adapt domestic policies to

This situation does not apply to the regional human rights instruments presented in this volume. First, such a regional instrument, supported by a court to enforce it, was passed in Europe in 1950, then in 1979 in Latin America, and finally in Africa in 1998. Although the Banjul Charter of 1981 initially did not include provisions for a court, the African Court on Human and Peoples' Rights was established as a consequence of an additional protocol, which entered into force in 2004. All three of these courts allow individuals to be a party; however, the details—regarding, for instance, the extent and degree of enforceability—differ quite significantly, as the contributions to this volume will show. Related to this, such regional courts are gaining ground where the human rights level on the basis of national courts is low, as in some African states. In this case, regional courts might be a viable alternative:[11] 'Regional human rights protection is often a reaction against the failing of nation States operating on the assumption that the pooled resources of a regional understanding will overcome the weakness of national human rights systems.'[12]

Today, universal human rights are recognised by all cultures worldwide. That is to say—and I think a consensus should exist on this matter—there is a certain minimum level of protection rights that all humans are entitled to, regardless of race, religion, gender, political opinion, etc. However, we are far from unanimous on the exact content of these rights.[13] Nor can this be countered by the argument that a minimum consensus on the content can be found in the UDHR, because many of today's states did not even exist in 1948, which is especially true of the erstwhile colonies of European powers. For this irrefutable reason, it is impossible that, for instance, African ideas would have been reflected in the human rights laid down in 1948.[14] As a matter of fact, the UDHR was inspired by Western human

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international norms, and increasingly – especially in the realm of asylum seeker law and indigenous policies – Australia has refused to comply with UN decisions. Since that first communication in 1994, there have been 50 adverse findings against Australia by UN Committees, only 12 of which have been rectified. "

11 Deichmann, *Regional Integration, Human Rights and Democratic Participation in Africa* (2020), 244.

12 Nwauche, 'Regional Economic Communities and Human Rights in West Africa and the African Arabic Countries', in Bosl and Diescho, (eds.), *Human Rights in Africa. Legal Perspectives in their Protection and Promotion* (2009), 319 (319).

13 Bingham, *The Rule of Law* (2011), 68.

14 Rubner, *The origins of the 1981 African Charter on Human and Peoples' Rights* (2011), 150.

rights documents from France, England, and the United States of America.[15]

At closer inspection, it is barely surprising that consensus on the content of human rights is so difficult to reach. If law is—and doubtless it is—an expression of culture or a part of culture,[16] it must necessarily seem impossible to reach a worldwide consensus on the content of rights that are considered to be particularly important. If culture changes from country to country and, even more so, from one continent to the next, then so must be the case with law. The problem lies with values, which at first glance—at least from my Western point of view—seem so fundamental that, without them, an order of ethics is hardly thinkable. Take human dignity: this term, at any rate in the form it is familiar to us today, was coined against the backdrop of Christian culture and history.[17] Hence, the paramount position of the individual as the highest object of protection in the value system, which goes hand in hand with human dignity, is not—at least in its Western conception—a global constant. In Asian or African value systems, it is the community that occupies the central position.[18] Thus, even the fundamental starting point that human rights are individual rights cannot be considered an undisputed truth.

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15 Brems, *Human Rights: Universality and Diversity* (2001), 314; Pollis and Schwab, 'Human Rights: A Western Construct with limited Applicability', in Koggel (ed), *Moral and Political Theory* (1978), 60; Renteln, *International Human Rights: Universalism versus Relativism* (2013), Bingham, *The Rule of Law* (2011), 33, takes a different view when he emphasises the internationality and universality of the values found in the Declaration.

16 Is it necessary to give a footnote for a statement as banal as this? If so, see for instance Häberle, *Verfassungslehre als Kulturwissenschaft* (1998), 578ss.; Veddeler, 'Rechtstheorie versus Kulturtheorie?' (1998) 29 *Rechtstheorie*, 454, 467s.

17 See v. der Pfordten, *Menschenwürde* (2016), 53; Bielefeldt, 'Die Menschenrechte als das "Erbe der gesamten Menschheit"', in Heiner Bielefeldt, Winfried Brugger, Klaus Dicke (eds.), *Würde und Recht des Menschen* (1992), 143 (152); in regard to the Christian principle of dignity see Sekretariat der Deutschen Bischofskonferenz (ed.), *Gerechter Friede* (2000), 34ss.

