



## **Qatar:**

### **Submission to the list of questions for the Committee Against Torture's second periodic review of Qatar**

**2 July 2010**

Alkarama reminds that these activities are focused on four major areas; arbitrary detention, enforced or involuntary disappearances, torture and extrajudicial executions. Our work is based mainly on communication of documented individual cases to the special procedures and the Treaty Bodies of the United Nations as well as our contacts with local intermediaries including victims and their families, lawyers and human rights defenders.

**1 Table of contents**

---

1 TABLE OF CONTENTS ..... 2

2 INTRODUCTION ..... 3

3 DEFINITION OF TORTURE ..... 3

4 REFOULEMENT TO A COUNTRY PRACTICING TORTURE ..... 4

5 SPECIAL LEGAL PROVISIONS ..... 4

6 ARBITRARY AND INCOMMUNICADO DETENTION ..... 5

7 TORTURE ..... 7

8 THE JUDICIARY ..... 7

9 QATARI CITIZENS DEPRIVED OF THEIR NATIONALITY ..... 8

## 2 Introduction

---

The Committee against Torture examined the initial report of Qatar (CAT/C/58/add.1) during its 36<sup>th</sup> session in May 2006 and published its Concluding Observations (CAT/C/QAT/CO/1) on 25 July 2006. Qatar's second periodic report was due on 10 February 2010. In 2007, the State party was asked to provide information on four of the Committee's recommendations (CAT/C/QAT/CO/1/Add.1). On 7 May 2010, the Committee sent a letter to the Qatari authorities asking for additional information regarding these recommendations.<sup>1</sup>

We recall that the final report of the Human Rights Council's Universal Periodic Review process was recently adopted on 9 June 2010. Great progress was made when Qatar committed to ratifying the International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights.

## 3 Definition of torture

---

- The Committee against Torture noted in its Concluding Observations in 2006 that "there is a lack of comprehensive definition of torture in domestic law necessary to meet the requirements of article 1 of the Convention. References to torture in the Constitution and to cruelty and harm in other domestic law, including the Penal Code and Code of Criminal Procedures, are imprecise and incomplete."<sup>2</sup>
- Article 36 of the Qatari Constitution states "no one shall be subjected to torture or humiliating treatment. Torture is considered a crime and shall be punished by the law." However, the Penal Code of 2004 does not provide specific provisions for punishment of this crime.
- According to article 232 of the Code of Criminal Procedure, "any statement given by any of the defendant or witnesses in a coercive state or under threat shall not be relied upon."
- In their initial report, the authorities confirmed that "with the State's accession to the Convention, the Convention acquired the force of domestic law so that it can be invoked before the courts in any case involving an infringement of its provisions. Under article 68 of the Permanent Constitution of the State of Qatar and article 24 of the Provisional Basic Law, as amended, a treaty acquires the force of law once the State has ratified it or acceded to it."<sup>3</sup>

To date, Alkarama is not aware of any instances when the Convention against Torture was invoked by a victim or a lawyer before a domestic court. It is necessary to point out that persons arbitrarily detained for periods lasting from several weeks to several months were finally released without trial on the condition that they did not report the abuse they suffered while being detained. It also appears that the possibility of invoking the Convention before a domestic court is largely unknown to lawyers.

1. *Has the State taken steps to adopt the definition established by the Convention against Torture?*
2. *Does the State plan to establish torture as a penal offence and envisage sanctions for those responsible?*
3. *Are there cases in which the Convention against Torture was invoked before a tribunal? If so, how do judges react when the Convention against Torture is invoked?*

---

<sup>1</sup> Request for follow up by the Rapporteur for Follow-up on Conclusions and Recommendations of the United Nations Committee against Torture addressed to the Permanent Mission of Qatar, 7 May 2010, (Ref: cc/ji/fg/follow-up/CAT), <http://www2.ohchr.org/english/bodies/cat/docs/followup/QatarRequestFurtherInfo07052010.pdf>, (accessed 1 July 2010)

<sup>2</sup> Committee against Torture, 36<sup>th</sup> session, *Conclusions and recommendations of the Committee against Torture on the initial report of Qatar*, 25 July 2006, (CAT/C/QAT/CO/1), para. 10.

<sup>3</sup> *Initial report submitted by Qatar to the Committee against Torture under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 5 October 2005, (CAT/C/58/Add.1), see Introduction.

