



Qatar

Shadow report

Report submitted to the Committee against Torture in the context
of the third periodic review of Qatar

Alkarama Foundation – 26 March 2018

Alkarama Foundation – 150 route de Ferney, C.P. 2100 CH – 1211 Genève 2 – Switzerland

☎ +41 22 734 10 06 – 📠 +41 22 734 10 34 – ✉ info@alkarama.org – 🌐 www.alkarama.org

1. Table of contents

1. TABLE OF CONTENTS.....	2
2. INTRODUCTION.....	3
3. CONTEXT.....	3
4. DEFINITION, ABSOLUTE PROHIBITION AND CRIMINALISATION OF TORTURE.....	4
4.1 DEFINITION	4
4.2 PROHIBITION	5
4.3 CRIMINALISATION.....	5
5. VIOLATIONS OF LEGAL SAFEGUARDS.....	6
6. LACK OF INDEPENDENCE OF THE JUDICIARY.....	7
7. NON-REFOULEMENT	9
8. ABSENCE OF EFFECTIVE MEASURES TO PREVENT TORTURE.....	10
8.1 TRAINING OF LAW ENFORCEMENT OFFICIALS	10
8.2 MONITORING OF PLACES OF DETENTION	11
9. FAILURE TO INVESTIGATE AND PROSECUTE ACTS OF TORTURE AND LACK OF REDRESS	13
11. VIOLATIONS IN THE CONTEXT OF THE FIGHT AGAINST TERRORISM	14
12. DEATH PENALTY	17

2. INTRODUCTION

The third report of Qatar (CAT/C/QAT/3) was submitted to the Committee against Torture on 8 December 2016 and will be reviewed by the Committee at its 63rd session on 1 and 2 May 2018.

Alkarama hereby submits this shadow report in which it evaluates the implementation of the Convention against Torture (UNCAT) in Qatar, highlighting its main concerns and addressing recommendations to the State Party. This report is based on Alkarama's documentation of human rights violations in Qatar since 2013 – including individual cases – as well as on a review of the state's replies¹ to the Committee's List of Issues Prior to Reporting (LOIPR)² and provides an analysis of the relevant domestic laws and practices.

3. CONTEXT

Qatar is a constitutional monarchy, headed by the emir, Sheikh Tamim Bin Hamad Al Thani, following the voluntary abdication of his father in June 2013. Despite some first attempts of political reform, the political and institutional configuration of Qatar remains unchanged: state powers are concentrated in the ruling family, which is not accountable to its subjects.

The emir appoints the prime minister and the cabinet ministers, who together form the Council of Ministers, the supreme executive authority in the country. The Council of Ministers also initiates legislation. Laws and decrees proposed by the Council of Ministers are referred to the Consultative Council (Majlis Al Shura) for discussion after which they are submitted to the emir for ratification. Hence, all laws are passed by emiri decree. The current Consultative Council is solely composed of members appointed by the emir and legislative elections have been postponed until at least 2019.

¹ UN Committee against Torture (CAT), *Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Third periodic report of States parties due in 2016: Qatar*, 3 February 2017, CAT/C/QAT/3 (hereinafter "State Report").

² UN Committee against Torture (CAT), *Consideration of reports submitted by States parties under article 19 of the Convention: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: initial reports of States parties due in 2000: addendum: Qatar*, 5 October 2005, CAT/C/58/Add.1 (hereinafter "List of Issues").

4. DEFINITION, ABSOLUTE PROHIBITION AND CRIMINALISATION OF TORTURE

4.1 Definition

Qatar has incorporated the definition of torture stipulated in article 1 of the Convention against Torture (UNCAT) into article 159 *bis* of its Penal Code. In addition, it has extended the scope of offenders stipulated in the amendments to the Penal Code (Law No. 8 of 2010)³ to include “any other person acting in an official capacity”, and to anyone who “instigates, agrees or consents to torture another person” (article 159).

