

## SPAIN

### CCPR

#### **OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS**

*(Ed. note: for the text targeted by the following objections, see the Reservations and Declarations of the State which is the subject of the objection)*

5 October 1993

With regard to the reservations made by the United States of America:

... After careful consideration of the reservations made by the United States of America, Spain wishes to point out that pursuant to article 4, paragraph 2, of the Covenant, a State Party may not derogate from several basic articles, among them articles 6 and 7, including in time of public emergency which threatens the life of the nation.

The Government of Spain takes the view that reservation (2) of the United States having regard to capital punishment for crimes committed by individuals under 18 years of age, in addition to reservation (3) having regard to article 7, constitute general derogations from articles 6 and 7, whereas, according to article 4, paragraph 2, of the Covenant, such derogations are not to be permitted.

Therefore, and bearing in mind that articles 6 and 7 protect two of the most fundamental rights embodied in the Covenant, the Government of Spain considers that these reservations are incompatible with the object and purpose of the Covenant and, consequently, objects to them.

This position does not constitute an obstacle to the entry into force of the Covenant between the Kingdom of Spain and the United States of America.

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9 October 2001

With regard to the reservation to article 7 made by Botswana upon ratification:

The Government of the Kingdom of Spain has examined the reservation made on 16 December 2000 by the Government of the Republic of Botswana to article 7 of the International Covenant on Civil and Political Rights, which makes its adherence to that article conditional by referring to the current content of Botswana's domestic legislation.

The Government of the Kingdom of Spain considers that this reservation, by referring to domestic law, affects one of the fundamental rights enshrined in the Covenant (prohibition of torture, right to

physical integrity), from which no derogation is permitted under article 4, paragraph 2, of the Covenant. The Government of Spain also considers that the presentation of a reservation referring to domestic legislation, in the absence of further clarifications, raises doubts as to the degree of commitment assumed by the Republic of Botswana in becoming a party to the Covenant.

Accordingly, the Government of the Kingdom of Spain objects to the above-mentioned reservation made by the Government of the Republic of Botswana to article 7 of the Covenant on Civil and Political Rights of 1966.

This objection does not prevent the entry into force of the Covenant between the Kingdom of Spain and the Republic of Botswana.

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17 September 2007

With regard to the reservation made by Maldives upon accession:

“The Government of the Kingdom of Spain has reviewed the reservation made by the Republic of Maldives on 19 September 2006, at the time of its accession to the International Covenant on Civil and Political Rights of 16 December 1966.

The Government of the Kingdom of Spain observes that the broad formulation of the reservation, which makes the application of article 18 of the International Covenant on Civil and Political Rights conditional on its conformity with the Constitution of Maldives without specifying the content thereof, renders it impossible to ascertain to what extent the Republic of Maldives has accepted the obligations arising from that provision of the Covenant and, in consequence, raises doubts about its commitment to the object and purpose of the treaty.

The Government of the Kingdom of Spain considers the reservation of the Republic of Maldives to the International Covenant on Civil and Political Rights as incompatible with the object and purpose of the Covenant.

The Government of the Kingdom of Spain recalls that, under customary international law as codified in the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of a treaty are not permitted.

Accordingly, the Government of Spain objects to the reservation made by the Republic of Maldives to the International Covenant on Civil and Political Rights.

This objection does not prevent the entry into force of the International Covenant on Civil and Political Rights between the Kingdom of Spain and the Republic of Maldives.”

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9 June 2011

With regard to the reservation made by Pakistan upon ratification:

The Government of the Kingdom of Spain has examined the reservations made by Pakistan upon ratification of the International Covenant on Civil and Political Rights, concerning articles 3, 6, 7, 12, 13, 18, 19, 25 and 40 of the said Covenant.

The Government of the Kingdom of Spain considers that the above-mentioned reservations are incompatible with the object and purpose of the Covenant, since they are intended to exempt Pakistan from its commitment to respect and guarantee certain rights essential for the fulfilment of the object and purpose of the Covenant, such as equality between men and women; the right to life and restrictions on the imposition of the death penalty; the prohibition of torture and other cruel, inhuman or degrading treatment; freedom of thought, conscience and religion; freedom of expression; liberty of movement and freedom in choice of residence; restrictions on the expulsion of aliens lawfully in the territory of a State Party; and the right to take part in public affairs, the right to vote and to be elected and the right to have access to public service on terms of equality, or to limit the said commitment in an undefined manner.

The Government of the Kingdom of Spain also considers that the reservation whereby Pakistan declares that it does not recognize the competence of the Human Rights Committee provided for in article 40 of the Covenant is incompatible with the object and purpose of the Covenant.

Furthermore, the Government of the Kingdom of Spain considers that the above-mentioned reservations made by Pakistan, subordinating the application of certain articles of the Covenant either to their conformity with sharia law or to their conformity with the Constitution of Pakistan, or to both, to which general reference is made without specifying their content, in no way excludes the legal effects of the obligations arising from the relevant provisions of the Covenant.

Accordingly, the Government of the Kingdom of Spain objects to the reservations made by Pakistan to articles 3, 6, 7, 12, 13, 18, 19, 25 and 40 of the International Covenant on Civil and Political Rights.

This objection does not prevent the entry into force of the Covenant between the Kingdom of Spain and Pakistan.

#### **DECLARATION RE: ARTICLE 41**

11 March 1998

The Government of Spain declares that, under the provisions of article 41 of the [Covenant], it recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.

### Note

A note verbal, dated 28 January 1998, transmitting the text of the declaration made by the Government of Spain recognizing the competence of the Human Rights Committee under article 41 of the Covenant was deposited on 30 January 1998. Subsequently, in order to correct an error contained in that declaration, the Secretary-General received from the Government of Spain a note verbal dated 9 March 1998, transmitting a corrected and signed text of the declaration which was deposited on 11 March 1998.

Previous declarations were received on 25 January 1985 and 21 December 1988, and expired on 25 January 1988 and 21 December 1993, respectively.

*(Note 43, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)*