4. *Has the State party taken steps to ensure that the Convention against Torture is widely publicised, especially amongst lawyers and magistrates?*

#### **4 Refoulement to a country practicing torture**

---

- In its domestic legislation, Qatar does not have any provisions expressly prohibiting the expulsion, refoulement or extradition of a person to another State where there are substantial grounds for believing that he or she would be subjected to torture as stipulated in article 3 of the Convention against Torture.

During the review of Qatar's initial report (CAT/C/58/Add.1) on 9 and 10 May 2006, Qatar expressed its intention to incorporate article 3 of the Convention into domestic law. Furthermore, the Committee against Torture, in its Concluding Observations of 18 May 2006, recommended the State party to "ensure compliance in law and in practice the duties listed in article 3 of the Convention in all circumstances..." (CAT/C/SR.722 p.13).

As for the practice of the State party regarding compliance with this provision in recent years, Alkarama is informed of various situations which have taken place:

In the case of **Mr Musa Suleiman Ayad** (موسى سليمان عياد), an Egyptian national who was arrested in February 2006 in Al Wakkrah, Qatar and threatened with expulsion or extradition to his country of origin, the latter pointed out the risk of torture that he would suffer if he was forced to return to Egypt. Mr Ayad was finally released after approximately two years of detention and allowed to travel to the country of his choice.

Our organization remains concerned about the situation of a Syrian national, **Khaled Qabishi** (خالد قبيشي) who, following a labour dispute with his employer, was arrested and threatened with forced return to Syria. Our organization remains fearful, with reason, that this threat will be carried out, which would clearly be a violation by the State party of article 3 of the Convention.

5. *Has Qatar planned a specific deadline to incorporate article 3 of the Convention into its domestic law?*

#### **5 Special Legal Provisions**

---

- Qatar enacted Law No. 17 of 2002 on the 'Protection of Society', and in 2004 acceded to the Gulf Cooperation Council Convention on Combating Terrorism. That same year, Qatar passed Law 3/2004 on Combating Terrorism. This law defines terrorist acts as the use of force or violence to "defeat the Constitution, breach the public order or jeopardise public safety."

For its part, Law No. 17 of 2002 on the 'Protection of Society' states that the Minister of Interior may decide to detain a suspect if there are presumptions against him regarding, for example, the security of the State. In practice, this definition allows the criminalisation of any political opponent or person who expresses political opinions which are considered or interpreted as being extremist by the authorities.

The 2004 Gulf Cooperation Council Convention on Combating Terrorism ratified by Qatar considers *inter alia*, "the supply or collection of funds of any kind with the aim of financing terrorist acts" as a terrorist offence.

These broad definitions enable the repression of humanitarian activities undertaken by charity organizations, which, unfortunately, are the only civil society organizations permitted to exist in the countries of the region. Such definitions are also likely to restrict and violate the rights to freedom of expression, association and assembly, and allow governments to arrest and detain people (who may not have committed violent acts) arbitrarily and in an abusive manner.

6. *Is the State party considering revising its legislation concerning the definition of terrorism and to bring it into conformity with the relevant international requirements in order to ensure the protection of human rights while countering terrorism?*

## **6 Arbitrary and incommunicado detention**

---

- Article 40 of Law No. 23/2004 establishing the Code of Criminal Procedure states that "it is forbidden to arrest or imprison anyone unless through an order issued by the competent authorities and in the cases provided for in the laws". Article 43 of the Code provides that the accused must be brought before the public prosecutor within 24 hours and that he must be heard within that same period. Following the hearing, the accused shall be released or placed on remand.
- This detention without charge can be extended by the Attorney General for 16 days before the suspect is presented to a judge.
- The Code of Criminal Procedure states that "no person shall be arrested or imprisoned except by virtue of a warrant issued by the competent authorities and in circumstances prescribed by law."

Although Law No. 17 of 2002 on the 'Protection of Society' provides in its article 1 that "the Interior Minister, in crimes related to state security or indecent assault or public morality, may decide to detain a suspect if there is strong presumptive evidence against him, in a report that will be presented by the Director General of General Security".

This provision grants the Executive (the Ministry of the Interior) the power to arrest and detain suspects without judicial intervention.

This law prescribes in its article 2 that "the duration of detention is two weeks extendible one or several times without exceeding a total period of 6 months with the consent of the President of the Council of Ministers. The duration of detention can be doubled for a crime related to state security."

