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## PROBLEM - THE SAWHOMAYAXA CASE (PART 4) (1 point possible)

4. Human rights treaties are of a specific nature in that they provide not for an exchange of rights and obligations between States in their mutual interest, but for the subordination of States to a set of rules designed in the interest of the protection of the persons under their jurisdiction.

☐ valid

☒ invalid ✓

Help

### EXPLANATION

This argument is seductive but *invalid*. It is this argument that the Inter-American Court of Human Rights puts forward in para. 140 of its judgment cited above, where it refers to the American Convention on Human Rights as "a multilateral treaty on human rights that stands in a class of its own and that generates rights for individual human beings and does not depend entirely on reciprocity among States". It is of course true that human rights treaties present this characteristic. As noted by the Human Rights Committee: "Such treaties, and the [International Covenant on Civil and Political Rights] specifically, are not a web of inter-State exchanges of mutual obligations. They concern the endowment of individuals with rights" (Human Rights Committee, General Comment No. 24 (1994), *Issues relating to Reservations made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in relation to Declarations under Article 41 of the Covenant* (<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsjYoiCfMKoiRv2FVaVzRkMjTnjRO%2bfud3cPVrcM9YRoiD0bYgX7PeLhluz%3d%3d>), at para. 17). Indeed, as we will see in the study of reservations to human rights treaties, this is why human rights courts or expert bodies must assert their role to supervise implementation, as the States parties to such treaties will show little enthusiasm for doing so themselves. However, while it is relevant to the role of States and international bodies respectively in ensuring adequate monitoring, it is unrelated, in principle, to the existence of a hierarchy between various kinds of treaties.

Check

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