Index

AAAQ Framework available, accessible, acceptable 166
ablation treatment of atrial fibrillation 112
access to emergency health care for undocumented migrants 172
accessions in EU, 2004 and 2007 207–8
accident and emergency exemption from charges UK 173–4
activation criteria 64, 69
activation index 60–61, 69, 70
activation policies 30, 35–8, 44, 95
in Britain, Denmark, Norway, 21–39
Qualification Program (QP) 32–3
Work Assessment Allowance (WAA) 32
activation regimes in Britain, Denmark, Norway
convergence in 34–6
Active Employment Measures Act 2012, Denmark 85
active labor market programs (ALMP) 65
Active Labor Market Programs (ALMP) participation, availability for work 69
Active Social Policy Act 1997 Denmark, 29, 35
Act of Legal Security and Administration in Social Matters, Denmark, 1997
dialogue principle 30
Act on Prohibition of Discrimination, 2005 Norway 208
ad hoc multiculturalism, Norwegian prisons 280
African, Middle Eastern, Asian undocumented migrants 163
African National Congress, dominance 136
aging societies, ‘work line’ importance 36
Albán Cornejo et al. v. Ecuador case, 2007
medical malpractice 266
Andean Program in the Americas 247
antiretroviral (ARV) drugs for HIV/AIDS 125
Argentina, health litigation cases, 123
three-tier structure of health provision 126–7
union-based health care system 126
prohibition of in vitro fertilization 271–2
asylum seekers and health care 162, 166–7
Atala Riff and Daughters v. Chile, 2012
rights violation of private life 271–2
atrial fibrillation (heart condition)
radiofrequency ablation 106
authoritative guidelines, lack of cultural and religious rights of prisoners 280–81
autonomy
individual self-determination 5
requirements for occupational mobility 90–91
autonomy and integration, opposing forces 245
Basic Benefit for Jobseekers, Germany, 2005 93
basic values of social state, intrinsic value 56
Belgium, France, Italy
primary and specialist healthcare 175
benefit duration, maximum 67
generous in Belgium, France,
Denmark, Switzerland 67
benefit duration, strictest
Slovakia, United States, Korea 67
benefit exporting, illegal 281–2
benefit generosity reduction
paid employment choice 63
benefit-receiving, without genuine
claim 60
benefit recipient
benefits taken from high-cost to
low-cost country 74–5
Benefits and Wages Database, 2011 66
benefits for migrants, EU regulations 13
benefits in form of a service 7
Beveridge Report (1942), Britain 173
for British welfare state 25
social insurance system 34, 164–5
Biomedicine Convention 169–70
Brazil
1988 Constitution, right to health
127
Colombia, significant role of cost
considerations 138
health litigation cases 123, 127–30
right-to-health litigation
court cases on medical access 122
Britain, liberal welfare regime 24–8
British Job Centre Plus 35
British Journal of Criminology
‘Scandinavian exceptionalism’ 205
British/Norwegian marriage, life in
Egypt 231–5
cardiology 164
interpretation of ‘right to treatment’
107–9
cardiovascular medical field 103
high degree of professional
consensus 106
care-work sector, Germany
Posting of Workers Act 53
Case E-3/12 the Norwegian State,
represented by the Ministry of
Labour, v. Stig Arne Jonsson 74
case law
in health protection, education, rights
of migrants, persons with
disabilities 6
case material, South Africa
strategic litigation, public interest
bodies 132
CEDAW see Convention on the
Elimination of All Forms of
Discrimination Against Women
Cepeda Vargas v. Colombia, 2010
270–71
Charter of Fundamental Human Rights
of the European Union (EUCFR)
83
Charter of the United Nations (1945)
165
child custody case 221
children and pregnant women 164, 172
access by law in Sweden, Greece,
Spain 176
Christian Trade Union Association,
tariff agreements 52
Christian Unions for Temporary Agency
Work 52–3
Cinco Pensionistas v. Perú, 2003
change in Peruvian law on pensions
267
citizenship 221
and liberty 6
in a nation-state, 5
rights, extension, 244–5
citizen rights and imprisonment 294
civil and political human rights 83
Civil Aspects of International Child
Abduction 232
‘civil rights’, rule of law 3
civil rights, social citizenship 4, 242
classification matrix 72
clean water, sanitation, adequate
nutrition 166
Collective Agreements Act
Tarifvertragsgesetz
Germany 46
collective and structural cases
courts considering costs 135
collective bargaining
between social partners 55
### Index

