

QATAR
BRIEFING TO THE COMMITTEE AGAINST TORTURE
(MAY 2006)

36th Session of the UN Committee against Torture, May 2006: Comments by AI on the compliance by Qatar with its obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).

INTRODUCTION

Amnesty International (AI) welcomes the government of Qatar's initial report to the Committee against Torture and notes the positive steps taken by the Qatari authorities to adhere to their obligations under international human rights law. In particular we welcome the establishment of the National Human Rights Committee (NHRC), which should have an important role in facilitating the promotion and protection of human rights, including the eradication of torture in Qatar. AI seeks to assist the NHRC and the government in any way that it can in order to achieve these objectives.

At present however, AI is concerned that further action by the government of Qatar is required in order to bring both law and practice as regards the prohibition of torture into conformity with Qatar's obligations under the CAT. Despite the progress made by the government of Qatar, allegations of torture and other forms of cruel, inhuman and degrading treatment or punishment continue to be reported, albeit sporadically, and there are not adequate systems in place, in practice, to ensure prompt, independent investigation of allegations of torture or ill-treatment and adequate remedy or redress for victims.

AI considers that the following steps should be taken by the government of Qatar in order to ensure Qatar's full compliance with its obligations under the CAT:

- New legislation should be introduced which clearly defines torture in accordance with the definition set out in the CAT and sets out the penalties imposed on those who perpetrate torture – that is, those who instigate, order, inflict or acquiesce in torture.
- Such legislation should also detail the steps to be taken to ensure prompt, impartial and independent investigation whenever allegations of torture come to the attention of the authorities, and the responsibility for ensuring implementation of these steps. It should also require the courts to ensure that allegations of torture or ill-treatment made by defendants or witnesses during court proceedings are investigated, promptly and independently, and that no confessions or testimony obtained under torture may be entered as evidence except in proceedings where the alleged perpetrators are being prosecuted.
- New legislation is also required to remedy current deficiencies in provisions relating to the arrest and detention of suspects, specifically to limit the period during which detained persons may be held without charge and to institute readily enforceable safeguards to ensure that detainees are not subject to torture or ill-treatment in custody. In this connection there is a particular need to impose strict limits, in both law and practice, on the use of incommunicado detention by requiring the detaining authorities to inform detainees' families of their arrest within a short, prescribed period and allowing detainees prompt access to their families, legal representatives and independent medical examination.
- Procedures should be established to ensure that all allegations of torture or ill treatment by state officials are investigated, promptly and independently, that any

officials responsible for torture or ill-treatment are brought to justice, and that any persons subject to torture or ill-treatment receive appropriate compensation.

- An independent and impartial investigation should be undertaken into the alleged torture and ill-treatment of defendants sentenced in connection with the alleged plot to overthrow the government by force in 1996; in the event that such allegations prove to be well-founded, the authorities should review the convictions of those sentenced and bring to justice any officials found to be responsible for torture or ill-treatment.
- The authorities should reinforce measures to prevent violence against women, including violence within the family, and should take action specifically in one case cited below, and in any similar cases in which a woman is reportedly being confined against her will by members of her family and subjected to violence.
- The authorities should strengthen measures to address violence against women and to punish those who commit such crimes.

1. INADEQUATE PROHIBITION OF TORTURE

Qatar's domestic legislation fails to define or adequately prohibit torture. Article 36 of the Constitution states "...No one shall be subjected to torture or degrading treatment. Torture shall be considered a crime punishable by law". However, this is not reflected in Qatar's Penal Code of 2004, which contains no provision specifically prohibiting torture and fails therefore, to give legislative effect to this important constitutional safeguard. In this respect, Qatar currently fails to meet the standards elaborated in Article 1 of the Convention against Torture.

Qatar's Penal Code and Code of Criminal Procedures do make reference in certain of their provisions to torture, cruelty and harm, but neither torture nor the other terms are defined and torture is not specifically prohibited.

Article 161 of the Penal Code prescribes a penalty of up to three years' imprisonment and/or a fine of up to 10,000 riyals for any "public official who, during the course of his duties, commits or orders others to commit acts of cruelty under circumstances other than those permitted by law"; however, the meaning of the term cruelty is not defined and nor are the circumstances in which such cruelty would be permitted under the law.

Article 159 of the Penal Code does refer directly to torture, providing that a penalty of up to 10 years' imprisonment is to be imposed on any public official who, as a result of "torture or use of force or threat" causes the victim of that force to sustain a permanent disability. The same provision increases the penalty to death or life imprisonment if the "actions of the public official" results in the death of the victim. However, the Code fails to define the meaning of "torture and the use of force" and the specific elements that constitute such crime.