However, Qatar’s state report provides no information on cases in which articles 159 and 159 *bis* have been implemented before courts, making it impossible to examine the judicial enforcement and effective implementation of Qatar’s anti-torture provisions. This raises questions about how different elements of the definition of torture are interpreted by domestic courts, including: the severity of pain and suffering; the definition of the intention to cause high levels of pain and suffering including through recklessness; the distinction between the element of intention and the element of purpose, with the latter relating to the motivation or the reason behind the infliction of pain and suffering; the extension of the definition to both acts and omissions; the levels of involvement of state officials in torture that suffice to make them accountable, such as infliction, instigation, consent and acquiescence.

While pain or suffering inherent in or incidental to lawful sanctions is expressly excluded from the definition of torture under article 1 UNCAT, a preferable interpretation of this exclusion is understanding “lawful” as denoting compliance with international standards rather than the provisions of domestic law.

³ The law is available at: <http://www.almeezan.qa/LawPage.aspx?id=2645&language=en> (accessed on 19 March 2018).

4.2 Prohibition

While the LOIPR does not speak of the absolute prohibition of torture, Qatari law does not include any provision to ensure that no exceptional circumstances whatsoever, including a state or threat of war, internal political instability or any other public emergency, nor any order from a superior officer or a public authority may be invoked as a justification for torture or ill-treatment.

Although article 36 of the Qatari Constitution⁴ stipulates that “[n]o one may be subjected to torture or degrading treatment” and that “[t]orture is an offence that is punishable by law”, this provision does not expressly affirm the absolute prohibition of torture as requested by the Convention. Moreover, although Qatari legislators criminalised the use of ill-treatment by any public officer in the performance of their functions – including compelling a person to commit such an act – in article 161 of Law No. 11 of 2004, this does not apply “in those cases where the law authorizes such acts”.⁵

The non-derogability of the prohibition of torture is reinforced by the principle embodied in article 2(3) stating that an order of a superior or public authority can never be invoked as a justification of torture. This principle should be contained in the specific dispositions incriminating torture and within bodies of law applicable to both civil and military forces.

4.3 Criminalisation

With regards to the criminalisation of torture, although the state has strengthened the punishments for acts of torture, the sentences prescribed in articles 159 and 159 *bis* of the Penal Code make no reference to the minimum penalty, but only contain a maximum limit, thus failing to take into account the gravity of the offence.

In addition, article 160 of the Penal Code punishes acts of cruel, inhumane and degrading treatment with a prison sentence of no more than three years and a fine of no more than 10,000 Rials (approximately 2,500 USD), or “one of these two penalties”. In the same vein,

⁴ *Constitution of Qatar*. Available at: <http://www.wipo.int/edocs/lexdocs/laws/en/qa/qa009en.pdf> (accessed on 19 March 2018).

⁵ *Law No.11 of 2004*. Available at: http://gulfmigration.eu/database/legal_module/Qatar/National%20Legal%20Framework/Anti-trafficking/2.2%20Penal%20Code%2011%202004_EN.pdf (accessed on 19 March 2018).

article 160 fails to set a minimum penalty, and a fine cannot be considered as an appropriate punishment.

Furthermore, it is concerning that article 159 stipulates that the death penalty may be applied in instances where torture results in the death of the victim. It is our contention that this does not constitute an “appropriate penalty” in line with article 4(1) UNCAT. In fact, capital punishment is increasingly viewed internationally as a violation of the absolute prohibition of torture. For instance, the former UN Special Rapporteur on torture, Juan Méndez, urged states to “consider whether the use of the death penalty [...] fails to respect the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture”.⁶

RECOMMENDATIONS

- a) Provide information on cases of torture and ill-treatment that illustrate judicial enforcement and effective implementation of Qatar's anti-torture provisions;
- b) Incorporate a provision into Qatari legislation stating that no exceptional circumstance may be invoked as a justification of torture;
- c) Amend the law to set a minimum penalty for acts of torture and ill-treatment that reflects their gravity, and which may not be substituted by a fine, and consider replacing the death sentence with life-imprisonment.