<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>German system 44, 46, 48</td>
<td>57</td>
</tr>
<tr>
<td>metalworking in Baden-Wurttemberg</td>
<td></td>
</tr>
<tr>
<td>Colombia</td>
<td></td>
</tr>
<tr>
<td>1993 health reform 130</td>
<td>130</td>
</tr>
<tr>
<td>court cases on medical access 122</td>
<td></td>
</tr>
<tr>
<td>health litigation 130–31</td>
<td></td>
</tr>
<tr>
<td>Colombian Constitutional Court</td>
<td></td>
</tr>
<tr>
<td>dismissive of costs, budgetary implications 131</td>
<td></td>
</tr>
<tr>
<td>Colombian health care system</td>
<td>131</td>
</tr>
<tr>
<td>inequities 131</td>
<td></td>
</tr>
<tr>
<td>common law systems, India, South Africa</td>
<td></td>
</tr>
<tr>
<td>precedent case setting 135</td>
<td>135</td>
</tr>
<tr>
<td>common law versus civil law 134–5</td>
<td></td>
</tr>
<tr>
<td>communication and religious worship restriction for security reasons</td>
<td></td>
</tr>
<tr>
<td>competency of social actors, verification 56</td>
<td>56</td>
</tr>
<tr>
<td>complex procedures to access IACtHR</td>
<td>262–3</td>
</tr>
<tr>
<td>compound strictness index 69, 70</td>
<td></td>
</tr>
<tr>
<td>least, Norway, France 71</td>
<td>71</td>
</tr>
<tr>
<td>strictest in Slovakia, Turkey, Czech Republic 69–70</td>
<td></td>
</tr>
<tr>
<td>Comunidad Indígena Yakye Axa, 2005</td>
<td></td>
</tr>
<tr>
<td>right to property over ancestral land 267–8</td>
<td></td>
</tr>
<tr>
<td>conscientious objection to a job</td>
<td>87–8</td>
</tr>
<tr>
<td>Denmark, Germany, UK, Norway</td>
<td></td>
</tr>
<tr>
<td>Conservative government, Britain</td>
<td>27</td>
</tr>
<tr>
<td>reform of social security system</td>
<td></td>
</tr>
<tr>
<td>Constitution 1993, Columbia</td>
<td>130</td>
</tr>
<tr>
<td>protection writ (tutela)</td>
<td></td>
</tr>
<tr>
<td>Constitutional Court, Costa Rica</td>
<td>124</td>
</tr>
<tr>
<td>protection writs (amparos)</td>
<td></td>
</tr>
<tr>
<td>constitutional law, separation of powers</td>
<td>47</td>
</tr>
<tr>
<td>legal impartiality</td>
<td></td>
</tr>
<tr>
<td>Constitution of World Health Organization (WHO, 1946)</td>
<td>165</td>
</tr>
<tr>
<td>contact officers</td>
<td></td>
</tr>
<tr>
<td>Norway, importance of relationship with prisoners 190</td>
<td>190</td>
</tr>
<tr>
<td>strip-searching for drugs 186</td>
<td>186</td>
</tr>
<tr>
<td>work of, instruments of intimacy and control 198</td>
<td>198</td>
</tr>
<tr>
<td>contracting agency and ‘user’ firm of employee 50</td>
<td>50</td>
</tr>
<tr>
<td>contractualism 37–9, 287</td>
<td></td>
</tr>
<tr>
<td>contribution-based unemployment benefits 82</td>
<td>82</td>
</tr>
<tr>
<td>requirements to seek and accept employment 85</td>
<td>85</td>
</tr>
<tr>
<td>contributions of non-nationals returnable on leaving 167</td>
<td>167</td>
</tr>
<tr>
<td>Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR, 1950) 9</td>
<td></td>
</tr>
<tr>
<td>Convention No 169 on Indigenous and Tribal People, 1989, 247</td>
<td></td>
</tr>
<tr>
<td>Convention on Human Rights and Biomedicine 169</td>
<td></td>
</tr>
<tr>
<td>Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)</td>
<td></td>
</tr>
<tr>
<td>access to health care services 168</td>
<td></td>
</tr>
<tr>
<td>requirements 177–8</td>
<td></td>
</tr>
<tr>
<td>Convention on the Rights of the Child (CRC)</td>
<td></td>
</tr>
<tr>
<td>access to health care services 168</td>
<td></td>
</tr>
<tr>
<td>convicts with drug problems 183, 184</td>
<td></td>
</tr>
<tr>
<td>Costa Rica</td>
<td></td>
</tr>
<tr>
<td>court cases on medical access 121–2</td>
<td></td>
</tr>
<tr>
<td>litigation to obtain treatments 123–6</td>
<td></td>
</tr>
<tr>
<td>cost benefit analyses</td>
<td></td>
</tr>
<tr>
<td>Patients’ and Users’ Rights Act, Norway 112</td>
<td></td>
</tr>
<tr>
<td>cost considerations</td>
<td></td>
</tr>
<tr>
<td>discarded in Costa Rica 125</td>
<td></td>
</tr>
<tr>
<td>health litigation cases</td>
<td></td>
</tr>
<tr>
<td>arguments for or against 123–4</td>
<td></td>
</tr>
<tr>
<td>judges’ views 133–4</td>
<td></td>
</tr>
<tr>
<td>right-to-health litigation 121–4</td>
<td></td>
</tr>
<tr>
<td>cost of health care</td>
<td></td>
</tr>
<tr>
<td>major obstacle for undocumented migrants 176</td>
<td></td>
</tr>
<tr>
<td>costs of litigation to access IACtHR 263</td>
<td></td>
</tr>
<tr>
<td>Council for Child Protection 229</td>
<td></td>
</tr>
<tr>
<td>Council for Europe Committee of Experts on Social Security (CS-SS)</td>
<td></td>
</tr>
<tr>
<td>on ‘suitable’ employment 86–7</td>
<td></td>
</tr>
<tr>
<td>Council of Europe</td>
<td></td>
</tr>
<tr>
<td>international organization 8</td>
<td>8</td>
</tr>
</tbody>
</table>
regulations 168
Resolution 1509 172
courts, important accountability mechanism
to public health system, Costa Rica 125
criminal justice policy, Norway 16
cross-border labor mobility 73
cultural and religious diversity in Norwegian prisons 16–17
cultural diversity and social citizenship legal professionals 221–38
Netherlands and Norway 17
cultural gender roles, less room in UK 95–6
custody dispute, Mohamed and Fatima
custody of son, question 225–31, 235
custody of children case 231–5
custody disputes, Mohamed and Fatima
custody disputes, children 231–5
custody disputes, Mohamed and Fatima
Danish Active Social Policy Act (ASP) 2012 93
Danish government, ‘Active Line’ 29
Danish Health Care Act 102
Danish Job Center 35
decency and dignity
humiliating or immoral work tasks 87–9
demands on geographical and occupational mobility availability for work 69
democracy 8, 10, 277
deliberative conception 269
democratic decision-making, national and local level 284
demographic conditions, adverse 21
Denmark 28–31
unemployment insurance, not compulsory 85
Department of Work and Pensions (DWP) Jobcentre Plus 26
dependency-creating between citizen and welfare-state apparatus 7
dermatologists 164
diagnosis and assessments 111–12
disability benefits 6
discretionary powers 149
discrimination, protection from 208
dismissal protection 51
disqualification for benefits for refusal of employment 26
distribution of health care
regulation according to diagnosis 155
diversity in government policies, Norway 205–6
drug problems 110
drug rehabilitation in Kollen Prison, Norway 187
practices, Norway, 16, 184, 188–9
drug tests, mandatory, rewards and punishments 187
duration index 67
maximum period (months) of unemployment insurance 66–7
Dutch Council for Child Protection 227, 230
Dutch Egyptian case description legal decision on child custody 221
living in Netherlands, divorce in Egypt 225–31, 235
Dutch law and rights of women 227
Dutch lawyer of Mohamed experience in private international law 229–30

