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## **The importance of including traditional values in the promotion of human rights even though neither 'traditions' nor 'values' may be real**

Do traditional values have any place at all in a human rights regime? Obviously some traditional values are discriminatory or in other ways violating human rights. However, doing away with traditions and values may not be the best way to promote human rights. In fact, protection of traditional values is also a part of human rights protection, cf. the African Charter of Human and Peoples' Rights, Art. 17(3): "The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State". This provision

was actively engaged in the Endorois-case in which the African Commission held Kenya responsible by hindering a community in living according to its traditions. More generally, human rights also involve participation, and the idea which may sometimes be prevalent, cf. CEDAW, Art. 5(a), that local customs must be eliminated may not always be an appropriate approach. Modernization in terms of doing away with traditions is both insufficient for the promotion of human rights and at times even counterproductive. On the other hand 'traditional values' is a dubious teammate. Firstly, values may constitute a counterbalance to prevailing practices rather than being a reflection, thereby making it dif-

difficult to point out exactly what prevailing values are (Barth). Secondly, tradition is equally ambiguous, as identifiable traditions are often rather recent inventions (Hobsbawm). Thirdly, the Declaration emphasizes traditional values “shared by all humanity”, which raises the questions of whether it is possible at all to pinpoint such common traditions *and* whether an existence of a common tradition has any bearings on present human rights law, which as any law, is about correcting behavior.

Whether it is possible to reconcile traditional values and human rights is an open question. But in order to better protect human rights, traditional values should neither uncritically be left out nor uncritically be let in.