

CANADA

CCPR

OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS

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

18 September 2007

With regard to the reservation made by Maldives upon accession:

“The Government of Canada has carefully examined the reservation made by the Government of the Maldives upon acceding to the International Covenant on Civil and Political Rights, in accordance with which the "application of the principles set out in Article 18 of the Covenant shall be without prejudice to the Constitution of the Republic of Maldives".

The Government of Canada considers that a reservation which consists of a general reference to national law constitutes, in reality, a reservation with a general, indeterminate scope, such that it makes it impossible to identify the modifications to obligations under the Covenant, which it purports to introduce and it does not clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Covenant.

The Government of Canada notes that the reservation made by the Government of the Maldives which addresses one of the most essential provisions of the Covenant, to which no derogation is allowed according to article 4 of the Covenant, is in contradiction with the object and purpose of the Covenant. The Government of Canada therefore objects to the aforesaid reservation made by the Government of the Maldives.

This objection does not preclude the entry into force in its entirety of the Covenant between Canada and the Maldives.”

27 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Canada has carefully examined the reservations made by the Government of the Islamic Republic of Pakistan upon ratification of the International Covenant on Civil and Political Rights, which declare that:

“the provisions of Articles 3, 6, 7, 18 and 19 shall be so applied to the extent that they are not

repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws”;

“the provisions of Article 12 shall be so applied as to be in conformity with the Provisions of the Constitution of Pakistan”;

“With respect to Article 13, the Government of the Islamic Republic of Pakistan reserves its right to apply its law relating to foreigners”;

“the provisions of Article 25 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan”; and the Government of the Islamic Republic of Pakistan “does not recognize the competence of the Committee provided for in Article 40 of the Covenant”.

The Government of Canada considers that reservations which consist of a general reference to national law or to the prescriptions of the Islamic Sharia constitute, in reality, reservations with a general, indeterminate scope. This makes it impossible to identify the modifications to obligations under the Covenant that each reservation purports to introduce and impossible for the other States Parties to the Covenant to know the extent to which Pakistan has accepted the obligations of the Covenant, an uncertainty which is unacceptable, especially in the context of treaties related to human rights.

The Government of Canada further considers that the competence of the Committee to receive, study and comment on the reports submitted by States Parties as provided for in Article 40 of the Covenant is essential to the implementation of the Covenant. Through its function and its activity, the Human Rights Committee plays an essential role in monitoring the fulfillment of the obligations of the States Parties to the Convention. Participation in the reporting mechanism outlined in Article 40, which is aimed at encouraging more effective implementation by States Parties of their treaty obligations, is standard practice of States Parties to the Covenant.

The Government of Canada notes that the reservations made by the Government of the Islamic Republic of Pakistan, addressing many of the most essential provisions of the Covenant, and aiming to exclude the obligations under those provisions, are incompatible with the object and purpose of the Covenant, and thus inadmissible under Article 19(c) of the Vienna Convention on the Law of Treaties. In addition, Articles 6, 7 and 18 of the Covenant are among the provisions from which no derogation is allowed, according to Article 4 of the Covenant. The Government of Canada therefore objects to the aforesaid reservations made by the Government of the Islamic Republic of Pakistan.

This objection does not preclude the entry into force in its entirety of the Covenant between Canada and the Islamic Republic of Pakistan.”

Note

The reservation was lodged with the Secretary-General on 4 December 2006 by Bahrain, following its accession to the Covenant on 20 September 2006.

In keeping with the depositary practice followed in similar cases, the Secretary-General proposed to receive the reservation in question for deposit in the absence of any objection on the part of any of the Contracting States, either to the deposit itself or to the procedure envisaged, within a period of 12 months from the date of the present depositary notification. In the absence of any such objection, the above reservation would be accepted in deposit upon the expiration of the above-stipulated 12 month period, that is on 28 December 2007.

In view of the below objections, the Secretary-General did not accept the reservation made by Bahrain in deposit. The Secretary-General received the following objections on the dates indicated hereinafter:

...

Canada (18 September 2007):

"The Government of Canada has carefully examined the declaration made by the Government of the Kingdom of Bahrain upon acceding to the International Covenant on Civil and Political Rights, in accordance with which the Government of the Kingdom of Bahrain 'interprets the Provisions of Article 3, 18 and 23 as not affecting in any way the prescriptions of the Islamic Shariah'.

The Government of Canada notes that these declarations constitute in reality reservations and that they should have been lodged at the time of accession by Bahrain to the Covenant.

The Government of Canada considers that by making the interpretation of articles 3, 18 and 23 of the Covenant subject to the prescriptions of the Islamic Shariah, the Government of the Kingdom of Bahrain is formulating reservations with a general, indeterminate scope, such that they make it impossible to identify the modifications to obligations under the Covenant, which they purport to introduce and they do not clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Convention.

The Government of Canada notes that the reservations made by the Government of the Kingdom of Bahrain, addressing some of the most essential provisions of the Covenant, and aiming to exclude the obligations under those provisions, are in contradiction with the object and purpose of the Covenant. In addition, article 18 of the Covenant is among the provisions from which no derogation is allowed, according to article 4 of the Covenant.

The Government of Canada therefore objects to the aforesaid reservation made by the Government of the Kingdom of Bahrain. This objection does not preclude the entry into force in its entirety of the Covenant between Canada and the Kingdom of Bahrain."

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(Note 15, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)

DECLARATION RE: ARTICLE 41

29 October 1979

"The Government of Canada declares, under article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee referred to in article 28 of the said Covenant to receive and consider communications submitted by another State Party, provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Canada, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself."