IMPLEMENTING INTERNATIONAL STANDARDS IN SEARCH AND SEIZURE: STRIKING THE BALANCE BETWEEN ENFORCING THE LAW AND RESPECTING THE RIGHTS OF THE INDIVIDUAL

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INTRODUCTION

A discussion of Search and Seizure in the criminal process requires an understanding of the powers that have been given to law enforcement authorities to do their job. This includes an appreciation of the kind of interference or intrusions exercised by the police in carrying out their duties in a person's privacy, home, family and papers. The universal starting point is recognition of the standard set out in Article 17 of The International Covenant of Civil and Political Rights which states that,

> "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home and correspondence, nor to unlawful attacks on his honour and reputation."

In addition, everyone has the right to the protection of the law against such interference or attacks. Further, Article 2 of the Covenant requires each State Party to ensure that any person whose rights or freedoms are violated shall have an effective remedy to be determined by competent judicial, administrative or legislative authorities and the remedy will be enforceable when granted. Therefore, when a State Party ratifies the Covenant it undertakes to implement these requirements into domestic legislation primarily in the area of the criminal law. What does this involve?

It is universally and generally recognized in our modern age that one of the fundamental principles of the rule of law is that Criminal Law must begin with an enactment by a competent body creating a criminal offence. Most Nations do this pursuant to the authority of their Constitution and the crimes are generally enumerated in a law commonly known as a Criminal Code or similar type of statute. Further, to provide the powers necessary to enforce the law there are procedural rules that are set out that are to be followed by the investigating and prosecution authorities. In addition, rules of evidence are stipulated in other laws that are to be applied by an independent adjudicator. This is usually done by a constitutionally authorized court that is created to ensure that a person who commits a crime will be provided a fair trial in accordance with international standards. These minimum guarantees are contained in the International Covenant and enumerated in Articles 14, 15 and 17.

The Human Rights Committee, the treaty body that monitors State Parties' compliance of their obligations under the Covenant, assists States in understanding the extent of these rights by providing direction in General Comments. In General Comment #16 (1994), the Committee remarks that it is 'precisely in State legislation above all that provision must be made for the protection' against both unlawful and arbitrary interference. In the Committee's view, the introduction of the concept of arbitrariness is intended to guarantee that even inference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances. Even with regard to interference that conforms to the Covenant, relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted.

The Committee further notes that a decision to make use of such authorized interference must be made only by the authority designated under the law, and on a case-by-case basis. The Committee further articulates that compliance with Article 17 requires that the integrity and confidentiality of correspondence should be guaranteed, meaning that correspondence should be delivered to the addressee without interception and without being opened or otherwise read. Searches of a person's home should be restricted to a search for necessary evidence and should not be allowed to amount to harassment. So far as personal and body search is concerned, effective measures should ensure that such searches are carried out in a manner consistent with the dignity of the person who is being searched.

It is a fundamental principle of the rule of law and a necessary part of a democracy that the citizens of a nation must be protected from unjustified intrusions of privacy and property by agents of the state. Otherwise, arbitrary actions by state officials could seriously affect the personal freedom of the individual as a fundamental aspect of a free and democratic society. In this paper I will limit my comments to the topic of Search and Seizure and the remedies that have been provided for in the various jurisdictions when the police or investigating bodies have exceeded or abused their responsibilities. The focus of the paper will be on the Canadian and American experience. Some references will also be made to the European situation. First, some background notes to give us a context for our discussion.

AN HISTORICAL OVERVIEW

An important part of the work of the police in bringing persons to be held accountable for having committed a crime is the obtaining of evidence through the search of places and the seizure of things that are found there. This is in addition to all the other duties of law enforcement authorities such as finding and identifying the person who committed the crime and taking lawful statements and confessions as part of the evidence gathering process. Historically, the origins of the need to limit the powers of the authorities to enforce laws are of long standing in the Western tradition. Anglo-American-Canadian law has recognized for centuries that state authorities should not be permitted to have unlimited access to search and seize things belonging to citizens. Thus, in the common law world the protection against invasion of a person's home reaches back some 400 years ago in England. The maxim, " Every man's home is his castle" was a highly respected principle that was enshrined in Semayne's Case in 1603. The English Court recognized the right of the homeowner to defend his house against unlawful entry by the King's agents. At the same time the authority to break and enter upon proper notice by appropriate officers was acknowledged. Shortly thereafter in the British colonies the urgency to protect against unreasonable search and seizures arose as a result of the English efforts to enforce the revenue laws against smuggling. Writs of Assistance by the King's agents were used as a general search warrant allowing entry into any house or other place to search and seize any prohibited and uncustomed goods. One of the consequences of these arbitrary powers led to the American Revolution with the American colonies declaring themselves independent as the United States of America. On a different track, the Canadian history was one of gradual evolution rather than