5. VIOLATIONS OF LEGAL SAFEGUARDS

Legal safeguards adopted by Qatar to protect detainees from torture and ill-treatment are enshrined in articles 36 and 39 of the Constitution and articles 27, 28, 40, 43, 101, 102, 112, 113 and 115 of the Code of Criminal Procedure. These legal safeguards include the right not to be arrested without a warrant, as well as the right to be brought before a judicial authority within 24 hours and to seek legal assistance.

With regards to the Committee's request to describe the steps taken to abolish *incommunicado* detention and to limit the use of solitary confinement to an exceptional

⁶ J.E. Méndez, 2012. “The Death Penalty and the Absolute Prohibition of Torture and Cruel, Inhuman, and Degrading Treatment or Punishment”, In *Human Rights Brief*, Vol. 20(1), pp.2-6.

measure only and for as short a time as possible,⁷ the State Party provides no information on measures to ensure that no individuals deprived of their liberty are held in *incommunicado* detention. Concerning solitary confinement, the Qatari authorities affirm that it is only used as an exceptional measure and for short periods of time.⁸ While the state specifies the relevant articles of the Regulation of Penal and Correctional Institutions on the procedure for issuing punitive measures,⁹ there are no provisions on what constitutes exceptional measures and there is no mention of time limitations stipulated in the Regulation.

RECOMMENDATION

- a) Abolish the use of *incommunicado* detention and ensure that solitary confinement remains an exceptional measure of limited duration.

6. LACK OF INDEPENDENCE OF THE JUDICIARY

Provisions within Qatari domestic law guaranteeing the independence of judges and lawyers include articles 129 - 140 of the Constitution, articles 201 - 203 of the Penal Code on punishments for attempting to influence or influencing members of the Judiciary, and Law No.10 of 2002, which establishes the independence of the Prosecutor General.

Despite these provisions, ties between the Public Prosecutor's Office and the executive branch remain concerning. In particular, the Public Prosecutor is appointed by the emir and has the rank of a minister.¹⁰ In addition, article 15 of the Law on Judicial Authority stipulates that "(t)he salaries, allowances and bonuses of members of the public prosecution shall be decided by an Emiri decision based on the proposal of the Public Prosecutor. A member's salary, allowance and bonus may not be decided on a personal basis, nor may a member be treated exceptionally in any way".¹¹ As pointed out by the UN Special Rapporteur on the independence of judges and lawyers after her country visit to Qatar in 2014, the fact that the Prosecutor General has the status of a minister might

⁷List of Issues, article 2, para.4.

⁸ State Report, article 2, para. 73.

⁹ Ibid, article 2, para. 74.

¹⁰ Ibid, article 2, para. 94.

¹¹ Law No. 10 of 2003. Available at: http://www.adhrb.org/wp-content/uploads/2015/09/Law_10_2003_Qatar.pdf (accessed on 20 March 2018).

create confusion as to whether he is acting in the interests of the government or the public.¹² With this in mind, his power to decide on the appointment, promotion, and salaries of lower-ranking members of the staff of the Public Prosecutor's Office might result in further conflicts of interest.

Furthermore, all judges are appointed by the emir upon proposition of the Supreme Court of the Judiciary, apart from the president of the Court of Cassation, who is appointed directly by the emir.¹³ This raises serious concerns as nominations by the emir might have an influence on the judges' conduct, especially towards members of the executive. This is also the case for judges without Qatari nationality, whose tenure is not guaranteed in the same way as that of national judges. As pointed out by the Special Rapporteur on the independence of judges and lawyers, they are often recruited on temporary contracts, which have to be renewed annually. As a consequence, "they are rendered extremely vulnerable to pressure from any side, including the public prosecution, lawyers and the executive".¹⁴

The abovementioned shortcomings are exacerbated by the absence of a written code of conduct for judges. While chapter 11 of the Law on Judicial Authority sets out the procedure for handling judicial misconduct, it does not specify the kinds of behaviour that might fall within this category. In fact, article 50 simply sets out three criteria. A judge may face disciplinary proceedings if: "they have breached the duties of their office and its requirement"; "they have fallen below the standard specified for honour and prestige of the judiciary"; "they have brought on themselves suspicion and mistrust". This not only makes it difficult to ensure that the judiciary upholds standards of impartiality and independence, but also means that they may be easily dismissed for political or other reasons. Article 6(5) of the Law on Judicial Authority is equally ambiguous, stipulating that the emir can dismiss judges "in the public interest".