duty to work, participation in labor market 29
D.v. the UK (1997), case non-deportment of man with AIDS 168–9
earnings, insecurity of 91
economic competition, ‘work line’ importance 36
economic sanctions for unemployed 82
economic sustainability 91–2
education benefits 6, 103
egalitarianism 203–6
Egyptian and Dutch law conflict 227
Egyptian Islamic law, divorce cases 225
Egyptian law and rights of men 227, 232
Egyptian personal status law 231–5
eligibility criteria for unemployment benefits 85
health and safety 87
emergency or acute care 164
emergency services, with payment 178
employment, actively seeking 25
Employment and Welfare
Administration, Norway (NAV) 32–3
employment conditions, high standards 43
entitlement
‘employment record test’ 64, 246
ownership, access to land and natural resources 248–9
entitlement index conditions 67–8, 68
environmental issues, claims, India costs, no consideration 131
equality
before the law, political and social 243
Norwegian welfare policy 104
personal responsibility 72, 77
equal treatment 57
cultural diversity in prison 280
equal treatment, non-discrimination in Norwegian prisons 186
‘equal treatment of equal cases’ 151–2
equal treatment rule, EU 2008 51–3
essential health services 103
ethnic diversity, threat to legitimacy of welfare state 75–6
ethnic minority groups
misuses of social welfare system 77
European Committee on Social Rights (ECSR) 6, 83, 84, 94, 170
European Convention on Human Rights (ECHR) 6, 81, 168, 208
criminal convictions and employment 88
health protection 169
European Court of Human Rights (ECHR) 82, 217
non-provision by state, degrading treatment 5
European Economic Area (EEA) 162
agreement 207
Norway, Iceland, Liechtenstein 73
European Employment Strategy, Amsterdam Treaty 82
European Free Trade Association (EFTA)
court judgment 74, 75
European Health Insurance 162
need for, in Norway 174
European Social Charter (1996 revision) 6, 83, 84, 170
regional instrument 9
European Union (EU) 162
adoption of Danish ‘flexicurity’ policy 82
international organization 8
Norway not a member 207
‘work line’ importance 36
European Union (EU) Charter
right to preventive health care 171
European Union (EU) countries, different social securities from state 73
European Union Regulations 171
emergency health care for migrants postponing departure 171
European welfare states 36, 279
relative generosity 77
evidence-based medical care 151
‘exceptionalism’ thesis, Norwegian penal order 199
Execution of Sentences Act (ESA) 2001, Norway 185, 199, 213
exercise of discretion 291–2
fair benefit provision for genuine claim 62–3
fair distribution of health care 152–3
fairness evaluation in Kollen prison, Norway 196
family care obligations 89
relevance in UK and Germany 95
family law provisions and immigration 234
Dutch and Norwegian courts 290
family planning service, free of charge UK 174
father’s failure to pay maintenance for sons 232–3
Federal Labor Court, Germany, 2010 52
federal law in Brazil, May 2011
Organic Public Health Law amendment 129
fertilization medicine
cost arguments consideration,
Argentina 126
financing of social security 64
Finland
payment for emergency health care 175
Finnmark Act 2005, Norway 241–58,
254–7
beneficiaries of 252
compliance with ILO Convention 248
ethnically neutral 254–5
ownership and use rights 250
Sami indigenous minority 17–18
Finnmark County
ownership and access to natural
resources 246
Finnmark Estate 253–4
less concern with ecological
sustainability and Sami culture
257
northern Norway 17–18
ownership rights claims 256
fixed-term contracts, Germany 49
foreign citizenship increase in
Norwegian prisons 207–8
foreign workers in construction sector
minimum wage 53
freedom of assembly, civil rights,
speech 3–4
freedom of religion, right
Norwegian Execution of Sentences
Act 208
free tariff autonomy
collective bargaining, German
system 48
gender equality in Dutch legal practice
235–6
general eligibility criteria under
national law 85
general minimum wage, none in
Germany 53
generosity index 66
unemployment compensation 65–6
geographical mobility, Norway
strictest requirements 89
German employment system
protection and social security 43
German export economy successful 43
German labor force, atypical
employment 49–50
German law on equal treatment, wages
for Temporary Agency Work
(TAW), 2004 52, 55
German Social Code SGB 2003 85
German Trade Union Confederation
(DGB) 52
tariff-based minimum wage for TAW
53
Germany
Arbeitslosengeld II unemployment
benefit 93
emergency health care for
undocumented migrants 175
globalization, ‘work line’ importance 36
global migration 207
governmental pillar, Norway 31
Greece, payment for emergency health
care 175