revolution. The results of the European developments over the centuries have culminated in the adoption of The European Convention on Human Rights.

It can be concluded from this short history that a fundamental principle was established to the effect that state agents have been required to have legal authority for undertaking searches and seizures. Secondly, it is clear that the preference by the courts has been established requiring warrants that must be issued by an independent authority, usually a judicially constituted body such as a judge or magistrate. And thirdly, reasonable grounds on the part of the police for searching and seizure must have been demonstrated. Overall, Canada followed the British common law tradition and incorporated major features of the British adversarial system including the standard for searches to be based on reasonable grounds. Nevertheless, there are a few situations where warrantless searches and seizures have been permitted during this historical development of the law in the Western tradition. These will be discussed later in the paper.

THE CANADIAN SYSTEM

Canada became a separate country in 1867 with its owns laws including several years later its own Criminal Code and procedures on search and seizure powers. Canada followed the British view of being concerned with the abuse of authority by the government and its officials. Today, preventing arbitrariness is still a central concern of Canadian criminal procedure even though the system grants considerable discretion to the police and the prosecution performing their functions to enforce the law. However, it is very clear that the State must prove that the crime was committed by the accused beyond a reasonable doubt based on evidence that has been properly obtained in accordance with the law.

The Canadian Charter of Rights and Freedoms

Canadian criminal procedure and evidence attempts to be true to the principle of the rule of law. In fact, the passage of the Charter of Rights and Freedoms in 1982 in the Canadian Constitution sets out the law as we know it today. The primary aim of the Charter is to protect individual rights and freedoms from state action. This means that the Charter must be interpreted by the courts to constrain government from infringing upon those rights rather than to authorize governmental action. Using such an approach the Charter has imposed additional constraints to the common law on search and seizure powers.

Protection Against Unreasonable Search And Seizure in Section 8 of the Charter

Section 8 in the Legal Rights part of the Charter declares, “Everyone has the right to be secure against unreasonable search and seizure”. The word used in Section 8 is “unreasonable”. The question is what is reasonable? To be “reasonable” the Canadian courts have said that the search must be authorized by law, the law itself must be reasonable and the search must be carried out in a reasonable manner. For the search to be one authorized by law, it must be authorized by a specific statute or common law rule, must be carried out in compliance with the procedural and substantive requirements of that law and the scope of the search must be limited to the area and items for which the

law has provided. The most common and preferred way of obtaining authorization to conduct a search is by getting a search warrant from a court. The authority and procedure are set out generally in the Criminal Code of Canada. However, there are many other federal statutes which have their own requirements such as in Drugs, Competition and Revenue cases and as well in provincial laws. Therefore, the presumptive rule is to obtain a warrant. However, it is recognized that if it is not feasible in the circumstances it is still possible to conduct a warrantless search, especially in those instances that are known as "exigent" circumstances, search incident to arrest or in "hot pursuit" situations.

The Supreme Court of Canada in it's role as the ultimate interpreter of the Constitution and the Charter have found that the purpose behind the section is to protect the privacy of people as well as to guard against invasion of a person's home and property. As a result in some cases the search and seizure powers themselves have been found to be unconstitutional, while in most of the cases it has been the failure of the police to abide by the rules that has resulted in the evidence being excluded as the remedy for the violation.