Law 3/2004 on Combating Terrorism reaffirms these provisions. It is not possible to appeal court decisions made under these two laws which legalise arbitrary and incommunicado detention and open the door to all kinds of abuse. Those detained under these emergency laws cannot appeal their detention and do not have access to a lawyer.

In response to Concluding Recommendation No. 16, the Qatari Authorities state that "appeals may be brought pursuant to article 157 of the Code of Criminal Procedures, which grants accused persons or their representatives the right to appeal against detention orders".<sup>4</sup>

Although the Law on the 'Protection of Society' does provide in its article 3 the opportunity to appeal the decision of detention or its extension by submitting a written request to the President of the Council of Ministers, in reality, the appellate authority is the one who initially issued the detention order, so there is no effective remedy for detainees to appeal their detention.

Persons who are detained are usually arrested and interrogated by the intelligence services. They are detained indefinitely in the premises of State Security which are not under the authority of the Ministry of Justice. These places of detention are not intended to serve as places of detention, which would normally be subjected to control measures and monitoring by the Prosecutor General, as provided by article 395 of the Code of Criminal Procedure. Persons detained in these conditions therefore have no possibility of appeal before a legal authority, or any other body.

---

<sup>4</sup> *Comments by the State of Qatar on the conclusions and recommendations of the Committee against Torture*, 7 April 2009, (CAT/C/QAT/CO/1/Add.1), para. 5.

7. *What are the fundamental legal safeguards accorded to persons detained under the 2004 Law on Combating Terrorism and the law on the Protection of Society? Do those detained under these laws have the opportunity to promptly contact a lawyer or a family member and be subject to a medical examination?*
8. *What are the possible restrictions on these rights, particularly in the context of the fight against terrorism?*
9. *Does the judicial authority have access to intelligence services' detention centers? Are persons detained in these facilities listed in an accessible registry?*

In recent years, Alkarama has presented cases of people arrested and held incommunicado for several months without being brought before a magistrate or having been subject to any legal procedure.

Our organization recently submitted the cases of **Mssrs. Abdullah Khowar** (عبدالله خوار) and **Salem Al Kuwari** (سالم الكواري) to the Working Group on Arbitrary Detention. Both men were arrested on 27 June 2009 by agents of State Security. After being taken to an unknown destination, they were held incommunicado for several weeks and tortured. Following this initial period of incommunicado detention, their families were allowed to visit them at the intelligence agency's detention centre in Doha. The two men were finally released on March 2010 without ever having been brought before a judge or having any charges brought against them.

At present, Alkarama is particularly concerned by the case of Mr **Fawaz Al-Attiyah** (فواز العطية). Mr Al-Attiyah is aged 42 and is the former spokesman of the Qatari Ministry of Foreign Affairs. Because of his writings and statements, he was stripped of his Qatari citizenship and lived in Riyadh, Saudi Arabia where he was considered a political opponent. Mr Al-Attiyah was abducted from his home by Saudi security agents dressed in civilian clothes, flown in a private plane to Qatar, and presented to the Qatari authorities on 25 October 2009. Held incommunicado in solitary confinement in an unknown location, he was cut off from the outside world for several months. In April 2010 he was transferred to the headquarters of State Security where he has not been allowed to receive visits from his lawyer. Currently, he still cannot receive regular visits from his lawyer, only seeing him during certain hearings before the judge.

Mr Al-Attiyah has been the subject of death threats from a member of the public prosecutor. However, the judge has not responded to this, nor has he ordered an investigation as set out in article 12 of the Convention against Torture. It is only very recently that Mr Al-Attiyah was finally allowed to receive visits from his mother.

The trial scheduled to begin on 23 June 2010 has been postponed; legal procedures are not being respected and Mr Al-Attiyah is not allowed to be defended by his foreign lawyers, while the local lawyers appointed by the family have expressed fears at working on his case. At the hearing scheduled for 23 June 2010, Mr Al-Attiyah refused to appear in the absence of his Kuwaiti lawyer, Usama Al Munawer, who was not allowed to assist his client.

His cousin **Nayef Al-Attiya** (نايف العطية) was arrested for his part on 4 September 2009, about 2 months before Mr Al-Attiyah's arrest by the Qatari intelligence services, because he had a power of attorney to represent Mr Al-Attiyah in court. Nayef Al-Attiya was released on 2 May 2010 without any charges being brought against him.

Our organization also presented older cases in our report to the Human Rights Council in the context of the Universal Periodic Report.