RECOMMENDATIONS

- a) Take effective measures to guarantee the independence of the judiciary and the irremovability of judges;
- b) Ensure the tenure of foreign judges to secure their independence.

¹² UN Human Rights Council, *Report of the Special Rapporteur on the independence of judges and lawyers, Addendum: Mission to Qatar*, 31 March 2015, A/HRC/29/26/Add.1, para. 76.

¹³ *Ibid.*, para. 36.

¹⁴ *Ibid.*, para. 49.

7. NON-REFOULEMENT

Procedural guarantees governing extradition are stipulated in article 58 of the Constitution, as well as articles 408 to 424 of the Code of Criminal Procedure. In its national report, the state affirms that although not party to the 1951 Refugee Convention and its 1967 Protocol, it nevertheless "observes the basic protection standards laid down in the Convention, which is part of customary international law".¹⁵ Moreover, during the review of Qatar's 2005 report, the authorities expressed their intention to incorporate article 3 UNCAT into domestic law.¹⁶ Despite these claims, to date, Qatar has not taken any steps to incorporate article 3 UNCAT into its domestic law, nor has it specified its position on acceding to the 1951 Refugee Convention nor its 1967 Optional Protocol in its report.

Therefore, there is a lack of legal provisions expressly prohibiting the expulsion, return or extradition of a person to another state where there are substantial grounds for believing that they would be subjected to torture. Furthermore, there is no effective appeals process available to persons likely to be subjected to such treatment upon extradition. Indeed, while an extradition order may be appealed, such a request must be filed within five days of receiving notice of extradition and the decision of the appellant court cannot be overturned.¹⁷ Ultimately, Qatar has failed to provide in its state report any quantitative data on the number of cases of refoulement and expulsion during the reporting period or any diplomatic assurances involved.

Furthermore, Qatar is party to several bilateral and regional agreements, which enable the extradition of wanted individuals to states where they are likely to be tortured. For instance, article 16 of the Gulf Cooperation Council (GCC) Security Convention of 2012 stipulates that State Parties are obliged to extradite individuals within their territory who have been accused or convicted by a another member state.¹⁸ This renders residents vulnerable to refoulement for a range of unspecified crimes.

¹⁵ *State Report*, article 3, para. 147.

¹⁶ UN Committee against Torture (CAT), *Consideration of reports submitted by States parties under article 19 of the Convention : Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment : initial reports of States parties due in 2000 : addendum : Qatar*, 5 October 2005, CAT/C/58/Add.1, para. 54.

¹⁷ Articles 419-421 of the Code of Criminal Procedure. Available at: [http://www.qfcra.com/en-us/legislation/Laws/Law%20No.%20\(23\)%20of%202004%20\(Code%20of%20Criminal%20Procedures\).pdf](http://www.qfcra.com/en-us/legislation/Laws/Law%20No.%20(23)%20of%202004%20(Code%20of%20Criminal%20Procedures).pdf) (accessed on 19 March 2018).

¹⁸ *Gulf Cooperation Council Security Convention of 2012*. Available at: <https://www.gulfpolicies.com/attachments/article/1658> (accessed on 20 March 2018).

Alkarama has documented a number of cases relating to the extradition of individuals by Qatari authorities carried out in violation of article 3 UNCAT. Most recently, the prominent human rights defender and co-founder of the Union for Human Rights **Mr Mohammad Al Otaibi**,¹⁹ was arrested in Doha Airport while on his way to seek political asylum in Norway, and extradited to Saudi Arabia on 24 May 2017. On 25 January 2018, Mr Al Otaibi was sentenced to 14 years in prison on charges related to his peaceful political activism, including "dividing national unity", "abusing the kingdom via Twitter" and "calling to change the basic system of governance".²⁰

The abovementioned case demonstrates a clear breach of Qatar's obligations under article 3 UNCAT. Given the fact that torture is widespread in Saudi Arabia, there was a substantial risk that Mr Al Otaibi would be subjected to such acts if extradited.