The lack of clarity in the laws and their non compliance with international standards is also found elsewhere. Article 40 of the Code of Criminal Procedures states that "No one may be arrested or imprisoned except pursuant to an order issued by the competent authorities and under the circumstances specified by law. Such persons must be treated in a manner conducive to the preservation of their human dignity and may not be subjected to physical or mental harm". While this provision prohibits "physical and mental harm", it does not define clearly the meaning of this term and how it is to be interpreted in practice.

In the absence of a definition fully consistent with Article 1 of the Convention against Torture, it is unclear what is meant by "torture", "degrading treatment", "cruelty" or "harm" and at what point such acts amount to a criminal offence. Further, the broad nature and vague

wording of Article 40 of the Qatari Code of Criminal Procedures and Articles 161 and 159 of the Penal Code are such that they fall outside the standards required under Article 1 of the Convention against Torture. Unsupported by other laws and mechanisms, the constitutional guarantee in Article 36 of the Constitution cannot be considered to amount to a firm commitment prohibiting or criminalizing torture.

AI considers that the prohibition against torture contained in Qatar's Constitution needs urgently to be reinforced by the introduction of legislation that clearly defines torture and ill-treatment and thereby give effect, in practice, to the safeguard established under the Constitution.

2. LAWS THAT COULD FACILITATE TORTURE AND ILL-TREATMENT

During the past three years, AI has received a number of reports of detainees being held incommunicado either under Law No.17 of 2002 on the Protection of Society or Law No. 3 of 2004 on Combating Terrorism. In 2005, at least 18 people were detained under these laws though few details of their cases are available.

Under the Code of Criminal Procedures, detainees should be charged or released within 48 hours, or otherwise the General Prosecution may extend their detention without charge for up to a further 16 days before detainees are brought before a judge. However, the authorities are specifically exempt from such requirements with respect to individuals detained under the Protection of Society Law, and persons detained under this law can be held without charge or trial for up to six months by order of the Minister of the Interior acting on the recommendation of the Director General of Public Security. Such detention without charge or trial may then be extended for up to two years at the discretion of the Prime Minister. The law makes no provision for detainees to have access to relatives or legal counsel and, in practice; they appear to be held incommunicado. The law provides only (in article 3) that detainees or their relatives may appeal in writing to the Prime Minister against the detention or its renewal. Further, detentions are not subject to any judicial supervision or oversight; the courts have no jurisdiction to hear challenges to such detentions; or to order the release of detainees.

The Law on Combating Terrorism of 2004 similarly provides for prolonged detention without charge or trial. Persons detained under this law, on grounds including that they are suspected of forming a terrorist organisation or assisting terrorists, can be held without charge or trial for up to six months under successive, renewable 15 day detention orders, during which they are denied judicial rights. The law makes no provision for detainees to have access to their families or legal counsel, effectively permitting them to be held incommunicado, and the courts have no jurisdiction to consider challenges to detention or to order the release of detainees.

To date, AI has not received any reports of torture or ill-treatment of detainees held under the above laws but the organization is concerned about their potential for misuse in that they confer extensive powers on the executive and fail to include adequate safeguards for the protection of detainees, such as the right to have access to legal counsel and the right to challenge their detention before a court. A further concern is that detainees held under these laws are subject to interrogation by the General or National Security Forces (previously known as Mukhabarat - the intelligence unit) against which serious allegations of torture have been made in previous years, notably in connection with the 1996 case cited below.

3. INVESTIGATION OF TORTURE AND ILL-TREATMENT ALLEGATIONS

Acting in accordance with Law No. 28 of 2002, the National Human Rights Committee (NHRC) was established in May 2003. This 13-member committee, including eight officials from government ministries, advises the government on the promotion of human right and has

a mandate to receive and inquire into individual complaints, including allegations of torture and ill treatment. In pursuance of its remit, members of the Committee have been permitted to visit various places of detention in Qatar, including the Central Prison and the Deportation Centre in Doha. In its annual report for 2004, the Committee reported that it had not received any allegations of torture or ill-treatment of prisoners during these visits. It is not clear, however, to what extent the members of the Committee were able to speak directly to inmates in confidence.

In its report for 2004 (the latest yet available), the NHRC stated that it had received allegations of torture of suspects by police officers but provided few details, other than that of one case of a police officer had been referred to the courts. The outcome however, is not known to AI.