In determining what is reasonable, the Supreme Court of Canada has established the following principles:

1. The purpose behind Sections 8 is to protect the privacy of individuals from unjustified state intrusion.
2. This interest in privacy is, however, limited to a "reasonable expectation of privacy".
3. Wherever feasible, prior authorization must be obtained in order for a search to be reasonable.
4. Prior authorization must be given by someone who is neutral and impartial and who is capable of acting judicially.
5. The person granting authorization must be satisfied by objective evidence on oath that there are reasonable and probable grounds for believing that an offence has been committed and that a search of the place for which the warrant is sought will find evidence related to that offence.
6. If the defence establishes that a search was warrantless, the Prosecutor must establish that it was reasonable.
7. A search is reasonable if it is authorized by law, the law itself is reasonable and if the manner of the search is reasonable.

<u>What is a search and seizure?</u>

The other important question is what amounts to a search and seizure? It has been simply stated as conduct in a situation involving a reasonable expectation of privacy. Further what is the definition of privacy? Generally, it means that a person can keep personal information and his affairs secret and out of the public domain. The government comes into direct conflict when its agents need to investigate and prosecute crimes. Therefore, if there is an expectation of privacy then a search and seizure must be controlled. Thus, intrusions to a person's bodily integrity are in the highest level.

Homes are next in the category. In the lesser categories are offices and businesses, automobiles and other similar type places. Where licences or a regulated area is involved

the expectation is considered lower on the scale. In terms of what constitutes a seizure it has been defined by The Supreme Court of Canada as, "the taking of a thing from a person by a public authority without that person's consent". It also includes compelling a person to give up a thing or object that he owns or has in his possession. Electronic interception of communications (wiretapping), video surveillance, the installation of a tracking device on a vehicle and such things are all searches under Section 8 protection. However, some things are not considered searches. For example, a police check of the electrical consumption records of the accused obtained from a utility company did not engage section 8.

It is accepted that there are still uncertainties in this area. For example, the access to Bank Records may be one area where it will depend on the legislative basis for obtaining them or not. Of course, consenting to a search or seizure is in effect waiving a reasonable expectation of privacy and does not trigger section 8 requirements. Obtaining a true and informed consent becomes the real issue in these cases to ensure that it is voluntary.

It should be noted that when a search takes place under a regulatory scheme, as opposed to the investigation of a criminal offence, this makes a significant difference with respect to the level of expectation of privacy. For example, in Canadian law a demand by a police officer that a driver of a motor vehicle produce his licence and registration for the car pursuant to a Provincial statute does not amount to a search that invokes Section 8 requirements. The Supreme Court of Canada held that there is no reasonable expectation of privacy when someone is requested to produce a licence or other evidence in compliance with a legal requirement that is part of a legislated scheme to regulate conduct. Thus, in some situations Section 8 has no application. In addition, civil processes that result in the seizure of property are not within its scope. Further, a seizure of a person is not included because the person is protected under Section 9 from arbitrary detention or imprisonment.

<u>What is a Valid Search?</u>

There are a series of questions that the decision-maker, usually a judge presiding in a trial, must ask when determining whether a specific search is constitutional and valid.
These include:

1. Was the action taken a search or a seizure? In other words was it a situation where there was a reasonable expectation of privacy.
2. If search or seizure did take place what is the level of expectation of privacy that is affected?
3. If the level of privacy as set out by the Supreme Court was reached then was the legal authority present?
4. Does the legal authority for the search require obtaining prior authorization and was it feasible to do in the situation?
5. If the legal authority requires prior authorization does it require that it be issued by a neutral and impartial decision maker?
6. Were the statutory requirements to obtain the warrant complied with when the search was conducted?

7. If the search was a warrantless search can it be justified? In fact was it done properly and in exigent circumstances or for the safety of the public or other valid reason.

If the judge finds that there is a violation the remedy of excluding the evidence can be invoked.

The Remedy of Excluding Evidence

At this point a short discussion is needed on the remedy a judge can invoke in a trial when he finds that evidence has been illegally or improperly obtained. The generally accepted reasons for excluding evidence are as follows:

1.To avoid the risk that the evidence is unreliable;

2. To preserve the integrity of the judicial process and the courts by ensuring that the courts and judges are not or are not perceived as condoning or encouraging unlawful or improper conduct on the part of the police;

3.To discourage police officers and other authorities from engaging in such conduct;

4.To protect citizens against violations committed;

5. To avoid undue prejudice to the accused in order to ensure a fair trial.

It is argued by some scholars and lawyers that the exclusion of relevant and reliable evidence obtained improperly or unlawfully is an effective means of disciplining police officers as well as maintaining the integrity and public confidence in the integrity of the judicial system. However, it would appear from Canadian and American experience that there is no convincing evidence that there is any deterrent effect on the police as such. In fact, it may in reality encourage circumvention of the law. It is more credible to state that the maintenance of the integrity of the courts is a better reason for the exclusionary rule. In addition, it is probably safe to state that excluding reliable and relevant evidence doesn't serve justice well unless the actions of the police are so unacceptable that the entire creditability of the administration of justice would be brought into disrepute in the eyes of the public. Now, some comments of the Canadian approach.

The Exclusionary Rule in Canadian Law- Section 24 of the Charter

Section 24(1) of the Charter provides that anyone whose has rights or freedoms that have been infringed or denied may apply to a court to obtain a remedy that is just and appropriate. The remedy that the court can apply is to exclude the evidence obtained in the course of a violation of a constitutional right if it is established that having regard to all the circumstances, the admission of the evidence in the proceeding would bring the administration of justice into disrepute. This has become known as the Canadian Constitutional exclusionary rule. Thus, the most common and important remedy in the criminal process is the exclusion of evidence under section 24(2) of the Charter. The consequence is that the judge may bring a prosecution to an end. This is known as a stay of proceedings. The effect is the same as if the accused had been acquitted after his trial. The accused is not convicted and is free to carry on with his life.

In order for the evidence to be excluded the defence must prove to the court three things: (1) that there was a breach of a Charter right; (2) that the evidence was obtained in the course of the Charter violation; and (3) that the admission of the evidence could, in all of the circumstances, bring the administration of justice into disrepute. Having shown that there was breach of the right by the police in gathering the evidence the defence must

prove on a balance of probabilities that the admission of that evidence would bring the administration of justice into disrepute. At this point a basic question arises as whether the remedy of excluding the evidence is to punish the police for their improper conduct or to prevent the courts from being implicated in that misconduct by condoning it by not excluding the evidence? The answer is the latter. The judge in making a decision of whether to admit the evidence must consider several factors. These include: (1) the relation to the fairness of the trial; (2) the seriousness of the violation including whether the violation was committed deliberately or in good faith, whether it was inadvertent or technical, whether it was done in urgent or exigent circumstances, whether other valid investigatory techniques were available and whether it was a pattern of violations; (3) the effect of the exclusion of the evidence on the reputation of the administration of justice. In other words would the exclusion bring the administration of justice into greater disrepute in the eyes of the community than to admit it.

However, there are two situations where evidence may still be admitted in spite of a violation that has an adverse impact on the fairness of a trial. The first is in the situation of derivative evidence, that is, evidence which is real evidence but whose location is derived from evidence emanating from the accused. The second exception is where it can be shown that the accused would have provided the evidence even if his rights would have been respected. This area includes statements made by the accused to the police, breath and blood samples, police lineups and re-enactments of the crime. One of the important factors has been the so-called "Good Faith" exception. This is where the police have relied upon previous court decisions or understanding of the law for their actions. It should also be noted that there is a limited power by the court to exclude evidence that has been allowed in situations where the fairness of the trial could be affected. This has been the case in cases where the police have used unfair tactics or methods that have not violated as such a Charter provision.

A Final Comment on Search and Seizure

In Canadian criminal procedure law the use of search and seizure powers by the police in the investigation of crimes is probably one of the most difficult parts to deal with and is in a continuing state of development by the courts. The need to analyze each case is essential and to weigh the interests of the state and the police in enforcing the law against the protection of the rights of the individual as guaranteed in the Charter. Therefore, it can be concluded that the Charter has provided greater protection against self-incrimination and protection to more than simply property in the context of search and seizure cases.

THE AMERICAN APPROACH

In the United States Constitution the Fourth Amendment sets out the protections against unreasonable searches and seizures by stating that,

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and

particularly describing the place to be searched, and the persons or things to be seized".

Nevertheless, there were still lawful warrantless searches that could be undertaken such as, searches incidental to arrest. The result has been that only those pursuant to a warrant needed to be "reasonable". However, over the years the Supreme Court of the United States has held that the police must, whenever practicable, obtain advance judicial approval of search and seizures through a warrant procedure. Of course, exceptions to searches under warrants were to be closely contained by the necessity for the exception. These exceptions today are in the administrative searches category justified by special needs. Thus, warrantless searches are permitted by administrative authorities in public schools, government offices, prisons and in drug testing of certain public and transportation employees justified on the basis of public safety. It is argued that this is justified because the government's interest outweighs the privacy interests of the individual.

Effect of the Fourth Amendment

For the Fourth Amendment to be applicable there must be a search and seizure occurring typically in a criminal case. The primary aim is to protect privacy and whether there is an expectation of privacy that exists. Thus protection of the home is at the top of the list because of the right associated with the ownership to exclude others. The balancing test set forth by the United States Supreme Court examines the level of privacy interest involved and then the extent of intrusion involved. What constitutes a search depends on whether or not a person had a reasonable expectation of privacy in the place searched. The Supreme Court has held that an expectation of privacy arises in places outside the home including commercial premises. A search or seizure is not "unreasonable" if it is authorized by a warrant and that " probable cause" exists to believe that contraband or evidence of the crime can be found by the police. What is meant by probable cause has been held by the Courts to be whether or not there was reasonable grounds to believe that a law was being violated and that there was evidence to be found in the place identified to be searched.

The American Exclusionary Rule

A discussion of this rule must include a comment on the alternatives to its use. In both the United States and Canada, it can be said that an illegal search and seizure as opposed to an unreasonable one may be the subject of a criminal action against the police, prosecuting the police for unlawful trespass or some type of offence. However, experience in both countries show that it is more likely that the police officer would be subject to disciplinary measures. Further, persons who have been illegally arrested or subject to an illegal search or seizure could launch a tort action for damages pursuant to common or statutory laws. In any event, the Supreme Court of the United States has held that the most effective method to deal with police misconduct is to have evidence obtained from an unconstitutional search excluded at a criminal trial. However, there are many exceptions. The most important exception is from a search that was undertaken in "Good Faith" on the basis of a warrant issued by a competent authority even if it turns out that the approval of the warrant was made without probable cause.

It is now clear that interceptions of telephone communications are treated as searches and thus are subject to Fourth Amendment requirements. Wiretaps must be approved in advance by a judge or magistrate. The same requirements exist in Canadian law. In fact, The Supreme Court of Canada has followed the American decisions in holding that electronic surveillance is a search or seizure within Section 8 of the Charter of Rights and Freedoms. The Court has held that the purpose of the prohibitions on unreasonable search and seizure is to protect the reasonable expectation of privacy. However, in contrast to the United States Supreme Court which has held that surveillance agreed to by a participant is not a search or seizure within the Fourth Amendment, the Supreme Court of Canada has refused to draw this distinction.

As a final remark it can be said about the American approach that although the exclusionary rule has not been completely repudiated, its utilization has been substantially curbed. Initial decisions reduced the broad scope of its application. This was the case with the adoption of the "Good Faith" exception some 15 years ago. Nevertheless, it is still considered an important tool to deter police misconduct even at the expense of letting a criminal go free.

THE EUROPEAN EXPERIENCE

The European Convention on Human Rights has been adopted by the Western European countries as the governing body of law that is a reflection of the International Covenant on Civil and Political Rights. In respect to search and seizure the key article in the European Convention is Article 8 which imposes on states the obligation to respect a wide range of personal interests. It provides in sub section 1 as follows:

> " Everyone has the right to respect for his private and family life, his home and his correspondence".

Sub section 2 states:

> " There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 8 by requiring that there be respect for private life, home and correspondence appears to restrict the power of the authorities when they are investigating crimes. The European Court of Human Rights in its decisions has attempted to reconcile the genuine needs of public officials with individual privacy by insisting that searches be controlled by some process of independent prior approval and supervision.

<u>The Four Interests Protected by Article 8</u>

The Court has stated that "Private Life" as the first interest enumerated includes personal identity (including sexual identity), some aspects of moral and physical integrity, private space (hotel rooms), collection and use of information (medical records), sexual activities and some aspects of social life. The second interest is family life that includes a variety of relationships arising marriages and children. The third interest is the home. Although

Article 8 specifies only the home the Court has held that it includes a person's professional or business office. This is similar to the American and Canadian interpretations. The fourth interest is correspondence that has been held to include telephone tapping cases. The European Court has made it clear that interception of telephone communications may create an interference with private life and correspondence and thus a violation of Article 8.