Around thirty people were arrested between 1995 and 2000 as part of the investigation into the attempted coup d'Etat instigated by the father of the current Emir. Among this group, 18 people were sentenced to death in May 2001. Since then, after an exile of several years in Europe, the deposed Emir was allowed to return to Qatar where he lives today. The two main instigators of the failed attempt, Bakhit Marzoug al Abdallah and Skeikh Hamad bin Jassem bin Hamad al Thani (who had also

been sentenced to death) were pardoned by the Emir and released in 2005. Among the 28 other defendants who played a secondary role in the attempt, 21 were released in late May 2010. The others are still in detention. The people (former soldiers and army officers) who were released recently were immediately sent by force to Saudi Arabia, despite being Qatari nationals.

## **7 Torture**

---

The issue of prolonged and incommunicado detention is recurrent in the State party. It is during these detentions that the risk of torture, and cruel, inhuman or degrading treatment is highest.

We are informed that Mr Abdullah Lhowar and Mr Salem Al Kuwari, mentioned above, were subjected to torture and ill-treatment during their detention. They were beaten, suspended for long periods of time and deprived of sleep.

In the case of Mr Fawaz Al-Attayah, Alkarama sent an urgent appeal to the Special Rapporteur on Torture on 11 May 2010 asking him to intervene with the authorities. Indeed, Mr Al-Attayah's conditions of detention are particularly difficult and he suffers in solitary confinement. During one of his hearings at the court house, when his family tried to speak to him, he was dragged along the ground in front of them.

Mr Fawaz Al-Attaya told the judge about his conditions of detention and the ill-treatment he suffered, but he is still not aware whether the judge has followed up his complaint. However, it does not appear that an investigation has been ordered, as would be required by article 12 of the Convention against Torture.

It appears that Mr Nayef Al-Attaya was also detained in secret in harsh conditions. He was detained in solitary confinement, deprived of daylight and subjected to various forms of torture such as beatings, suspension and psychological torture.

- 10. What measures does the State party intend to take to stop incommunicado detentions in places that are not under control of the justice system?*
- 11. Do the judicial authorities of the State party carry out an impartial investigation each time there is a complaint and reasonable reasons to believe that torture has been committed by State agents?*
- 12. What actions have been taken by the judicial authority of the State party following the allegations of Mr Fawaz Al-Attaya about torture and ill-treatment?*

## **8 The Judiciary**

---

Under article 130 of the Qatari Constitution, "The judicial authority shall be independent and it shall be vested in courts of different types and grades. The courts shall make their judgments according to the law." According to article 131, "Judges are independent. There is no power over them in their judgements except the law. No agency has the right to interfere in the process of justice." However, one problem is that part of the judicial staff is composed of foreigners under contracts which may be revoked at any time because of their residential status. This job insecurity prevents them from working in a calm and independent manner, and could be seen to be a limit to the principle of tenure of judges.

- 13. Does the State party plan to extend the principle of tenure of judges to all judges in the country, including foreign judges under contract, in order to ensure a real autonomy of the judiciary?*

## **9 Qatari citizens deprived of their nationality**

---

A code governing nationality was promulgated in 2005 (Act No. 38/2005) which gave sweeping powers to the Emir for the granting, the revocation or the reinstatement of Qatari nationality. Article 11 of this law makes provision for certain cases where the Emir is entitled to remove the nationality of any citizen, particularly when the person in question has served with a foreign force or an institution or organization which harms the country's social, economic or political organization.

Deprivation of nationality can take a collective form as in the case of the Al-Ghufran tribe, a branch of the great Arab tribe of Al Merri. Historically, this tribe lived as nomads in the east and north-eastern parts of the Arabian Peninsula – namely the current territories of Qatar and Saudi Arabia. On 1 October 2004 the Minister of Interior deprived 927 heads of families of their nationality. This represents 5,266 people, but this figure is even more significant when it is related back to the total number of population. This measure was interpreted by some observers as a collective punishment as some members of this tribe had supported the cause of the father of the current Emir during his dismissal and the failed coup d'Etat.

Specifically, civil servants, men or women, were dismissed without notice while their children were excluded from school, and all the families were denied social security and the benefits they had access to previously, such as housing, free medical care, authorisation to drive a car, etc. Finally, they were ordered to regularise their situation with the authorities as foreigners.

While many cases have been regularised since and the families concerned have had their rights reinstated by the authorities, hundreds of people, including children remain deprived of their nationality to date.

*14. What measures does the State intend to take in order to fight statelessness and provide a regularized situation for people deprived of their nationality?*