

Women's Law and Human Rights

JUR 5910 / JUR1910

Teaching spring 2010

UPDATED 15 MARCH

- Responsible for course:** professor Anne Hellum, in collaboration with research fellow Ingunn Ikdahl
- Lecturers:** Research fellow Ingunn Ikdahl, professor II Shaheen Sardar Ali, professor II Kirsten Ketscher
- Time:** Mondays 14.15-16.00, Fridays 12.15-14.00, unless otherwise stated
- Mock exam:** Topic and deadline are announced on webpage
- Material:** The main literature is compiled in two compendia: *JUR5910/1910 Women's Law and Human Rights. Selected Articles. Part I and Part II*. For sale in Akademika Bookshop, Domus Nova
EU directives and case law are compiled in a separate compendium, *LJUR5910/1910. Legal texts and cases. Women's Law and Human Rights*. For sale in Akademika Bookshop, Domus Nova
General Recommendations and General Comments adopted by the treaty bodies are available on-line, see for example:
<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx> or
<http://www.bayefsky.com/tree.php/id/13/misc/general>

Course outline and assigned reading for each session

1. Introduction to legal theory and methods

Friday 5 February 12:15 -14:00

Research fellow Ingunn Ikdahl

This is an optional lecture, aimed at students whose academic background is from other fields than legal studies, for example students from the Bachelor programme "Tverrfaglige kjønnsstudier".

2. Course introduction: women's human rights as international law

Friday 12 February 12:15 -14:00

Research fellow Ingunn Ikdahl

Main literature:

- Byrnes, Andrew (2002): "The Convention on the Elimination of All Forms of Discrimination Against Women", in *Human Rights of Women, International Instruments and African Experiences*. Wolfgang Benedek et al. (eds.). ZED Books, p. 119-173.

- Cook, Rebecca (1994): "State Accountability Under the Convention on the Elimination of All Forms of Discrimination Against Women", in *The Human Rights of Women*. Rebecca Cook (ed.). University of Pennsylvania Press, p. 228-257.

3. Introduction to CEDAW and related conventions: The non-discrimination principle

Monday 22 February 14:15 -16:00

Research fellow Ingunn Ikdahl

Main literature:

- Nowak, Manfred (2002): "The Prohibition of Gender-specific Discrimination under the International Covenant on Civil and Political Rights", in *Human Rights of Women, International Instruments and African Experiences*. Wolfgang Benedek et al. (eds.). ZED Books, p. 105-119.
- Cook, Rebecca (1994): "State Accountability Under the Convention on the Elimination of All Forms of Discrimination Against Women ", in *The Human Rights of Women*. Rebecca Cook (ed.). University of Pennsylvania Press. In particular p. 234-243.

Interpretations, as adopted by treaty-bodies:

- CCPR General Comment no. 28 (2000): *Equality of rights between men and women (Article 3)*
- CERD General Recommendation no. XXV (2000): *Gender related dimensions of racial discrimination*
- CESCR General Comment no. 16 (2005): *The equal right of men and women to the enjoyment of all economic social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)*
- CESCR General Comment no. 20 (2009): *Non-discrimination in economic, social and cultural rights (art. 2, para. 2)*

4. The right to work: Protection against discrimination in the work place

Friday 26 February 12:15 -14:00

Professor II Kirsten Ketscher

Main literature:

- Nielsen, Ruth (2006): *EU Law and Multiple Discrimination*. P. 1-27. CBS Law Studies Paper.
- Hodges-Aeberhard, Jane (1999): "Affirmative Action in Employment: Recent Court Approaches to a Difficult Concept", in *International Labour Review*, Vol. 138, no. 3, p. 247- 250 and p. 256-260.

EU directives:

- EU Directive 2000/43/EC. *Equal treatment between persons irrespective of racial or ethnic origin*
- EU Directive 2000/78/EC. *Equal treatment in employment and occupation*

- EU Directive 2006/54/EC. *Equal treatment of men and women in matters of employment and occupation*

Case law:

- The Bilka case, C-170/84
- The Dekker case, C-177/88
- The Marshall case, C-409/95
- The Tele-Denmark case, C-109/00
- The University of Oslo case, E-1/02

5. SEMINAR 1: State reporting and women's human rights

Monday 1 March 14:15 -16:00

Research fellow Ingunn Ikdahl

6. The right to health of women and girl-children: Reproductive health and non-discrimination

Friday 5 March 12:15 -14:00

Professor Kirsten Ketscher

Main literature:

- Cook, Rebecca, with B M Dickens and M F Fathalla (2003): Excerpts from chapter 6: "Human Rights Principles", in *Reproductive health and human rights: Integrating Medicine, Ethics and Law*. Oxford: Clarendon Press. P. 154-179.
- Hellum, Anne and Anne Lene Staib Knudsen (2006): "From Human Development to Human Rights: A Southern African Perspective on Women's and Teenage Girls' Right to Reproductive Choice" in *Forum For Development Studies*, No. 1-2006. P. 53-77.
- Stewart, Julie (2007): "I Can't Go to School Today", in *Human Rights, Plural Legalities, and Gendered Realities: Paths are Made by Walking*. Hellum et al. (eds.). Weaver Press. P. 291-315.

Case law:

- "Open Door and Dublin Well Woman v. Ireland". Judgment by the European Court of Human Rights (1992)

Interpretations, as adopted by treaty bodies:

- CEDAW General Recommendation no. 24 (1999): *Women and health (Art. 12)*
- CESCR General Comment no. 14 (2000): *The right to the highest attainable standard of health (Art. 12)*
- CRC General Comment no. 3 (2003): *HIV/Aids and the rights of the child*
- CRC General Comment no. 4 (2003): *Adolescent health and development in the context of the Convention on the Rights of the Child*

7. Equality and religion

Monday 15 March 14:15 -16:00

Professor II Shaheen Sardar Ali

Main literature:

- Raday, Frances (2003): "Culture, Religion, and Gender", in *International Journal of Constitutional Law*, Vol.1, no.4. P. 663-695.
- Banda, Fareda (2004): "The End of 'Culture'? African Women and Human Rights", in *Remaking Law in Africa. Transnationalism, Persons and Rights*. Murrison, Griffiths and King (eds.). University of Edinburgh, p. 115-135.
- Okin, Susan Moller (1999): "Is Multiculturalism Bad for Women?" in *Is Multiculturalism Bad for Women?* Cohen, Howard and Nussbaum (eds.). Princeton University Press, p. 9-24.

8. Women's human rights and Islam

Tuesday 16 March 08.15 – 10:00. **(Please note the day and time!)**

Professor II Shaheen Sardar Ali

Main literature:

- Samia Bano (2004): "Complexity, Difference and 'Muslim Personal Law': Rethinking the Relationship between Shariah Councils and South Asian Muslim Women in Britain", in *Formalising Shariah Councils*. Doctoral thesis, University of Warwick, Department of Law. P. 260-267.
- Ali, Shaheen Sardar (2007): "Interpretative Strategies for Women's Human Rights in a Plural Legal Framework: Exploring Judicial and State Responses to Hudood Laws in Pakistan", in *Human Rights, Plural Legalities, and Gendered Realities: Paths are Made by Walking*. Hellum et al. (eds.). Weaver Press. P. 363-388.
- Ali, Shaheen Sardar (2007): *Overlapping Discursive Terrains of Culture, Law and Women's Rights: An Exploratory Study on Legal Pluralism at Play in Pakistan*. Warwick School of Law Research Paper. This article is not included in the course compendia. However, it is available on-line on the course home page, as well as at SSRN: <http://ssrn.com/abstract=1496330> .

Case law:

- Muhammed Siddique v. The State of Pakistan. Pakistan (2002)

9. Legal pluralism and women's rights

Friday 19 March 12:15 -14:00, Room 365 Domus Nova (*Note the place!*)

Research fellow Ingunn Ikdahl

Main literature:

- Banda, Fareda (2004): "The End of 'Culture'? African Women and Human Rights", in *Remaking Law in Africa. Transnationalism, Persons and Rights*. Murrison, Griffiths and King (eds.). University of Edinburgh, p. 115-135.
- Hellum, Anne (2007): "The Indivisibility of Water, Land and Food in Local, National and International Human Rights Law: The Case of Women's Gardens in Mhondoro, Zimbabwe", in *Food and Human Rights in Development, Vol.II: Evolving issues and emerging applications*. Barth Eide and Kracht (eds.). Intersentia. Chapter 12.