RECOMMENDATIONS

- a) Incorporate the principle of non-refoulement as prescribed in article 3 of the UNCAT into national legislation;
- b) Guarantee that no individuals are extradited to another country where there are substantial grounds for believing that they would be subjected to torture or other forms of cruel, inhumane or degrading treatment.

8. ABSENCE OF EFFECTIVE MEASURES TO PREVENT TORTURE

8.1 Training of law enforcement officials

In its report, Qatar provides information on training courses delivered to members of the military and civilian police forces, workers in the legal and judicial fields and vulnerable

¹⁹ Alkarama, *Saudi Arabia: Two Human Rights Defenders Prosecuted Before the Specialised Criminal Court*, 17 november 2017, <https://www.alkarama.org/en/articles/saudi-arabia-two-human-rights-defenders-prosecuted-specialised-criminal-court> (accessed on 15 March 2018).

²⁰ FIDH, *Saudi Arabia: Sentencing of Messrs. Abdullah Al-Attawi and Mohamed Al-Otaibi*, 30 January 2018, <https://www.fidh.org/en/issues/human-rights-defenders/saudi-arabia-sentencing-of-messrs-abdullah-al-attawi-and-mohamed-al-22740> (accessed on 19 March 2018).

groups.²¹ Furthermore, Qatar provides information on the annual training course provided by the Hamad Medical Cooperation for staff of the Social Services Department, as well as for paediatricians to enable them to recognise child victims of torture.²²

The low number of participants in the abovementioned programmes is concerning, with only 200 trainees – a very small fraction of all law enforcement officials – taking the courses at the Centre for Legal and Judicial Studies in the Ministry of Justice in 2013 and 2014. Moreover, the lack of specific training for law enforcement officials, judges, prosecutors and medical personnel dealing with detained persons on the provisions of the Convention and how to detect and document physical and psychological ramifications of torture and ill-treatment is concerning. In addition, the State Party has not provided any information on the impact and effectiveness of the abovementioned programmes.

8.2 Monitoring of places of detention

Qatar states in its report that the Office of the Public Prosecutor, the National Human Rights Committee (NHRC) and the monitoring and surveillance mechanisms of the Ministry of Interior are able to conduct unannounced visits, hear prisoner complaints in private and make recommendations as to how places of detention may be improved.²³ In addition, it affirms that various capacity building training programmes were administered with the assistance of international non-governmental organisations.

Despite this, we remain concerned about the implementation of recommendations made by the NHRC and Ministry of Interior. The non-public report developed by the NHRC representative following a visit to a place of detention creates a lack of transparency and raises doubts as to whether prison officials can be held to account for misconduct in a timely manner. With regards to the number of visits made by the NHRC to places of detention, only 16 such inspections were made in 2015.²⁴ The vast majority were not to correctional facilities themselves, but rather to associated units such as the “department for research and follow up”. In addition, the state fails to clarify whether it permits or intends to permit non-governmental organisations and fully independent mechanisms to monitor

²¹ *State Report*, article 10, para. 161.

²² *Ibid.*, article 10, para. 168.

²³ *Ibid.*, article 2, para. 105, 115, 116.

²⁴ *Ibid.*, article 2, para. 109.

places of detention, and only mentions that the NHRC has suggested that Qatar ratifies the Optional Protocol to the UNCAT.²⁵

Moreover, the independence of monitoring mechanisms is also of concern. As mentioned above, the close ties between the Public Prosecutor's Office and the executive branch raises doubt as to whether the former can carry out its functions with impartiality and independence. In addition, in its review of the NHRC in 2015,²⁶ Alkarama noted that despite its active role in the country and working methods that permit it to effectively carry out its mandate, the fact that its establishment and appointment of members are contingent on emiri decree greatly impacts its capacity to publicly and freely address politically sensitive human rights issues.²⁷

Furthermore, replying to the Committee's recommendation to introduce systematic video and audio monitoring and recording of all interrogations,²⁸ the State Party affirms that "the Public Prosecutor shall spare no effort to use all possible modern technical means in order to clarify, confirm and document facts of the incident under investigation".²⁹ While the State Party affirms that public spaces in all places of detention are under camera monitoring, and that the department of technical services is ordered to take sample recordings of the crime scenes,³⁰ Qatar fails to give explicit information on the video and audio monitoring of individual interrogations.