Hague Convention 1980 232
harassment, reason for voluntary
leaving
Norway, Italy 87
‘Hartz Reforms’ Germany, 2002 and
2005 51
labor market policy in Norway 44
health as fundamental right, India
costs, no consideration 131
health care
distribution, impact on social
inequalities in health 154–7
primary, secondary, tertiary 164
provision, standard or individualized
151
services, right to 282
undocumented migrants 9
‘health litigation epidemic’ 14–15
health litigation, low in South Africa
132
health rights case, Soobramoney, South
Africa 132–3
<table>
<thead>
<tr>
<th>health rights litigation</th>
<th>123</th>
</tr>
</thead>
<tbody>
<tr>
<td>analysis, cost considerations by judges</td>
<td>136–7</td>
</tr>
<tr>
<td>cases, growing number in Argentina</td>
<td>126–7</td>
</tr>
<tr>
<td>health rights petitioners, India, privileged class</td>
<td>132</td>
</tr>
<tr>
<td>hip replacements, prioritization of patients</td>
<td>111</td>
</tr>
<tr>
<td>homogenization of population</td>
<td>243</td>
</tr>
<tr>
<td>hospital treatment, free only to residents</td>
<td>173</td>
</tr>
<tr>
<td>household structures, transformation</td>
<td>21</td>
</tr>
<tr>
<td>housing, health, education, employment, social protection, rights</td>
<td></td>
</tr>
<tr>
<td>European Social Charter (ESC, rev.1996)</td>
<td>9</td>
</tr>
<tr>
<td>human prison conditions in Nordic countries</td>
<td>196</td>
</tr>
<tr>
<td>Human Rights Act 1999, Norwegian law</td>
<td>208</td>
</tr>
<tr>
<td>human rights considerations</td>
<td>96, 165–6, 278–9</td>
</tr>
<tr>
<td>human rights in national courts</td>
<td>82</td>
</tr>
<tr>
<td>human rights instruments, ‘suitable’ employment</td>
<td>86</td>
</tr>
<tr>
<td>human rights of irregular migrants</td>
<td></td>
</tr>
<tr>
<td>Council of Europe Resolution 1509</td>
<td>169</td>
</tr>
<tr>
<td>human rights principles</td>
<td>172</td>
</tr>
<tr>
<td>human right to health</td>
<td>148</td>
</tr>
<tr>
<td>Hungary, payment for emergency health care</td>
<td>175</td>
</tr>
<tr>
<td>hybrid discretionary practice</td>
<td>189–92</td>
</tr>
<tr>
<td>hybridization justifications for drug rehabilitation</td>
<td>198</td>
</tr>
<tr>
<td>in penal practice, Norway 16, 186</td>
<td></td>
</tr>
<tr>
<td>hydropower generation from Alta River</td>
<td></td>
</tr>
<tr>
<td>IACtHR see Inter-American Court of Human Rights</td>
<td>263</td>
</tr>
<tr>
<td>ICESCR see International Covenant on Economic, Social and Cultural Rights</td>
<td></td>
</tr>
<tr>
<td>identification with fellow citizens common civic culture</td>
<td>223, 236</td>
</tr>
<tr>
<td>illegal immigrants, ICESCR rights to health</td>
<td>166–7</td>
</tr>
<tr>
<td>impartiality guarantee, general norms</td>
<td>47</td>
</tr>
<tr>
<td>importance of prioritization, health care postponement, risks of ‘high-priority patient’ Norway</td>
<td>105–6</td>
</tr>
<tr>
<td>India health litigation, common law country</td>
<td>131–2</td>
</tr>
<tr>
<td>Indian Supreme Court, health rights jurisprudence</td>
<td>137</td>
</tr>
<tr>
<td>India’s health system and public health policy inequities</td>
<td>131</td>
</tr>
<tr>
<td>Indigenous and Tribal Populations Convention, 1957</td>
<td>247</td>
</tr>
<tr>
<td>indigenous issues and rights</td>
<td>281</td>
</tr>
<tr>
<td>possible claims</td>
<td>254</td>
</tr>
<tr>
<td>social conditions of</td>
<td>247</td>
</tr>
<tr>
<td>individualized treatment of prisoners, Norway</td>
<td>191–2</td>
</tr>
<tr>
<td>individual rights</td>
<td>8, 37</td>
</tr>
<tr>
<td>prioritization of health care</td>
<td>102–19</td>
</tr>
<tr>
<td>individual rights and state interests</td>
<td>279</td>
</tr>
<tr>
<td>individual social rights</td>
<td></td>
</tr>
<tr>
<td>passive underclass, moral decay, social exclusion</td>
<td>36</td>
</tr>
<tr>
<td>individual welfare issues</td>
<td>10</td>
</tr>
<tr>
<td>work and personal obligations</td>
<td>89</td>
</tr>
<tr>
<td>informal socialization with prisoners, Norway</td>
<td>187</td>
</tr>
<tr>
<td>institutional obligations and competences</td>
<td>2, 8</td>
</tr>
<tr>
<td>Inter-American Convention on Human Rights</td>
<td>265, 266, 267</td>
</tr>
<tr>
<td>Inter-American Court of Human Rights</td>
<td>18, 261</td>
</tr>
<tr>
<td>Committee specifications</td>
<td>167</td>
</tr>
<tr>
<td>dialogic approach of</td>
<td>271</td>
</tr>
<tr>
<td>difficulty of access to</td>
<td>264</td>
</tr>
<tr>
<td>elitist exclusive tribunal</td>
<td>268</td>
</tr>
<tr>
<td>intercultural communication</td>
<td>224</td>
</tr>
<tr>
<td>International Convention of All Forms of Racial Discrimination (UN)</td>
<td>1965) 208</td>
</tr>
</tbody>
</table>
International Covenant on Economic, Social and Cultural Rights (ICESCR) 83, 162, 165–6, 171–2, 283