18 Bujo, 'Afrikanische Anfrage an das europäische Menschenrechtsdenken' in Hoffmann (ed) *Begründung von Menschenrechten aus der Sicht unterschiedlicher Kulturen, Band I des Symposiums. Das eine Menschenrecht für alle und die vielen Lebensformen* (1991), 211, 216s; Cobbah, Josiah, 'African Values and the Human Rights Debate: An African Perspective' (1987) 9 *Hum. Rts. Q.*, 320; Mbiti, *African Religions and Philosophy* (1990), 108s.

What then? Must an extreme cultural relativism[19] lead to the position that universal human rights cannot be defined, at least not in terms of its content, which ultimately results in a complete negation of human rights? One thinkable point of departure for answering this indeed delicate question may be a thorough examination of the said different legal cultures[20] in order to learn how exactly they differ in defining or interpreting the concept of human rights.[21] Only then can a core consensus with clearly laid out parameters be aspired to. Even though perhaps a small step towards solving this problem, the present collected volume intends to be one in the right direction.

Human rights is certainly universal in essence and therefore, the same basic values apply to all people; nevertheless, each region has its own issues, problems and concerns.[22] The protection of regional human rights pays heed to this. Regional and international human rights protections are not meant to thwart each other. On the contrary, the regional protection of human rights is intended to buttress and strengthen the international objectives by translating human rights into local languages and supporting them with additional protective mechanisms such as commissions and courts that enforce them regionally. Thus, some argue that 'connections between regional human rights regimes generate patterns of harmonization of human rights law interpretation and convergence despite differences in historical, textual, and institutional trajectories.'[23]

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19 See Herskovits, 'Statement on Human Rights' (Submitted to the Commission on Human Rights, United Nations by the Executive Board), 49 No. 4 *American Anthropologist, New Series,* 539, 543 s.; Pollis and Schwab, 'Human Rights: A Western Construct with limited Applicability', in Koggel (ed), *Moral and Political Theory* (1978), 60.

20 Kotzur, 'Universality – a Principle of European and Gobal Constitutionalism' (2005) 6 *Historia constitucional: Revista Electrónica de Historia Constitucional*, 224; Renteln, *International Human Rights: Universalism versus Relativism* (2013), 14, 78 s. and 86 s.; Tomuschat, *Human Rights: Between Idealism and Realism* (2003), 73 ss.

21 Meyer, *Menschenrechte in Afrika. Regionaler Menschenrechtsschutz als Herausforderung an menschenrechtliches* (2013), 33ss., lucidly describes this approach.

22 The Malaysian question what to do when it comes to apostasy as described in the contribution of Kerstin Steiner in this volume is a good example.

23 Çalı, Madsen and Viljoen, 'Comparative regional human rights regimes: Defining a research agenda' (2018) 16 *International Journal of Constitutional Law,* 128 (134).

2. On this volume

The contributions in this volume are based on the courses held during one week in July 2019 at an international summer school at the University of Bayreuth. The summer school was organised by the University of Bayreuth's Campus Akademie[24] and its International Office.[25] However, all content-related considerations and the correspondence with the lecturers on these issues were exclusively my responsibility. The topic of the summer school was the regional protection of human rights. The guiding idea was to cover, as far as possible, all continents. Experts on human rights for Africa, America, Asia, Australia, and Europe were kind enough to come to Bayreuth in order to deliver their presentations. In doing so, it was clear to both the organiser and the speakers that taking a continent as representing a 'region,' which implies a postulate of uniformity, is a rather questionable—if not outright absurd—presupposition. However, a good reason for treating continents as regions nonetheless lies precisely in the fact that certain protection instruments have been passed to benefit certain continents. Nevertheless, the difficulties that this classification, which is dictated by the subject matter, entailed had to be taken into account in the presentations.

The summer school was designed for an international student audience, and the language of teaching was exclusively English. The contributions were therefore not drafted for a panel of experts. Rather, the task of each lecturer was to concisely introduce the system of regional protection familiar to them, as well as the respective political, historical, and cultural backgrounds.

The volume now in your hands is meant to provide a comprehensive overview of the various regional perspectives on human rights. It presents a snapshot of global human rights, against which different regional human rights systems across five continents are juxtaposed. The regional experts introduce their respective frameworks before moving to case studies on how certain human rights are playing out in specific geographical contexts. In doing so, the study straddles several disciplines including international law, international affairs, political studies, humanities, and anthropology. It is useful for target audiences in several contexts: as a reference

24 <https://www.campus-akademie.uni-bayreuth.de/de/index.html> [accessed 25 February 2021].

25 <https://www.international-office.uni-bayreuth.de/de/index.html> [accessed 25 February 2021].

tool for practitioners, civil society, and politicians; in academia, as textbook in various courses on human rights; and for researchers, as an introduction to regional human rights regimes.

The contributions to this collective volume stand in relation to each other 'in multiplicity' in the sense laid down in the programme of the University of Bayreuth's Cluster of Excellence "Africa Multiple" and its commitment to the objective of 'Reconfiguring African Studies.' In order to reach this goal, multiplicity is what researchers strive for, whereas the analytical tools for this are relationality and reflexivity. Multiplicity in the context of "Africa Multiple" expresses that Africa is neither unitary nor isolated but rather is—and always has been—constituted through its ever-changing relations, globally entangled and in flux. Relationality is primarily an analytical tool for the study and conceptualisation of multiplicity. Reflexivity, on the other hand, emphasises the reflexive character of relations as they feed back into contexts from which they emerge, which again reflects on our own personalities as researchers.

In order to shed light on Africa's multiplicity in terms of human rights development, according to the cluster's concept, Africa is set in relation to development on other continents (relationality). And this condition is not limited to Africa in this volume. In an area as sensitive as human rights, the interactions considered are not only between cultural, social, political, and legal factors but between the various systems of regional human rights protection as well. None of these systems is isolated; they are interrelated and in exchange with one another. This is by no means a merely nebulous and abstract statement. One concrete expression of it is the fact that the three aforementioned regional human rights courts cite decisions made by the others.[26] This is particularly true of the American[27] and the African courts,[28] while the European court, given its autonomous method of inter-

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26 What exactly the citation of decisions from other jurisdictions says about an international court is a broad special topic that I cannot deal with here. First approaches to an answer can be found Voeten, 'Borrowing and Nonborrowing among International Courts' (2010) 39 *The Journal of Legal Studies*, 547 (547).

27 Ibid., 563: „The IACHR has referred to ECtHR judgments in 60 percent of its 126 judgments since 2000". See also the contribution by Olarte-Bácares in this volume, 67ss.

28 The African Court of Human and Peoples' Rights quotes European and American decisions frequently to almost the same degree, see African Court Law Report 1 (2006–2016), Pretoria 2019, lxiii–lxvii (decisions of the IACHR), lxvii–lxxi (decisions of the ECHR).

pretation, less often refers to decisions by the other two.[29] However, its judges are apparently well aware of them.[30] Thus, applications and interpretations of human rights in one system are noted by observers from the others, whereupon they produce their effects. In order to recognise and appreciate this, we need to look not only at the individual parts but at the whole as well. It is between these two horizons that our view must constantly wander back and forth.

The contributions to this volume appear in the alphabetical order of the continents they discuss. In the first chapter, Bahame Tom Nyanduga analyses the emergence of the African Human Rights System in its historical context, starting with the establishment of the Organisation of African Unity (OAU) in 1963. As a milestone, the OAU adopted the African Charter on Human and Peoples' Rights on a continental level. To promote and protect the Charter's principles, the African Commission was established, which can make use of various procedures and instruments to protect human rights, although its recommendations are non-binding. In order to complement the Commission, the African Court on Human and Peoples'

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29 Voeten, 'Borrowing and Nonborrowing among International Courts' (2010) 39 *The Journal of Legal Studies*, 547 (562 and 567s.): „The ECtHR referred to the case law of the IACHR in five majority judgments, all concerning Turkey (Ergin [no. 6], 47533/99 [2006]; Akdivar and Others, 99/1995/605/693 [1996]; Kurt [27 Eur.H.R.Rep. 371 (1998)]; Akkum and Others [App. No.21894/93,2005-II Eur.Ct. H.R. 211]; Öcalan [App. No.46221/99, 2003 Eur.Ct.H.R.]).Three of these dealt with the issue of disappearances, all citing the IACHR's landmark Velàsquez Rodríguez decision (Case 7920, Ser.C, No.4, Inter-Am. Ct.H.R.35,O.A.S.Doc.OEA/ Ser.L/V/III.19,doc.13[1998])." Similarly, the Maltese judge Giovanni Bonello stated in a dissenting opinion in Anguelova v.Bulgaria (App. No.38361/97, 2002-IV Eur.Ct.H.R. 355): "It is cheerless for me to discern that, in the cornerstone protection against racial discrimination, the Court has been left lagging behind other leading human rights tribunals." He continued to quote the IACHR's Velàsquez Rodríguez decision at length. In another set of instances, judges wrote concurring opinions that pointed out that the reasoning of the court should or could have referred to international jurisprudence. For example, in a concurring opinion in *Cicek v.Turkey* (App. No. 25704/94,934 Eur.Ct.H.R.56 [2001], Judge Rait Maruste pointed out that the court should have based ist justification on the IACHR's Velàsquez Rodríguez ruling: "I do not see serious obstacles to the application of that doctrine in this particular case."