RECOMMENDATIONS

- a) Provide training for all law enforcement officials on the respect and implementation of the Convention against Torture as well as the prevention of torture;
- b) Ratify the Optional Protocol to the Convention;
- c) Introduce systematic video and audio recordings for the preliminary interrogations of individuals.

²⁵ *Ibid.*, article 2, para. 124.

²⁶ Alkarama, *Qatar: International Coordinating Committee of NHRIs- Alkarama's Report- Jul 2015*, 13 July 2015, <https://www.alkarama.org/en/documents/qatar-national-human-rights-institution-2015-alkaramas-report-country-nhri-international> (accessed on 22 March 2018).

²⁷ Article 5 of Decree Law 17 of 2010 on the establishment of the National Human Rights Commission.

²⁸ *List of Issues*, article 2, para.2.

²⁹ *State Report*, article 2, para. 43.

³⁰ *Ibidem*.

9. FAILURE TO INVESTIGATE AND PROSECUTE ACTS OF TORTURE AND LACK OF REDRESS

The Committee against Torture's General Comment No. 3 defines "redress" as entailing "restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition".³¹ In addition, it outlines states' procedural and substantive obligations under article 14 of the Convention. While the former obliges states to "enact legislation which establishes complaint mechanisms, investigation bodies and institutions capable of determining the rights and awarding redress to victims of torture",³² the latter obliges states to ensure that "victims of torture obtain full and effective redress and reparation, including compensation and means for as full rehabilitation as possible".³³

Qatar's domestic legislation provides for complaint mechanisms and investigative bodies for acts of torture. The procedure for filing a complaint against police officials is outlined in articles 395 and 396 of the Code of Criminal Procedure. Article 396 stipulates that "(a)ny prisoner in the detention places, may, at any time, submit to the officer in charge a written or oral complaint".³⁴ Once submitted and documented in the "special register", the officer must "immediately" notify the public prosecutor who in-turn will conduct an "immediate investigation".³⁵

However, the State Party fails in its report to provide any statistical data on torture complaints filed with the competent authorities. Moreover, it has not provided any information as to whether the "immediate" time frame for investigation outlined above is upheld in practice. There are also no provisions in domestic legislation allowing for retrospective complaints of torture or ill-treatment to be lodged. Furthermore, the rehabilitation section of the Code of Criminal Procedure focuses solely on the re-integration of offenders into society, without paying due regard to the specific barriers faced by victims of torture or the obligation to provide redress mechanisms tailored to them.³⁶ Lastly, Qatar has neither provided information on redress and compensation measures offered by the state, nor on the number of requests made for redress and

³¹ General Comment No.3. UN. Doc. CAT/C/GC/3. December 2012, para. 2.

³² *Ibid.*, para. 5.

³³ *Ibidem.*

³⁴ Code of Criminal Procedure. Available at: [http://www.qfcra.com/en-us/legislation/Laws/Law%20No.%20\(23\)%20of%202004%20\(Code%20of%20Criminal%20Procedures\).pdf](http://www.qfcra.com/en-us/legislation/Laws/Law%20No.%20(23)%20of%202004%20(Code%20of%20Criminal%20Procedures).pdf) (accessed on 19 March 2018).

³⁵ *Ibidem.*

³⁶ Articles 379 to 394.

compensation; the number granted; the amount of compensation ordered; and the amount actually provided in each case.

