

LIMITATIONS - GENERAL - GENERAL PROHIBITION ON LIMITATIONS

II. CONCLUDING OBSERVATIONS

ICCPR

- Peru, ICCPR, A/51/40 vol. I (1996) 48 at para. 348.

The Decree Laws, which purport to divest individuals of the right to have the legality of the Amnesty Law reviewed in courts, are of concern. Domestic legislation cannot modify a State party's international obligations under the Covenant.

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at para. 202.

Internal political constraints cannot serve as a justification for non-compliance by the State party with its international obligations under the Covenant.

- Republic of Korea, ICCPR, A/55/40 vol. I (2000) 29 at para. 126.

Citing security concerns does not in itself justify restrictions on Covenant rights. Even when a State party is faced with genuine security problems, restrictions on rights must meet the requirements of the Covenant.

- Australia, ICCPR, A/55/40 vol. I (2000) 71 at paras. 516 and 517.

Paragraph 516

It is noted that political negotiations between the Commonwealth Government and the governments of states and territories take place in cases in which the latter have adopted legislation or policies that may involve a violation of Covenant rights. However, it is stressed that such negotiations cannot relieve the State party of its obligation to respect and ensure Covenant rights in all parts of its territory without any limitations or exceptions (art. 50).

Paragraph 517

Political arrangements between the Commonwealth Government and the governments of states or territories may not condone restrictions on Covenant rights that are not permitted under the Covenant.

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- Trinidad and Tobago, ICCPR, A/56/40 vol. I (2001) 31 at para. 72(8).

Upon ratifying the Covenant, the State party accepted obligations under articles 2.1 and 2.2 to ensure that all individuals subject to its jurisdiction should enjoy Covenant rights and, insofar as they are not already in place, to take the necessary steps to adopt measures to give effect to those rights. The State party may not rely on limitations in its Constitution as grounds for non-compliance with the Covenant but should put in place the necessary laws to achieve such compliance.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at para. 79(17).

Concern is expressed about the broad notion of "rights and interests of the Republic of Uzbekistan" as a general limitation on the enjoyment of human rights in article 16, which taken together with article 20 of the State party's Constitution, gives rise to an apprehension that human rights could be restricted at the discretion of the State. The State party should take measures to effectively ensure that these articles of the Constitution are not used for the purposes of restricting human rights, contrary to article 2 of the Covenant.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at para. 85(10).

In ratifying the Covenant the State party accepted the obligations contained in article 2, paragraphs 1 and 2, to ensure to all individuals subject to its jurisdiction the rights recognized in the Covenant and to take the necessary steps to adopt, if they do not already exist, measures to give effect to those rights. The State party's claim that the principles of the Constitution prevent it from giving effect to the provisions of the Covenant and, for example, the fact that personal jurisdiction has been maintained for members of the military and some rights of members of indigenous communities are not being recognized, is of concern. The limitations of its Constitution should not be put forward as a reason for non-compliance with the Covenant, but the necessary reforms should be drawn up to achieve such compliance.

ICESCR

- Ecuador, ICESCR, E/1991/23 (1990) 33 at para. 156.

While taking note of the difficulties indicated, notably the foreign debt burden, attention is drawn to the obligation devolving upon State parties under the Covenant, whatever their level of development.

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- Mauritius, ICESCR, E/1996/22 (1995) 47 at para. 231.

Notwithstanding the geographical isolation of the island of Rodrigues and the consequent logistical problems in the delivery of basic government services, a fact which is a considerable impediment, the Government is still under the obligation to ensure the enjoyment by the population of Rodrigues of its economic, social and cultural rights.