30 Voeten, 'Borrowing and Nonborrowing among International Courts' (2010) 39 *The Journal of Legal Studies*, 547 (549): "[C]ontrary to its transnationalist reputation, the ECtHR rarely cites other courts in majority judgments, although ECtHR judges do so regularly in separate opinions. This finding suggests that ECtHR judges are aware of external jurisprudence but are cautious in their explicit reliance on it."

Rights was set up in 2005, whose main challenge is that its 32 African member states fail to implement its decisions. For the future, the African Court of Justice and Human Rights intends to extend its jurisdiction to include international criminal matters. This would send a strong message on a global level, as it would affirm Africa's willingness and ability to make use of legal measures in a tangible manner. Nowadays, Africa is equipped with theoretically established legal and political frameworks to ensure human rights; however, the challenge remains to put theory into practice.

The second chapter is Carolina Olarte-Bácares' contribution, which deals with the Inter-American Human Rights System. She provides a general introduction to the relevant international treaties and institutions, especially the Inter-American Court of Human Rights (IACHR). While the emphasis is on the legal characteristics, the author also explains factual and historical intricacies. To do so, she points out that economic rights have never played a significant role in the jurisprudence of the IACHR. Using such economic rights as an example, Olarte-Bácares provides a historical explanation for this phenomenon, thus presenting the mechanisms of inter-American human rights protection in general. She puts her focus on the interpretation of the IACHR's jurisprudence concerning property, examining the court's relevant decisions, the various facets of property, the requirements for limitations and expropriation, and the corresponding compensation accordingly. In the author's view, a significant change in the court's approach to the right to property has recently taken place.

In chapter three, Kerstin Steiner deals with the development of human rights in Asia—with the focus placed on Malaysia—which has been shaped by Islam. Some constitutional norms and international treaties of the country indicate, on the one hand, that the state, at least in part, principally recognises religious freedom. On the other hand, there are constant conflicts with Islamic law, especially with Sharia, as an example of which Steiner discusses the right to convert out of Islam or the sanctioning of such behaviour. Due to the extreme diversity of the continent, it is difficult to take a uniform view of human rights developments in Asia, which in large part has been slow. One of the first transnational agreements was the Asian Charter, the aim of which was not to replicate human rights agreements according to the 'Western understanding' but to focus on genuine 'Asian values.' Human rights was guaranteed under the de facto reservations of these values, namely national sovereignty, cultural reference, and economic development. In particular, interference from abroad was not wanted, and compliance was to be monitored only domestically. In contrast to the concept of universal human rights, regional particularities often prevailed in individual cases. Agreements often merely described the

status quo in various states. There was, however, a great lack of further transnational cooperation. Moreover, the provisions were often just empty words that were not actually applied. In 2010, a study by the European Union (EU) described the status quo as 'emerging.' In the 2000s, the Association of Southeast Asian Nations (ASEAN) played an important role in drafting declarations. Despite the similarity of the wording to Western-style human rights—which can be found in constitutions such as that of Malaysia—there are serious discrepancies in actual implementation. Regionalism has reservations especially about religious norms and values, which regularly prevail in the partly secular legal system, but are also observed by Islamic courts, as in the case of Malaysia.