international courts
impact on juridification as social relations 261

international courts, social rights experiences from Latin America 261–75

International Covenant on Civil and Political Rights (ICCPR) 83, 217

International Federation for Human Rights (FIDH) v. France
accusation of violation right to medical assistance 170

international human rights and activation policies 82

international human rights norms 162–80
over budget considerations 126

international judicial bodies 18

International Labour Organization 63, 247

Committee of Experts (CEACR) 83, 92, 249–50
Convention No 102
conditions for suspension of unemployment benefits 86

Convention No 168
jobseeker’s age 89
no address on religious issues 88
rights of indigenous and tribal 281

international law and social citizenship 297

international law, development of European Union 2

international law dimension 8 democracy and professional discretion 277

international regulations 166–8

interviews with drug users, in prison, Norway 188

Ireland, payment for emergency health care 175

Islamic divorce 232

Italy, minimum entry income

Reddito Minimo di Inserimento (RMI) 93
right to social security, Article 38 of Constitution 85

Job Centers in Denmark 30
Jobseeker’s Allowance (JSA) 1996 26–7, 85

Britain, 35
jobseekers in Germany, Norway 90
job seeking by claimants 64

Job Strategy 1994 81

job strategy, Danish, 1970s, 1980s unemployment benefits, cash assistance 28
judges’ role in health rights litigation views on, in Argentina, Costa Rica, Brazil and Colombia 137

judicialization
access to health, harm or positive, for poor 122
of health, Latin America 121
role of judges on political domain 285
juridification 1–3, 157
and democracy 9–11, 283–91, 297
five dimensions 153–4
in health care provision 102, 139
and international law 8–9, 278–83
legal instruments in medical work 153–4
process within European Union (EU) 61
and professional discretion 291–6
and professionalism 11–12
and social citizenship 277–98, 285
within welfare state 2

jurisprudence on social rights 261

knee arthroscopy (orthopedics) for meniscus injury 106
knee replacements, prioritization of patients 111

labor costs, minimising 56
labor immigrants not part of demos no native sense of solidarity 76
Index

labor immigration, increase after 2004 EU enlargement 76
labor law 9, 56
reflexive regulation 47
labor market activity
European Employment Strategy 13
labor market policy in Norway 31
labor market reforms, Germany 43–4
Labour Market Reform Act 2012, Italy 85
language and religion, for minorities in prison
no guiding principles for officers 209–10
language barriers in prison 207
Latin American judges
courts view of health authorities inefficiency 136–7
dismissal of cost considerations 134, 138, 288
scepticism of government policies 139
Latin America’s social citizenship 262
law proceduralization 24
in Britain, Denmark, Norway 21–39
laws, implementation of 156
lawsuits by status of health benefit claimed 130
legal basis for allocation of health care 103–7, 138
legal consciousness, types of, 222–4
in Norwegian case 233
legal developments in welfare law 36
legal instruments for social challenges, Norway
Patients’ and Users’ Rights Act, Norway 117–18
legal perspective
social and philosophical perspectives 3
legal positivism 262
dominant legal approach in Americas 264
legal professionals 224, 234
and cultural diversity 17, 237
and lay parties 221–2
legal regulations
based on enforceable individual rights 8
cardiologists’ attitudes to 114–16
of health care coverage 155
Norwegian prisons, professional discretion 216
prohibitions, obligations, rights 150
on socioeconomic factors 158
strong versus weak 130
legal standing, to access IACtHR 263
legitimacy of social actors, verification 56
legitimacy threats to population heterogeneity 76
liberal welfare regime
underdevelopment of individual social rights 36
life and health, reluctance to ‘price tag’ 135–6
Lutheran-Protestant norms in Norway 224
marginal people
Finnmark Act 2005, Norway 289–90
market as welfare pillar, Britain 25
material law 287
maternity care, Britain 177
means-tested benefits, became welfare state 25
means-tested social assistance system
Britain, Denmark and Norway 34, 35
medical doctors, scope of discretion 292
medical negligence claims, India costs, no consideration 131
medical profession
discretion on social equality in health 159–60
input equality versus outcome equality 151–3
interests of collective membership 149
knowledge bases for regulation, individuals versus populations 150–51
self-regulation 149
medical professionalism, sociopolitical structure 148
medical rehabilitation benefit, Norway 31, 33
microdemocratic perspective regional Court’s detrimental effects 286
migrants, undocumented access to European health care 15–16, 162–80
identification documents need 175 no legal rights 162–3
migrants with set departure date remaining in country 171–2
migrant women and children as priority EU Charter 171
migrant workers, 167 moving benefit to another country 73
migration from non-Western countries later to Norway than Netherlands 224
migration from non-western to western countries challenge to social policies 75–6
minimum level of social protection, reflexive law 287
minimum subsistence wage guarantee 57
minorities
ad hoc accommodation 209–13
ICESCR rights to health 166–7
over-representation in Norwegian criminal statistics 207–8
vulnerability of, in prison 207
minority prisoners in Norway level of accommodation of issues 214–15
need for prison staff guidelines 215–16
minority religion and language in Norwegian prisons, problems 217
professional discretion dimension 206
minority rights in prison 245
professional discretion dimension 206
monitoring bodies on ‘suitable’ employment 86
moral challenges, of EFTA court judgment 74