RECOMMENDATIONS

- a) Incorporate into Qatari legislation the right to redress for cases of torture;
- b) Ensure that forms of reparation encompass restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

11. VIOLATIONS IN THE CONTEXT OF THE FIGHT AGAINST TERRORISM

In July 2017, the Qatari emir issued a decree amending the 2004 Anti-Terrorism Law, including the definition of an act of terrorism. This amendment was introduced after the signing of a bilateral agreement between the Qatari and U.S. governments – the latter of which hosts one of its largest regional military airbases in Qatar – to “fight terrorist funding”. The move reportedly came in response to pressure from Saudi Arabia, Egypt, the United Arab Emirates (UAE) and Bahrain, which severed ties with Qatar a month before over accusations that it was “supporting terrorism”. In June 2017, Qatar also announced that it had prosecuted five men who were sanctioned by the U.S. government for terror financing in 2015 and 2016.³⁷ Most recently, on 22 March 2018, Qatar published a terrorist list of 28 individuals and entities.³⁸

In 2002, Qatar enacted Law No. 17 on the “Protection of Society”³⁹ and, in 2003, adopted Law No. 5 establishing the State Security Services.⁴⁰ In 2004, the state acceded to the Gulf Cooperation Council Convention on Combating Terrorism and passed Law No. 3 on Combating Terrorism.⁴¹ These pieces of legislation contain provisions which are particularly

³⁷ Bloomberg, *Qatar Said to Have Prosecuted Five Men on U.S. Terrorism List*, 17 June 2017, <https://www.bloomberg.com/news/articles/2017-06-15/qatar-said-to-have-prosecuted-five-men-on-u-s-terrorism-list> (accessed on 15 March 2018).

³⁸ Reuters, *Qatar puts 28 people and entities on new terrorism list*, 22 March 2018, <https://www.reuters.com/article/us-gulf-qatar-security/qatar-puts-28-people-and-entities-on-new-terrorism-list-idUSKBN1GY222> (accessed on 22 March 2018).

³⁹ Law No. 17 of 2002. Available at: <http://www.almeezan.qa/LawPage.aspx?id=116&language=en> (accessed on 19 March 2018).

⁴⁰ Law No. 5 of 2003. Available at: <http://www.almeezan.qa/LawPage.aspx?id=3985&language=en> (accessed on 23 March 2018).

⁴¹ Law No. 3 of 2004 On Combating Terrorism. Available at: <https://www.alkarama.org/en/documents/anti-terrorism-law> (accessed on 23 March 2018).

worrisome because they allow for derogation from legal safeguards enshrined in the Code of Criminal Procedure in cases related to national security and public order.

While the Committee against Torture has previously called on Qatar to amend the laws on the Protection of Society, the Law on Combating Terrorism and the Law on State Security Agency to bring them in conformity with the Convention,⁴² Alkarama notes that the State Party has not provided information in its report on any such measures, nor has it provided statistics on the number of individuals arrested on suspicion of violating these laws and the length of time that passed before they were charged with an offence.

The 2004 Law on Combating Terrorism defines terrorism in broad terms. Under article 1, a “terrorist purpose” is “when the motive for using force, violence, threat, or causing terror, is obstructing application of the provisions of the Amended Provisional Constitution or the law, breaching the public order, [...] damaging the national unity [...], harming establishments”.

Moreover, article 17 of the law provides that “(i)n conducting investigation and opening the criminal case with respect to terrorist crimes, the public prosecution shall not be limited by the requirement of complaints or requests provided for in the Code of Criminal Procedures”.

Article 18 also permits the public prosecution to detain terrorist suspects for a period of 15 days, which may be extended “if such action is in the interest of the investigation”, not exceeding a total of six months. Similarly, article 7 of the Law on State Security Services allows for individuals to be held for 30 days before being presented before the Public Prosecution.⁴³

Lastly, article 2 of the Law on the Protection of Society raises an additional concern. It allows for pre-trial detention of up to one year with the consent of the prime minister for crimes related to “state security” and “decency or public morals”. In so doing, it raises doubts as to the independence of Qatari judiciary and seems to contravene articles 1, 2, 4 and 6 of the Basic Principles on the Independence of the Judiciary.

⁴² Committee against Torture, *Concluding observations on the second periodic report of Qatar, adopted by the Committee at its forty-ninth session (29 October–23 November 2012)*, 25 January 2013, CAT/C/QAT/CO/2, para. 11.