AI welcomes both the establishment of the NHRC and the access which the NHRC has been permitted to places of detention in Qatar. Access by independent monitors can be an effective safeguard against torture and ill-treatment of prisoners, especially when such access is extended to all places of detention and can be carried out frequently and without advance notice to the detaining authorities.

Despite the establishment of the NCHR and other positive steps, the authorities have failed to date to conduct a thorough, independent investigation into serious allegations of torture and ill-treatment of detainees in 1996 and in 1999.

The first allegations arose following the discovery of an alleged plot to overthrow the government by force, which resulted in a number of arrests of suspected plotters in 1996 and 1997. In all, some 117 people were charged in connection with the plot (some in absentia), of whom 20 were sentenced to death by the Court of Appeal in May 2001. Of these, 18 remain under sentence of death pending the decision of the Emir to confirm or commute their death sentences; two others, Bakhit Marzouq al-Abdullah and Hamad bin Jassem bin Hamad Al-Thani, were released in January and September 2005 respectively after being granted royal pardons by the Emir. During their trials, which were attended by AI observers, a number of the defendants reportedly alleged that they had been tortured and ill-treated while held incommunicado in pre-trial detention by officials of the *Mukhabarat* and forced to confess. In response, the courts ordered some to be medically examined but no further steps are known to have been taken either by the courts or the detaining authorities to promptly investigate these allegations, and statements allegedly extracted through torture are reported to have been accepted as evidence by the trial courts. Methods of torture reportedly included beating with truncheons, particularly on the genitals; suspending the detainees upside down for long periods; dragging the detainees on the floor; threats to rape or kill members of their families; and electric shocks.

Further allegations of torture and ill-treatment during interrogation were made by two UK nationals and one Lebanese national who were detained for several days in December 1999, apparently as suspects in a criminal case. All three men alleged that they had been subjected to sustained beatings, mostly on the head and neck and while handcuffed, during interrogation at the Capital Police Station in Doha. AI wrote to the Minister of Justice expressing concern about these allegations and to urge an investigation, but received no response. As far as AI is aware, no investigation was carried out.

Allegations of beating were also made by Lu'ay Muhammad Abdullah, a US national of Palestinian origin who was prosecuted in 2001 and sentenced to two years' imprisonment for "publicly insulting the ruler" of Qatar on a website. He alleged that he had been beaten and forced to stand on one foot and with his hands raised during his interrogation, causing him pain and distress. In this case too, AI expressed its concern to the Minister of Justice and urged that the allegations be investigated, but without response. Lu'ay Muhammad Abdullah was released in 2002.

4. VIOLENCE AGAINST WOMEN

In Qatar, as in other states, there is information to suggest that the police are reluctant to treat violence against women, particularly violence within the family, as a criminal matter although such violence constitutes an assault under strict application of the law. Rather, it has been suggested to AI, the prevailing perception of violence against women in the family is that it is a “family issue” and, in a sense, “normal”, and police prefer to address the issue through mediation (including using social workers at some police stations). This police reluctance to address the issue using the criminal law, it is suggested, tends to deter women from coming forward to report violence to which they are subject within the home¹.

The most notable case concerns Hamda Fahad Jassem Ali al-Thani, a 29-year-old woman who is a member of Qatar’s ruling family, who is reported to have been confined to her family home, against her will, since November 2003 and subjected to beatings because of her family’s opposition to her marriage to an Egyptian national in 2002. She is alleged to have been drugged and abducted by Qatari security officials nine days after her marriage and forcibly returned from Egypt to Qatar, then secretly detained in the al-Selyea area of Doha until April 2003 then she was transferred to and detained at the State’s Special Security Directorate in Doha until November 2003. She was then handed into the custody of her family.

AI has raised this case with the NHRC, the Emir of Qatar and other Qatari authorities. In May 2005, AI was informed by the Minister of State for Foreign Affairs that the authorities were investigating the matter and seeking “to resolve it as early as possible” but, to date, Hamda Fahad Jassem Ali al-Thani continues to be confined and, reportedly, subject to mistreatment by her family, apparently with the knowledge of the Qatar authorities.

The cases of Hamda al Thani, is an extreme example of what women can face when they are subjected to violence by both state and non state actors, and how the authorities in Qatar fail to deal with cases of violence against women.

¹ For more details see AI’s report Gulf Cooperation Council (GCC) countries: Women deserve dignity and respect, AI Index: MDE 04/004/2005, 11 May 2005.