



**International Covenant
on Civil and
Political Rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE CONVENANT**

Libyan Arab Jamahiriya

**Information received from the Libyan Arab Jamahiriya on follow-up to the
concluding observations of the Human Rights Committee (CCPR/C/LBY/CO/4)**

[24 July 2009]

Concluding observations (para. 10)

The Committee, in its concluding observations, states that it “remains concerned that the State party has not yet adopted legislation concerning the protection of women against violence, especially domestic violence”.

“The State party should take all necessary measures to effectively combat violence against women, including the enactment of appropriate legislation. The State party is requested to provide detailed information on this subject as well as disaggregated data on prosecution in its next periodic report.”

Reply 1

1. You will recall the information provided in the fourth periodic report stating that the Libyan Criminal Code (arts. 390 and 393 to 395), in keeping with criminal and penal policy, classifies all forms of assault against women as criminal offences. Moreover, a part of the Code, beginning with article 369, is devoted to offences against the family. As you are well aware, the Libyan Criminal Code recognizes the general principle of personal criminal liability. Women who are subjected to violence are afforded equal treatment with men in respect of protection procedures, legal remedies and other appropriate measures. The Criminal Code contains no provisions which explicitly criminalize assaults against women; taking due account of women’s physiological makeup, the Code simply refers to sexual assault, indecent assault and assault against women as wives or daughters as acts which offend against a woman’s dignity or honour. Protection is provided whenever an assault takes place and is guaranteed under criminal and penal legislation. It is not clear what is meant by the term “violence” in the observation to which this reply refers. If it means physical assault, then the matter will be dealt with in accordance with the law. The woman will be offered protection and her attacker will be prosecuted. If it means domestic violence, in the sense of rape, such an act cannot conceivably be carried out by a husband, as the relationship is a lawful one. If a wife is raped by force or in a way that she does not accept, she may lodge a complaint and demand that her husband be prosecuted and punished. She can then seek a divorce on the grounds of injury or spousal ill-treatment. A total of 767 cases were reported in 2006 and 563 in 2007. Prison terms of varying lengths were handed down to the defendants.

Concluding observations (para. 21)

The Committee states that the new draft penal code has yet to be adopted. However, it has been set before the basic people’s congresses for consideration and adoption.

“The State party should ensure that the new penal code is in conformity with the Covenant and that it is adopted within a reasonable specified timeframe.”

Reply 2

2. As you know, the Libyan Arab Jamahiriya willingly acceded to and ratified the International Covenant on Civil and Political Rights. We are sure you understand that the wording of article 1 of the Covenant is highly significant, inasmuch as it recognizes the right of peoples freely to pursue their political, social, economic and cultural aims. Paragraph 1 of the

article states: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

3. It was on this basis that on 2 March 1977 the choice that power belongs to the people and to no one else was made through a declaration establishing that power would be exercised by the people’s congresses. Accordingly, decision-making and the enactment and amendment of legislation were established as essential functions of the people’s congresses, beginning with the Basic People’s Congress and then the Popular Committee and then the General People’s Congress. Under Act No. 1 of 1375, concerning the rules of procedure of the people’s congresses and the people’s committees, the basic people’s congresses have exclusive competence for enacting and amending legislation and no individual, public body or other entity is entitled to amend laws.

4. This being so, bearing in mind the domestic sovereignty of the Libyan Arab Jamahiriya and having due regard to the law, the draft penal code was not adopted by the congresses at their most recent session, because they asked for some new amendments to be made to the text. Since it is the people’s congresses which decide, the draft code cannot be amended without their approval and endorsement.

Concluding observations (para. 23)

“The State party should urgently revise its legislation, including the Publication Act of 1972, to ensure that any limitations on the right to freedom of opinion and expression, including those of the media, are in strict compliance with the Covenant.”

Reply 3

5. We refer to the above reply concerning paragraph 21 of the concluding observations. The adoption of amendments is a matter for which the people’s congresses have exclusive competence. It is not possible to specify a definitive deadline for the introduction or rejection of amendments and there is no scope for rule making when explicit provisions exist; legal amendments require close and extensive study, in particular in order to prevent conflicts between amended legislation and the provisions of international conventions and covenants, in particular the International Covenant on Civil and Political Rights. The same applies to the procedures for amending the Publication Act to which paragraph 23 of the concluding observations refers.