Chapter four features Emma Henderson's contribution, which deals with the uniqueness of Australia among its liberal democratic peers insofar as the country does not have a comprehensive national human rights framework. While other liberal democracies have systematically incorporated international human rights within their domestic political-legal regimes, Australia has deliberately, and repeatedly, refused to do so. Although Australia often welcomes the adoption of international standards on the international stage, it is increasingly guilty of non-compliance with these standards at the domestic level. Even though individuals affected by Australian actions are able to make applications directly to the Human Rights Committee, such a mechanism of external monitoring can only be as effective as the willingness of federal governments to bring domestic policies into line with international standards. Australia has increasingly refused to comply with UN decisions, particularly in the areas of asylum law and indigenous policy. Nonetheless, the Australian legal system provides a number of human rights protections by way of a complex patchwork of constitutional protections, common law rules, anti-discrimination legislation, and various legislative bodies with oversight powers. However, this patchwork model has significant gaps as far as particularly vulnerable groups like indigenous peoples and asylum seekers are concerned. Thus, there is no basis on which an Australian court can overturn either the legislation which mandates detention, or an executive decision to detain an asylum seeker. According to Henderson's view, a human rights framework would help to prevent such discrimination.

In the fifth and final chapter, Olivier Dubos and Victor Guset describe human rights protection in Europe. They elucidate the numerous protection systems forming a web of several protective layers, which might be the result of a relatively long European history connected to human rights. However, this web occasionally appears obscure. The authors provide an overview of the mechanisms enforcing human rights related to the Coun-

cil of Europe as well as the EU and its member states. They explain the provisions of the relevant treaties, their interpretation, and the methodical approach of the courts. For this purpose, they analyse classical and recent judicial decisions. Furthermore, they address current political developments and their dimension of human rights. Dubos and Guset emphasise that the said systems are closely linked and they therefore take the interactions between them into account. Although they put the main focus on the interactions between the different supranational systems, the authors by no means disregard the correlations between the individual states and these supranational systems.

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My co-editor Kerstin Steiner and I would like to express our gratitude to Dr. Arnim Heinemann from the University of Bayreuth's international office for being extremely helpful in arranging and organising the 2019 summer school as well as for the support in securing funding for part of the printing costs. The same applies to the University of Bayreuth's Cluster of Excellence "Africa Multiple," its dean Rüdiger Seesemann, and its managing director Franz Kogelmann. We also would like to convey our thanks to Prof. Chris Peter Maina (Dar es Salaam) and Ms. Cecilia Ngaiza (Dar es Salaam/Bayreuth) for giving helpful advice to Bahame Tom Nyanduga when drafting his contribution. Last but definitely not least, we would like to thank the team of my Bayreuth Chair for Civil Law and Legal History, namely Maximilian Mayer, Pierre-Maurice Schmitt, Katharina Engels, Oskar Walther, Roman Brunner, and Kevin König for their unswerving support in editing the manuscripts. Oskar Walther and Pierre Maurice Schmitt have helped me prepare my translation of Carolina Olarte-Bácares' French manuscript into English. Maximilian Mayer has added a short introduction to the inter-American human rights system at the beginning of Carolina Olarte-Bácares' contribution.

Bibliography

African Court Law Report 1 (2006–2016), Pretoria 2019, pp. lxiii–lxvii (decisions of the IACHR), lxvii–lxxi (decisions of the ECHR)

Bielefeldt, Heiner, Die Menschenrechte als das "Erbe der gesamten Menschheit", in Heiner Bielefeldt, Winfried Brugger, Klaus Dicke (eds.), *Würde und Recht des Menschen* (Königshausen & Neumann, Würzburg 1992), 143

Bingham, Tom, *The Rule of Law* (Penguin, London 2010)

Brems, Eva, *Human Rights: Universality and Diversity* (Kluwer Law International, The Hague 2001)

Bujo, 'Afrikanische Anfrage an das europäische Menschenrechtsdenken' in Hoffmann (ed) *Begründung von Menschenrechten aus der Sicht unterschiedlicher Kulturen, Band I des Symposiums. Das eine Menschenrecht für alle und die vielen Lebensformen* (Verlag für Interkulturelle Kommunikation, Frankfurt 1991), 211

Çalı, Başak; Madsen, Mikael Rask and Viljoen, Frans, 'Comparative regional human rights regimes: Defining a research agenda' (2018) 16 *International Journal of Constitutional Law,* 128

Cicek v. Turkey, App. No.25704/94,934 Eur.Ct.H.R.56 [2001]

Cobbah, Josiah, 'African Values and the Human Rights Debate: An African Perspective' (1987) 9 *Hum. Rts. Q.*, 320

Deichmann, Karin, *Regional Integration, Human Rights and Democratic Participation in Africa* (Universitätsverlag Göttingen, Göttingen 2020)