Justification for Interference by the Authorities

Article 8 provides for the interests to be protected and the power of the state to interfere with those rights. It is the applicant (the State) that must establish that there has been an interference. The real question that arises is whether the interference was " in accordance with the law". This not only requires compliance with domestic law but also relates to the quality of that law, requiring it to be compatible with the rule of law. The general test is whether the state has established a scheme or process that is reasonable in the circumstances. The requirement is for the national law to protect against arbitrary exercise of any discretion that it confers on the authorities to carry their duties. This is especially important in such areas as secret surveillance and prisoner's correspondence. The state must identify the objective for which it is interfering with a person's right. Those aims are listed in the latter part of Section 8(2) as noted above. Moreover, the law must be sufficiently clear in its terms to give individuals an adequate indication as to the circumstances in which and the conditions on which public authorities are entitled to resort to such interferences.

A recent case in the United Kingdom, *Khan v UK* (2000) demonstrates how the European Court interprets 'in accordance with the law'. This case dealt with the use of covert listening devices at a time when no statutory system existed to regulate the use by police. The Home Office Guidelines were not legally binding nor directly publicly accessible. Therefore the Court held that this interference could not be justified in accordance with the law and that the collection of evidence against the accused through the use of a covert listening device amounted to a violation of his right to respect for his private life. It is interesting to note that notwithstanding the fact that the evidence was secured in a manner contrary to the Convention, the Court found that it was admissible as it did not conflict with the requirements of fairness. The conviction would stand.

A great deal of debate has revolved around what is 'necessary in a democratic society' as set out in the Section. It is the state to indicate the objective of its interference and to demonstrate the 'pressing social need' for limiting the enjoyment of the individual's rights. In this respect the protection of the lawyer-client relationship and the privileged interest has be regarded by the Court of high importance. The need to obtain prior authorization is very important in order to undertake a search and seizure of a lawyer's office.

In a series of cases, the European Court has reviewed the use of search warrants in various European countries. It should be noted that the Court has been unwilling to elaborate general statements of rights in these cases but rather reviews them on a case-by-case basis. This provides some limited direction on how these rights are to be

implemented domestically. In *Funke v France* (1993), custom officials had searched the suspect's house for information related to a customs offence. Under the law at that time, these officials had exclusive competence to assess the scale of inspections. The Court was concerned about the very wide powers given to the custom authorities to institute searches of property: which appeared "to be too lax and full of loopholes for the interference with the applicant's rights to have been strictly proportionate to the legitimate aim pursued". The Court held that the search and seizure was not justified under Article 8(2), emphasizing particularly the absence of prior judicial authorization.

In *Niemietz v Germany* (1992) illustrates that the fact that a judicial warrant was obtained will not always be sufficient. In that case, the Court found that the warrant was drawn in too broad terms and the search, being of a lawyer's office, impinged on the professional secrecy where there was no special procedural safeguards in place.

In summary the European Court continues to attempt to strike the balance in reconciling the right of the individual to his privacy guaranteed in Section 8(1) and the state's need to enforce the laws through its officials and justify interfering with the individual's rights pursuant to Section 8(2).

CONCLUDING COMMENTS

The efforts of the Canadian, American and European jurisdictions that have been described above demonstrate that the requirements of the International Covenant on Civil and Political Rights in the area of search and seizure have not only been met but have gone beyond the minimum guarantees set out therein. However, the recent terrorist events make it obvious that the need for new laws and regulations enacted by governments will continue to increase the level of intrusions in our lives. Therefore, the challenge that we will continue to face in our democratic societies is to speak out when those laws are being formulated to ensure that they are reasonable and necessary for good governance, national security and the protection of our lives. While doing so, these interests will need to be balanced by an independent judiciary when they are applied to hold the state and its agents accountable under the rule of law for their actions. For those countries that have already signed the Covenants the obligations of ratifying the International Covenants and their implementation are clear in this respect. This is the meaning of living in a free, safe and democratic society in accordance with the rule of law and the protection of human rights.

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