⁴³ Law No. 5 of 2003. Available at: <http://www.almeezan.qa/LawPage.aspx?id=3985&language=en> (accessed on 19 March 2018).

The following examples illustrate the lack of adequate legal safeguards in cases of terrorism and national security. For instance, Mr **Mansoor Al Mansoori**,⁴⁴ a Qatari citizen, was detained in 2013 for exercising his right to freedom of expression after he tried to organise a demonstration to protest against the French military intervention in Mali. On that occasion, he was detained for a month without charge nor any legal procedure. Mr Al Mansoori was arrested again on 15 August 2017 by the State Security Services officers with neither a warrant nor a reason for his arrest being provided. He was brought to the detention facility of the State Security Services in Doha where he was detained for four months and kept in solitary confinement for one month and a half. He was allowed limited contact with his family and did not have access to a lawyer. Moreover, he was never brought to trial nor was he informed of the reasons for his detention. He was released on 14 December 2017 without any legal procedure.

Another such case is that of Mr **Mohammad Meshab**,⁴⁵ a Qatari citizen who was arrested on 17 December 2015 by the State Security forces and the emergency forces without a warrant. He was detained until August 2016 in prolonged solitary confinement. According to his family, Mr Meshab was subjected to ill-treatment, such as being deprived of sleep and kept in extreme conditions in a small, cold and dark cell. Accused along with 17 other defendants of "financing terrorism", Meshab's trial was marked by numerous irregularities. He was brought to his hearings repeatedly with his hands cuffed, which is a violation of the principle of presumption of innocence. Moreover, the hearings were not held in public and his family was denied access to the courtroom. After more than two years, the court has still not pronounced a final ruling and Meshab and the 17 other co-accused in the case remain in detention in the Central Prison in Doha.

RECOMMENDATIONS

- a) Ensure that legal safeguards provided in the Code of Criminal Procedure equally apply to suspects of terrorism;
- b) Amend the Protection of Society Law and the Law on Combating Terrorism and the Law on State Security Services to bring them into conformity with the Convention.

⁴⁴ Alkarama, Qatar: Qatari citizen Mansoor Al Mansoori arbitrarily detained in counterterrorism investigation, 11 September 2017, <https://www.alkarama.org/en/articles/qatar-qatari-citizen-mansoor-al-mansoori-arbitrarily-detained-counterterrorism> (accessed on 22 March 2018).

⁴⁵ Alkarama, Qatar: Unfair Trial of Mohammad Meshab, 17 January 2017, <https://www.alkarama.org/en/articles/qatar-unfair-trial-mohammad-meshab> (accessed on 22 March 2018).

12. DEATH PENALTY

In its state report, Qatar provided of a list of crimes punishable by execution in accordance with the Qatari Penal Code.⁴⁶ Alkarama notes that many of the offences listed do not meet the high threshold of “the most serious crimes” as defined by the Special Rapporteur on extrajudicial, summary and arbitrary executions as “cases where it can be shown that there was an intention to kill, which resulted in the loss of life”.⁴⁷ While articles 159.3 - 252.2 and 300 - 318.3 of the Penal Code clearly stipulate that the death penalty may only be imposed if the crime results in “the death of a person”, articles 98 - 135 and 279 - 283.2 allow for the use of capital punishment in cases that do not necessarily result in the loss of life. Similarly, article 2(1) of Law No. 3 of 2004 on Combatting Terrorism imposes the death penalty for vaguely defined and wide-ranging terrorist acts.

Shortcomings of this nature highlight the urgent need for Qatar to take steps to ensure that offences carrying the death penalty are restricted to those which fall within the category of the “most serious crimes”.

RECOMMENDATIONS

- a) Establish a permanent moratorium on the death penalty;
- b) Commute death sentences to prison sentences;
- c) Ensure that the death penalty is only imposed for those crimes that fall within the category of the “most serious crimes” and after trials that fully comply with international fair trial standards.

⁴⁶ *State report*, other matters, para. 233.

⁴⁷ UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, UN. Doc. A/HRC/4/20, January 2007, paras 39, 53 and 65.