Häberle, Peter, *Verfassungslehre als Kulturwissenschaft* (Duncker & Humblot, Berlin 1998)

Haratsch, Andreas, *Die Geschichte der Menschenrechte* (4. Aufl., Universitätsverlag Potsdam, Potsdam 2010)

Herskovits, 'Statement on Human Rights' (Submitted to the Commission on Human Rights, United Nations by the Executive Board), 49 No. 4 *American Anthropologist, New Series,* 539

Joas, Hans, 'Einführung: Sind die Menschenrechte westlich?' in Michael Kühnlein and Jean-Pierre Wils (eds.), *Der Westen und die Menschenrechte. Im interdisziplinären Gespräch mit Hans Joas* (Nomos, Baden-Baden 2019), 7

Keller, Helen and Heri, Corina, 'The Committees on Human Rights and Economic, Social and Cultural Rights' in Simon Chesterman, David M. Malone, Santiago Villalpando with Alexandra Ivanovic (eds.), *The Oxford Handbook of United Nations Treaties* (Oxford 2019), 413

Kotzur, Markus, 'Universality – a Principle of European and Gobal Constitutionalism' (2005) 6 *Historia constitucional: Revista Electrónica de Historia Constitucional*, 224

Kriesel, Julia, *Peoples' Rights: Gruppenrechte im Völkerrecht* (Jus Internationale et Europaeum 162, Mohr Siebeck, Tübingen 2020)

Mbiti, John S., *African Religions and Philosophy*, (Pearson Education Limited, 1990)

Meyer, Christine, *Menschenrechte in Afrika. Regionaler Menschenrechtsschutz als Herausforderung an menschenrechtliches Universalitätsdenken* (Nomos, Baden-Baden 2013)

Nwauche, Enyinna S., 'Regional Economic Communities and Human Rights in West Africa and the African Arabic Countries' in Anton Bosl and Joseph Diescho (eds.), *Human Rights in Africa. Legal Perspectives in their Protection and Promotion* (Macmillan Education Namibia, Windhoek 2009), 319

Oestreich, Gerhard, *Geschichte der Menschenrechte und Grundfreiheiten im Umriß (Historische Forschungen 1)* (Duncker & Humblot, Berlin 1978)

Pollis, Adamantia and Schwab, Peter, 'Human Rights: A Western Construct with limited Applicability', in Koggel (ed), *Moral and Political Theory* (2nd edition, broadview press, Toronto 1978), 60

Principi, Kate Fox, 'International Mechanisms to implement U.N. Human Rights Decisions, notably of the U.N. Human Rights Committee. How can these Mechanisms assist States to fulfil their Good Faith Obligations?' 37 *Human Rights Law Journal* (2017), 237

Renteln, Alison Dundes *International Human Rights: Universalism versus Relativism*, Quid Pro, New Orleans 2013)

Rubner, Nathaniel, *The origins of the 1981 African Charter on Human and Peoples' Rights*, doctoral thesis (University of Cambridge, 2011)

Sekretariat der Deutschen Bischofskonferenz (ed.), *Gerechter Friede* (Bonn 2000)

Shelton, Dinah L., 'The Promise of Regional Human Rights Systems' in Dinah L. Shelton and Paolo G. Carozza (eds), *Regional protection of human rights* (Oxford – New York 2013), 11

Shelton, Dinah, 'The Promise of Regional Human Rights Systems' in Burns Weston and Stephen Marks, *The Future of International Human Rights* (Brill, 1999), 351

Smith, Rhona, *International Human Rights Law* (Oxford University Press, Oxford 2020)

Tomuschat, Christian, *Human Rights: Between Idealism and Realism* (Oxford University Press, Oxford 2003)

v. der Pfordten, Dietmar, *Menschenwürde* (C.H. Beck, München 2016)

Vasak, Karel, 'Introduction to Section 15' in Karel Vasak (ed.), *The International Dimension of Human Rights* vol. 2, (revised and edited for the English edition by P. Alston, Westport, Connecticut (Greenwood Press) – Paris (Unesco) 1982), 451

Veddeler, Klaus, 'Rechtstheorie versus Kulturtheorie?' (1998) 29 *Rechtstheorie*, 454

Voeten, Erik, 'Borrowing and Nonborrowing among International Courts' (2010) 39 *The Journal of Legal Studies*, 547

Wolgast, Eike, *Geschichte der Bürger- und Menschenrechte*, (Kohlhammer, Stuttgart 2009)

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