- Okin, Susan Moller (1999): "Is Multiculturalism Bad for Women?" in *Is Multiculturalism Bad for Women?* Cohen, Howard and Nussbaum (eds.). Princeton University Press, p. 9-24.
- Samia Bano (2004): "Complexity, Difference and 'Muslim Personal Law': Rethinking the Relationship between Shariah Councils and South Asian Muslim Women in Britain", in *Formalising Shariah Councils*. Doctoral thesis, University of Warwick, Department of Law. P. 260-267.

Case law:

- Ephraim v. Pastory. High Court of Tanzania (1990)
- Bhe and Others v. The Magistrate, Khayelitsha and Others. Constitutional Court of South Africa (2004)

10. The right to access to resources: Land, water and food

Monday 22 March 14:15 -16:00, Room 540 Domus Nova

Research fellow Ingunn Ikdahl

Main literature:

- Ikdahl, Ingunn, with A. Hellum, R. Kårhus and T. A. Benjaminsen (2005): "Women's Land Rights: A Human Rights-Based Approach", in *Human Rights, Formalisation and Women's Land Rights in Southern and Eastern Africa*. Studies in Women's Law No. 57, University of Oslo. P. 14-29.
- Hellum, Anne (2007): "The Indivisibility of Water, Land and Food in Local, National and International Human Rights Law: The Case of Women's Gardens in Mhondoro, Zimbabwe", in *Food and Human Rights in Development, Vol.II: Evolving issues and emerging applications*. Barth Eide and Kracht (eds.). Intersentia. Chapter 12.

Case law:

- Ephraim v. Pastory. High Court of Tanzania (1990)
- Bhe and Others v. The Magistrate, Khayelitsha and Others. Constitutional Court of South Africa (2004)

Interpretations, as adopted by treaty bodies:

- CEDAW General Recommendation no. 21 (1994): *Equality in marriage and family relations*
- CESCR General Comment no. 12 (1999): *The right to adequate food (Art. 11)*
- CESCR General Comment no. 15 (2002): *The right to water (Arts. 11 and 12 of the Covenant)*

11. SEMINAR 2

Friday 26 March 12:15 -14:00, Room 540 Domus Nova

Research fellow Ingunn Ikdahl

12. Protection against violence

Friday 9 April 12:15 - 14:00, Room 540 Domus Nova

Research fellow Ingunn Ikdahl

Main literature:

- Radhika, Coomaraswamy and Lisa M. Kois (1999): "Violence Against Women", in *Women and International Human Rights Law Vol. 1*. Askin and Koenig (eds.). Transnational, Ardsley N.Y. P. 177-217.
- Merry, Sally Engle (2001): "Women, Violence and the Human Rights System", in *Women, Gender and Human Rights. A Global Perspective*. Majorie Agosin (ed.), Rutgers University Press. P. 83-97.
- Bailliet, Cecilia (2007): "Examining Sexual Violence in the Military within the Context of Eritrean Asylum Claims presented in Norway". P. 1-38.
- Giulia, Paglione (2006): "Domestic Violence and Housing Rights. A Reinterpretation of the Right to Housing", in *Human Rights Quarterly*, vol. 28 no. 1. P. 120-147.

13. Implementation, realization and monitoring

Friday 16 April 12:15-14:00, Room 540 Domus Nova

Research fellow Ingunn Ikdahl

Main literature:

- Merry, Sally Engle (2006): Excerpts from chapter 6: "Localizing Human Rights and Rights Consciousness", in *Human Rights and Gender Violence. Translating International Law into Local Justice*. The University of Chicago Press. P. 179-192 and p. 215-217.
- Thune, Gro Hillestad (2007): "New fellow citizens – challenges and possibilities. Implementing human rights among immigrants, the case of female circumcision in Norway", in *Human Rights, Plural Legalities, and Gendered Realities: Paths are Made by Walking*. Hellum et al. (eds.). Weaver Press. P. 363-378.

14. Concluding session

Date and time: to be announced

Research fellow Ingunn Ikdahl