Advanced course on the international protection of human rights

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In this part of the course we will be dealing with three different, but closely related topics. In three sessions we will go from the general treaty based monitoring in the UN to the specific monitoring of the issue of violence against women. First we will have a look at the protection of human rights under the United Nations human rights treaty framework. Since there are no less than nine relevant treaties, this is quite an ambitious undertaking for a three hour session. We will therefore be dealing with a selection of procedural and substantive issues. Then we will have a closer look at the Convention on the Elimination of Discrimination Against Women, and in the third session we will deal with violence against women. I have chosen ‘violence’ as a red thread of this course. This means that we will examine how the various treaty bodies deal with various forms of violence by state officials as well as by non-state actors.

I. New Developments in UN Human Rights Treaty Bodies (Substance and Procedure)

We will begin with a brief overview of all treaties, to examine their main characteristics, what they have in common, and how each treaty makes its own specific contribution to the promotion and protection of human rights. Subsequently, we will examine which procedures exist under the treaties, and how these work in practice. Both the reporting procedure and the individual complaints procedure will receive due attention.

In order to prepare for this, I recommend that you read the Chapter by Julie Mertus that is included in the syllabus. Also, I would like you to search and study the concluding observations of the treaty bodies with respect to the country where you come from. Study the findings of the committees and the recommendations, to get an impression of the way in which the committees carry out their mandate under the reporting procedure. If your country is a party to the Convention Against Torture, then take the concluding comments under that treaty. If not, either take another country, or the comments under another treaty. In addition, we will examine cases that have been submitted under the individual complaints procedure. We will look at procedural issues, as well as substantive issues.

Reading materials:

− Committee Against Torture, General Comment No. 2 (Article 2 CAT).
− Committee Against Torture, Nikolov vs Bulgaria (Comm. No. 257/2004)
− Human Rights Committee, Marcellana and Gumanoy vs. The Philippines (Comm. No. 1560/2007)
− Human Rights Committee, El Alwani v. Libyan Arab Jamahiriya
− Committee on the Elimination of Racial Discrimination, The Jewish community of Oslo et al. v. Norway
− Committee on the Rights of the Child, General Comment No. 8, The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment

Concluding comments, general comments / recommendations and views and decisions of the treaty bodies can be found on various websites, including the Office of the High Commissioner
for Human Rights (www.ohchr.org), the Netherlands Institute of Human Rights (sim.law.uu.nl),

Obviously, numerous suggestions for further reading on UN human rights treaties can be made. I
have selected a number of recent publications, some deal exclusively with procedural aspects,
others with substantive aspects, while again others are comprehensive.

− Nisuke Ando (ed.), Towards implementing universal human rights: festschrift for the twenty-
− Anne F. Baeyefsky, How to complain to the UN human rights treaty system, The Hague:
− Raija Hanski and Martin Scheinin, Martin (comp), Leading cases of the Human Rights
− Sarah Joseph, Jenny Schultz, and Melissa Castan, The International Covenant on Civil and
− Sarah Joseph et al. (eds.), Seeking remedies for torture victims: a handbook on the individual
complaints procedures before the UN treaty bodies, Geneva: OMCT, 2006.
− Manfred Nowak, U.N. Covenant on Civil and Political Rights: CCPR commentary, Kehl am
− Manfred Nowak and Elizabeth McArthur, The United Nations Convention Against Torture:
− Michael O’Flaherty, Human rights and the UN: practice before the treaty bodies, The Hague:
treaty system: an introduction to the core human rights treaties and the treaty bodies, Fact
sheet No. 30. Available from
http://www.ohchr.org/EN/PublicationsResources/Pages/FactSheets.aspx This website
contains also other relevant fact sheets.
− Nigel Rodley and Matt Pollard, Criminalisation of torture: state obligations under the United
Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or
− Atsuko Tanaka and Yoshinobu Nagamine, The international Convention on the Elimination
of All Forms of Racial Discrimination: a guide for NGOs, London: Minority Rights Group,
− Patrick Thornberry, Confronting Racial Discrimination: A CERD Perspective, Human rights
law review, Vol. 5, No. 2, p. 239-269.
− Wouter Vandenhole, The procedure before the UN human rights treaty bodies: divergence or
− Alfred de Zayas, The examination of individual complaints by the United Nations Human
Rights Committee under the Optional Protocol to the International Covenant on Civil and
Political Rights, in: Alfredsson, Gudmundur ... [et al.] (eds.), International human rights
67-121.
human rights machinery.
II. The Convention on the Elimination of Discrimination Against Women

In this session, we will examine more closely the functioning of the Committee on the Elimination of Discrimination Against Women (CEDAW). This Convention has some unique features. CEDAW began its work in 1982. Initially, the only monitoring procedure it had at its disposal was the reporting procedure. In 2000, the UN General Assembly adopted the Optional Protocol to the Women’s Convention, providing for an individual complaints procedure and an inquiry procedure. We will examine how CEDAW has been using these new procedures, and how these have given more teeth to the Convention. We cannot discuss the Women’s Convention without paying attention to the issue of national implementation in the context of diversity among States parties and the question of reservations.


Suggestions for further reading on the Women’s Convention:

− Committee on the Elimination of Discrimination Against Women, Concluding comments on Saudi Arabia (2008)
− Committee on the Elimination of Discrimination Against Women, general recommendations.
− Committee on the Elimination of Discrimination Against Women, views and decisions.

III. Violence against women and the United Nations framework

In the third session we will deal with the question of violence against women and how this is addressed in the framework of the United Nations, both in the treaty system and the Charter based system. We will pay particular attention to violence against women during armed conflicts, but also to violence in the private sphere (intimate partner violence) and the role human rights can play. The issue of violence against women has featured prominently on the UN agenda since 1993, and much progress has been made in defining the issue. Yet, violence against women continues to occur on a large scale. What role is there for human rights?
− 15 years of the United Nations Special Rapporteur on Violence against Women, its causes and consequences (1994-2009) - A critical review
− CEDAW, Goekce v. Austria (Comm. No. 5/2005)

Suggestions for further reading on violence against women:

− UN Special Rapporteur on the elimination of violence against women, Country reports.
− United Nations Secretary-General, In-depth study on all forms of violence against women, A/61/122/Add.1. See for this study and related information http://www.un.org/womenwatch/daw/vaw/SGstudyvaw.htm