‘Moral Underclass Discourse’ (MUD) in UK 37
‘More People to Work’ approach, Denmark 29–30, 35
Moroccan case of woman giving up child 230
morphine death in hospital state responsibility for 266–7
multiculturalism, 17, 237 heterogeneous societies 241
multiculturalism, ad hoc prison staff approach to cultural and religious diversity 203–18
problems 213–16
multicultural societies, transnational families 222
Muslim faith practices in prison, Norway 212
Muslim man, refusal of newspaper job objection not accepted 88–9
Muslim migrants, Islamic laws (Sharia) 222
Muslim stereotypes, gender inequality reinforcement 235
Muslim women in Denmark, not to wear headwear 88

national activity requirements for unemployed Norway strictest 94–5
National Agency for Health Protection, Brazil 129
national and religious law 233–4
national health care systems, Europe 162
National Health Service (NHS) 173
charges to Overseas Visitors 173
Constitution, (UK) 102
core principles 165
welfare services 25
national immigration policies 178
National Insurance Act, 1946 25
national law and human rights norms 9, 162–80
national legislation in Denmark Unemployment Insurance Act 2011 85
National Substance Abuse Program (NSAP) 187
'neo-paternalism', Crewe, UK 199
Netherlands and Norway legal comparisons 237
multicultural legal cases 224
neutrality of legislation 47–8
'new contractualism' 23, 24, 38
Nordic countries, low rates of imprisonment 183
Nordic criminal justice policy shift 183
Nordic penal regime, 'Janus-faced' 205
Norway emergency health care to all 175
exemption of payment for undocumented migrant children 176
health care services for undocumented migrants 174–5
Scandinavian welfare regime 31–4
Norway and the Netherlands, legal orders 222
Norway and UK, immigration status, legal or illegal 163
Norway, a welfare state 102–3
Norway, Denmark, Sweden, Italy, Spain Beveridge Model 165
Norway increase in migrant workers from eastern and southern EU 73–4
Norwegian Act on Social Services Labour and Welfare Administration (SSLWA) 83
Norwegian British Egyptian case 231–4
Norwegian Court of Appeal, 2008 divorced couple, transnational marriage 231–4
Norwegian health care system distinction between national and non-nationals 175
Norwegian law case 231–5
Norwegian National Insurance Act (NIA) 1997 85
Norwegian Patients' and Users' Rights Act 104
Norwegian prisoners, from Somalia, Nigeria, Middle East, Eastern Europe 208
Norwegian prison service 185–6
minority rights and professionalism 209
protection against discrimination, freedom of religion 204
staff–prisoner relationships 206
Norwegian Qualification Programme 93–4
Norwegian social security system 175
Norwegian welfare policy, activation 32
Norwegian White Paper on Power and Democracy, 2
nutritional advice to socially disadvantaged 156
N v. the UK (2008) rejection of HIV-positive woman from Uganda 168

responsibilities versus social rights 35
occupational mobility 90–91
old age benefits 103
Organisation for Economic Co-operation and Development (OECD) 81, 281
net replacement rates (NRRs) 65–6
'work line' importance 36
orthopedics 103, 106
interpretation of 'right to treatment' 107–9
outcome by type of case 129
ownership and use rights 249
ownership rights, Sami Parliament 252
Paraguayan Yakye Axa community 267–8
part-time jobs (minijobs), Germany 49
passive smoking in Denmark, employment refusal 87
Patients' and Users' Rights Act, Norway 14, 103, 106, 107
patients' rights, 150
legal regulations, increased 158
penal hybridization consequences 183–99
personal responsibility 61, 65
phone call regime for prisoners, Norway, restriction on languages
other than Norwegian and English
212–13
physician’s discretionary powers,
restriction of 292
Poland, free health care outside
hospitals 175
policing and peacekeeping
core components for prison officers,
Norway 212
policy dimension of unemployment
insurance (UI) 60
political regulation, hierarchical
on traditional legislative instruments
46
political rights 4
social citizenship 242
poor health as barrier 147
Posting of Workers Act 55
Germany, 1996 53
prayer, accommodation of
common sense of staff, need 210
preference for redistribution 77
pregnancy, confinement, post-natal
period 168
pregnancy of ‘undocumented’ migrant
163
pregnant women, legal access to health
care,
Norway, Belgium, France, Italy,
Sweden 177
preventive care 153
price of life, judging 121–43
*Price v. the United Kingdom*
degrading treatment of disabled
person 5–6
primary health care for immigrants, free
treatment UK 173
‘principle of normalization’ 183
principle of the social state in German
law 48
prioritization of patients 111
priority for young athletes or working
persons
for cardiology, or orthopedic
treatment, Norway 110
priority guidelines, cardiologists’
varying opinions 112–16
priority situation, socio-economic
status 152
prison drug rehabilitation 290
prisoners
adaptation to hybrid regime 193–6
from ethnic backgrounds 203
health care postponement, risks of
204
ICESCR rights to health 166–7
minority backgrounds, differential
treatment 203, 216
personal autonomy 204
relations with prison staff
right to enjoy freedom of religion 9
prison officers
as ‘contact officers’
drug rehabilitation practices 184–5
as ‘street-level’ bureaucrats 185
work practice upholding order and
peace 206–7
prisons, Norwegian
professionalism, personal attitudes,
working style 211
prison staff academy, KRUS, Norway
205, 211, 216
prison staff negotiation 206
private international law 229, 231–5
processing of referrals to treatment,
Norway 109–10
professional and occupational freedom
48
professional discretion
dimension 8, 11, 292–3
individual autonomy, tension 277
medicine 296
prison officers 206
professional ethics 162–80
professionalism, discretion and
juridification 146–60
professional judgments on health care,
Norway 118
proof of job search sanctions for
refusing job offers 69
property rights, civil rights 3
prostitution, unsuitable work 87
protection for employees, Germany 48
protection of existing workplaces 57
protection writs (*amparos*)
Index

