

Contents

Acknowledgments	ix
Abbreviations and Acronyms	x
Table of Treaties and Legislation	xii
Table of Cases, Advisory Opinions and Reports	xv

PART 1

Women's Rights in Regional Human Rights Law Regimes

1	Introduction	3
1.1	Background	3
1.2	Research Questions	12
1.3	Materials and Delimitations	13
1.4	Structure	16
2	The Regional Human Rights Law Systems	17
2.1	Introduction	17
2.2	The European Human Rights Law System	17
2.3	The Inter-American Human Rights Law System	19
2.4	The African Human Rights Law System	23

PART 2

Theoretical Perspectives

3	Feminist Legal Methods and Theories	27
3.1	What are Women's Rights? The Controversies of Categorization: Women, Sex and Gender	27
3.2	Feminist Legal Methods in International Law	40
3.3	Feminist Theoretical Approaches and Gaps in Human Rights Law Protection	46
3.4	Consequences of Gaps in Protection	93
3.5	Summary	99
4	Considering Gender in Norm Interpretation	101
4.1	Integrating Women's Rights—A Reinterpretation of the Scope of Rights	101

- 4.2 Gender Mainstreaming 106
- 4.3 Gender-sensitive Interpretation of Rights 109
- 4.4 Acknowledging Gender Stereotyping 118
- 4.5 Treaty Interpretation Methods by the Regional Human Rights Courts 128
- 4.6 Introducing Positive Obligations for States and the Duty to Protect 162
- 4.7 Acknowledging Vulnerability 169
- 4.8 Acknowledging Intersectionality 186
- 4.9 Concluding Remarks 187

PART 3

Regional Jurisprudence on Women's Rights

- 5 Non-discrimination and Equality 191
 - 5.1 Introduction 191
 - 5.2 The European Court of Human Rights 194
 - 5.3 The Inter-American Human Rights System 219
 - 5.4 The African Commission on Human and Peoples' Rights 224
 - 5.5 Summary 226
- 6 Sexual Violence 228
 - 6.1 Introduction 228
 - 6.2 Feminist Discourse 231
 - 6.3 The European Court of Human Rights 238
 - 6.4 The Inter-American Human Rights System 300
 - 6.5 The African Commission on Human and Peoples' Rights 330
 - 6.6 Final Reflections 343
- 7 Forced Nudity 345
 - 7.1 Introduction 345
 - 7.2 Feminist Discourse 347
 - 7.3 The European Court of Human Rights 348
 - 7.4 The Inter-American Human Rights System 351
 - 7.5 The African Commission on Human and Peoples' Rights 352
 - 7.6 Discussion 353
- 8 Forced Gynaecological Examinations 362
 - 8.1 Introduction 362
 - 8.2 Feminist Discourse 363

- 8.3 The European Court of Human Rights 364
- 8.4 The Inter-American Human Rights System 382
- 8.5 The African Commission on Human and Peoples' Rights 386
- 8.6 Concluding Remarks 386
- 9 Domestic Violence 387
 - 9.1 Introduction 387
 - 9.2 Feminist Discourse 390
 - 9.3 The European Court of Human Rights 395
 - 9.4 The Inter-American Human Rights System 437
 - 9.5 The African Commission on Human and Peoples' Rights 451
 - 9.6 Final Remarks 452
- 10 Slavery, Servitude, Forced Labour and Human Trafficking 455
 - 10.1 Introduction 455
 - 10.2 Feminist Discourse 458
 - 10.3 The European Court of Human Rights 463
 - 10.4 The Inter-American Human Rights System 504
 - 10.5 The African Commission on Human and Peoples' Rights 505
- 11 Reproductive Rights 506
 - 11.1 Introduction 506
 - 11.2 Which Human Rights? 510
 - 11.3 Feminist Discourse 513
 - 11.4 Access to Abortion 519
 - 11.5 Forced and Coerced Sterilization 564
 - 11.6 Assisted Reproductive Technologies 580
 - 11.7 Maternal Health-Care 604
- 12 Freedom of Religion and Gender: The Islamic Headscarf 633
 - 12.1 Introduction 633
 - 12.2 Feminist Discourse 634
 - 12.3 The European Court of Human Rights 639
- 13 Summary and Final Reflections 659
 - 13.1 Introduction 659
 - 13.2 Gender-Sensitive Norm Interpretation 659
 - 13.3 Theoretical Impediments to Gender-Sensitivity 683
 - 13.4 Final Reflections 701

Bibliography 705

Index 733