

## Human Rights

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#### Civil and political rights

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## Overview

- Answers to questions from last week
- Specific examples for civil and political rights
  - Women's rights and CEDAW
    - Legal concept of equality
    - Women's rights as human rights
  - Prohibition of torture
    - Legal concept
    - Current issues

## Questions

- Are some civil and political rights more fundamental than others?
  - Cf. Theo van Boven's arguments with Theodor Meron
  - What are the implications on a state's right to withdraw from the ICCPR? Eg could Switzerland withdraw from the ICCPR if the initiative on prohibiting minarets was accepted?
- Read the Press Release of the Human Rights Committee of 31 July 2009
  - What does it tell you about the Committee's working methods?
  - Compare the different country reports mentioned in the press release. Are there any commonalities in the Committee's approach? Differences?

## Women's rights and CEDAW

- Women's rights as human rights
  - Are women human? Cf. Text No. 3 by Catharine MacKinnon
  - Broad acceptance among Western states
  - Dilemma for many states: political image vs. conservative domestic forces
- CEDAW accepted in 1979
  - Broad ratification, including Islamic states: 186 states as of 29 September 2009
  - Many reservations. Example Saudi Arabia (2000):  
"In case of contradiction between any term of the Covenant and the norms of the Islamic law, the kingdom is not under obligation to observe the contradictory terms of the Covenant."

## CEDAW: Protected rights

- Goals
  - Ending discrimination against women
  - Achieving equality
- Broad definition of discrimination against women (Art. 1)
  - Discriminatory effect and purpose are covered
  - Not limited to state actions
  - Open concept: "or any other field"
- Implementation without delay (Art. 2)
- Affirmative action clause (Art. 4)
- Unique set of state measures (Art. 5) and specific provisions for specific problems (Art. 6 – 16)
- Monitoring (Art. 17 – 30)

## State duties under CEDAW

- Respect rights of others
- Create institutional framework for realisation of rights
- Protect rights and prevent violations
- Provide goods and services to satisfy rights
- Promote rights

## Prohibition of torture

- Selected instruments
  - Art. 5 UDHR
  - Art. 7 ICCPR
  - Convention against Torture and other cruel, inhumane or degrading treatment or punishment
  - Art. 3 ECHR
  - Common Art. 3 to the Geneva Conventions
- Legal nature
  - Torture as an international crime
  - *ius cogens*?
  - Customary international law?

## Torture and terrorism (Text No. 4)

- What are the legal issues involved?
  - From an international law point of view?
  - From a domestic law point of view?
- Bad torture vs. good torture?
- What are the legal means to secure compliance with the prohibition of torture?