medication or medical treatments delayed 125
psychiatric treatment and death, clear signs of torture 266
Public Hearing, Brazil 129
public interest litigation, India 131
public social insurance schemes Denmark and Norway 34–5
public spending reduction 178
punishment, 'hybridization' of, Norway 185
Qualification Benefit, Norway 93
Qualification Program (QP) contractualism 34
participants to be of working age 32–3
reduced working capacity 32
rational choice reasoning choice of available jobs 63
'redistribution discourse' (RED) 37
reduced generosity, retrenchment scheme 64
reflexive law 22–3, 24, 44, 286–7
'regulated autonomy' 46–8
reflexive regulation 54
legal concept 44–5
potential conflicts 55–6
reforming labor law 45–9
reflexive regulation of temporary agency work (TAW) 55
reform in Norway employment and welfare administration 32
refugees, non-nationals 167
regular employment relationship (Normalarbeitsverhältnis) 43, 49
regulation of employment conditions by the state, hierarchical 55
reflexive 43–58
regulation of gainful employment, Germany 43
regulation of medical profession 148
regulations for health care, Norway cardiologists' opinions on 116–17
rehabilitation in Norwegian prisons dissatisfaction with, from prisoners 196–7
relations between staff and prisoners, effect 186
rehabilitation of offenders, social citizenship 183
rehabilitative treatment, professional discretion 295
Reilly, Caitlin, case 96
Birmingham university graduate, 2010 81
lawsuit on violation of European Convention on Human Rights 81
religions, adherents (minority) wearing symbols of faith 88
religious and ethnic minority rights in prison 204
religious conversion of British father 232
religious food taboos in prison halal or kosher meat 210
religious objections, less room for, in UK 95
religious rituals and values, in prison, Norway avoidance of contempt 210–11
religious taboos 207
replacement rate, high, unemployment, opting for 63
requirement for residence in state 75
reservation wage, lowest willing to accept 74
resistance to friendliness of prison officers 193–4
resource scarcity in South Africa 132–3
restriction of initial access to benefits 64
rewards and punishments for behaviour in prison 189, 198
rights of children, contravention 170
doctors' opinions 109
free movement 280
health care (weak) 293
health, human right 133–4
of patients 156
practise one’s religion 280
social assistance 39, 83
without individual duties destructive for economic system 36
work 83
rights-to-health lawsuits, Brazil 127–8
R (Imran Bashir) v. The Independent Adjudicator, 2011 217–18
Roosevelt, Franklin D., ‘Four Freedoms’ Speech 1941 164
rule violations in prison, Norway, drug use 190
safety garment supply 50
safety-net principle 56
Sahara House v. Union of India, ARV 132
drugs 132
Sami culture, reindeer husbandry 252–3
Sami indigenous minority 17–18, 241, 280
Sami land rights, Alta conflict 246, 250–51
Sami Parliament 251, 253, 254
Sami Rights Commission 246–7
Scandinavian exceptionalism’ 197–8, 205
Scandinavian penal system 217
Scandinavian welfare regime 28
egalitarianism 205
requirements for occupational mobility 95
Schengen agreement 207
secondary health care, specialist or hospital care 164
security for prison staff, Norway versus human rights and freedom of religion 211
security issues in prison 208–9
separate prisons for foreign citizens, Norway 215
service production in welfare state 38
service providers and clients, relationship 38
Seventh Day Adventist in Norway 89
no work on the Sabbath 223
shared identity of citizens 222
skills mastering activities 33
social and economic rights 262, 265–8
social and labor law 47
social and medical problems, activation towards 35
Social Assistance Act 1993, Norway 31–2, 35
social assistance beneficiaries 92–3
duty to undertake education 29
social citizenship 4, 39, 82, 95–6, 139–40, 223, 234, 236, 242–6
case of the Finnmark Act 241–58
conception of 3–6
construction 37–9
differences 257–8
equal opportunities 9–10
Germany 43
identity 222
juridification role 246–8
positive relationship between social rights and private autonomy 6–7
prisoners 203
relation to civil citizenship 37
right of compensation 60
Sami people in Norway 281
social rights 6–8
social equality in health 154, 159
social exclusion combat, Norway 32
social homogeneity 204–6
social human rights influence, weak 96
(social) human rights instruments 84
social individualization 44
social inequality in health and social citizenship 15, 152–3, 146–60
social insurance, benefits as rights 25
Social Insurance Service, integration in Norway 32
'Social Integration Discourse' (SID) 37
'socialization of medicine' 165
social law 21–2
social policy, and labor market policy 21, 32
social protection, Germany 43
social rights 3, 60
education 4
equal opportunities 10
health care services 4, 21
individuals as clients, not active citizens 7
old age, unemployment, disability benefits 21
social security and welfare legislation genuine or false claims 62
