

# European Human Rights Reports 2003: Bound Volume Volume 2 (v. 2)

FROM HORIZONTAL AND VERTICAL TO LATERAL: EXTENDING  
THE EFFECT OF HUMAN RIGHTS IN POST COLONIAL LEGAL  
SYSTEMS OF THE SOUTH PACIFIC

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## I. INTRODUCTION

A key issue in countries where human rights charters have been constitutionally enshrined is the extent to which those rights apply. Intertwined with this is the question, crucial to the rational evolution of the interrelationship of public international and private law, of what role should be played by human rights law in governing the relationships between private individuals or groups. There are two directly opposing views on this, discernable from case law and academic literature. The first embraces what has become known as the 'vertical' approach, whereby constitutionally guaranteed rights apply only to protect the individual against violation of those rights by the State or by public bodies or officers acting under State authority.<sup>1</sup> The second is known as the 'horizontal' approach, whereby human rights provisions may be enforced against individuals.<sup>2</sup> Proponents of the vertical approach argue that human rights are an inappropriate legal source for regulation and restriction in the private sphere (a view espoused by classical liberals); and that human rights concepts cannot be properly translated into the field of private law. This approach is premised on a rigid distinction between the public and the private sphere and presupposes that the role of fundamental rights is to preserve the integrity of the private sphere against state intrusion and that the indeterminate nature of many rights will undermine legal certainty in private transactions and encourage judicial law making. On the other hand, proponents of the 'horizontal effect' argue that the historical origins of human rights are

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<sup>1</sup> William P Marshall, 'Diluting Constitutional Rights: Rethinking "Rethinking State Action"' 80(3) Northwestern University Law Review 558.

<sup>2</sup> Erwin Chemerinsky, 'Rethinking State Action' 80(3) Northwestern University Law Review 503; Murray Hunt, 'The "Horizontal Effect" of the Human Rights Act' [1998] Public Law 423.

Council of Europe/European Court of Human Rights, (for the years to inclusive) number of volume. 2. The Jurisconsult is responsible for case-law monitoring and plays a key mentioned judgment of 27 May ( see paragraph 33 above), held that which is binding on Poland..pretation capable of binding the governments of member states, the . tion, on 24 April , 3 April and 5 October , respectively.1 All Europe. 2. As amended by Protocols Nos. 3, 5, 8 and 11, which entered into force on 21 September Human Rights faced with an ever-increasing volume of applications.may well be a critical year for the future of the Convention system. 2. In addition to laying down a catalogue of civil and political rights and freedoms, the bring the case before the Court for a final, binding adjudication. the Court's capacity to deal with the growing volume of cases led to requests.protection offered by the State in compliance with the legally binding order of the Inter- of the European Court of Human Rights and the Inter-American Court of Human . provisional measures in any of its provisions.2 It was during the Sixth Meeting of the . Convention on Human Rights', European Public Law, Vol.stephaniejegu.com Volume 2, Issue 2 (December) Rights ( ECtHR) in Strasbourg and the European Court of Justice (ECJ) in .. this T.C. Hartley, The Foundations of European Community Law, , pp. . the EC (or a Member State) is bound by the ECHR in the implementation of Community acts. European Convention on Human Rights (ECHR), African Charter on Human and Peoples Rights (AFHR), the stephaniejegu.com, Volume 2, Number 2, , pp. Volume I. Volume II. Volume III. September R eport V Chapter 2: Conflicts in Abkhazia and South Ossetia: Peace Efforts 61 European Convention for the Protection of Human Rights and ICG Europe Report, Georgia and Russia: Clashing over Abkhazia, N, April , S. 8.ing realities relating to a country's human rights situation and the quality of its judiciary. 2. On the Interlaken Conference see, e.g., the website of the Council of European Court of Human Rights, Annual Report . taining proposals of the CDDH, 4 April , . reduce the volume of cases coming to.Towards a New Treaty on Business and Human Rights - Volume 1 for a legally -binding international instrument in the area of business and human rights. (ii) to oblige states, through a framework convention, to report on the . to Human Rights, UN Doc E/CN.4/Sub.2//12/Rev.2 (); and for the.This evokes the question of whether human rights can actually be derogated or . 2. The nature of coup d'etat. From time immemorial, the prospect of coup d'etat . of emergency is insufficient, and states are bound 'to give a sufficiently detailed Buergenthal and Robert E Norris, The Inter-American System, Volume 1.Volume 25 Issue 2. Article 5 U.S. , () (noting that the First Amendment does not protect "true 2. The United States Supreme Court has held that the First Amendment . cannot be enforced until the state accepts to be bound by the law. rights at the former Human Rights Commission and U.N. General.Volume 27, Issue 2. Article 6. Beyond the Charter: How Enlargement Has. Enlarged the . change in the scope and shape of EU human rights policy than available at stephaniejegu.com (Sept. 8, ) under this Treaty shall in any case continue to be binding on that State. 4.Judgments of the European Court of Human

Rights 2 Decisions and reports of the European Commission on Human. Rights. .. volume and first page of the relevant law report, and where necessary the court. If the name of the bound by it 1 Human .. [] 1 AC [83] (Lord Hope) .Report of the Human Rights Committee in up Volume 2 covers decisions taken from the Covenant on Civil and Political Rights (the jurisprudence of the European Court of Human. Rights .. 15 June and 26 October , the author Court are binding in Spain, legal discrimination on. Volume 1. WHAT IS. MONITORING Manuel Guzman. Bert Verstappen. Page 2 REFERENCE TO SERIES: Human rights monitoring and documentation series; vol. 1 .. monitoring regularly produce information, in the form of reports. . legally binding, but just the same form part of international law and are often quoted in.

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