social security development 77
social security, high standards 43
no discrimination against EU nationals 61
social security in reflexive law, ensuring 48–9
social security systems of countries no discrimination against resident EU nationals 73
Social Service Act 1997, Denmark 29
social ties, lack of, in prison 207
social welfare benefits, Additional Protocol 1, 84
society as homogeneous entity 241
socioeconomic factors, clinicians' concerns 157
socio-economic rights litigation, cost considerations 123
South Africa, Soobramoney case 136
South Africa and India cost elements consideration 134
South Africa health litigation common law system 132–3
South African Constitution recognition of health rights 132
rights of children to basic health services 133
rights of prisoners to medical treatment, 133
South African Constitutional Court allocation criteria 289
principled stance on legitimate role of courts 136–7
Soobramoney case 140
staff–prisoner relationships, 185
Norwegian drug rehabilitation unit 183–99
state law vulnerability migration and globalization cause 236–7
stateless persons, non-nationals 167
state responsibility 165–6
substantive law 24
behavior guiding 22–3
Superior Inter-American Court 264
support for welfare retrenchment 77
Supreme Federal Tribunal 128–9
suspicion of abuse of welfare 77
Swedish regulations, health care as a basic right 178
tariff autonomy 54
tax credits 28
technological developments 44
temporary agency workers 13, 49, 50
coal miners, service workers, chemical workers 54
employment periods short 57
Germany 49–55
precarious risk 49
Temporary Agency Work Law (TAW) 56
(Arbeitnehmerüberlassungsgesetz) 50–51
reduction of wages and working conditions 54
temporary disability benefit, Norway 33
temporary workers, rather than overtime of workers 51
tertiary care, specialized, consultative care 164
Thatcher, Margaret, British Prime Minister 
'quasi-market' health service 173
social security benefits, reductions, 1980 25
The Drug Conversation, Norway 198
control and rehabilitation 194–6
training education programs 33
transnational families cases 224–34, 290
different legal orders 222
plurality of legal systems 234
travelling time limits for work 90
treatment for microcephaly, case, Brazil Unified Health System (SUS) 128
‘type 1 error’ 63, 65
asserting something absent 61
‘type 2 error’ 63, 65
failure to assert something present 61
undocumented migrants 280
professional discretion 294
severe health problems 283
unemployed and service provider, action plans, Denmark 31
unemployment and disability benefits 103
unemployment, atypical and low wage, Germany 44
unemployment benefits for involuntarily unemployed individuals 61
unemployment compensation trade-off 60–78
voluntary idleness induction 63
unemployment compensation scheme 13, 62
unemployment, high in Europe 21
unemployment in Germany, atypical employment 44
unemployment insurance compensation (UI) 60
unemployment protection schemes, redefinition 44
United Kingdom health care services for undocumented migrants 173–4
payment for secondary hospital care 176
United Kingdom Jobseekers Act, 1995 85
United Kingdom Jobseekers’ allowance Caitlin Reilly 81
United Nations (UN), international organization 8
United States welfare state, relative meagreness 77
Universal Declaration of Human Rights (UDHR 1948) 165–6, 83
universal health care principles 178
Urologists 164
vaccination, 153
victims of rights violations 286
violence and threat of violence in prison 206
vocational rehabilitation benefit, Norway 31, 33
volume of referrals 112
voting rights 5
wage levels low 55
wage, minimum 28
‘weak’ rights 6–8
Weber, Max, on non-neutrality of state 47
welfare benefits in old age 66
welfare benefits in unemployment 6
welfare law proceduralization 36, 287
welfare legislation 11, 61
welfare programs
‘type 1 error’ allowing extensive abuse 76
‘type 2 error’ denying welfare 76–7
Welfare Reform Act (WRA), UK
‘Universal Credit’ 93
welfare regimes in UK, Norway and Denmark 34
welfare regulation consequences 8
welfare rights, individual 6
versus democracy 2
welfare state 1, 5, 6, 21
‘Welfare’ White Paper, 1995, Norway aim of work line 31
White Paper ‘Work, Welfare and Inclusion’, Norway 32
Work Assessment Allowance (WAA), Norway activity to receive 33–4
Work Environment Act (WEA), 2005 Norway health and safety 87
Index

workers’ rights of protection, Germany 50
Workfare in Norway 31
condition for social assistance 31
workfare state, Schumpeterian 35
workforce flexibility, ‘reflexive regulation’ 44
work–life balance, in social human rights law 89
work-line policies 31, 82
economic sanctions 95–6
work-oriented claimants
non-receipt of benefits 60
work-oriented welfare agencies 35
work-related policy goals, welfare law procedures 36
World Health Organization, universal health coverage’ 154
World Medical Association (WMA) Declaration of Geneva 178
Ximenes Lopes v. Brazil, 2006
health rights case 265–6
Youth Allowance Scheme, 1990, Denmark 29, 35