



# **QATAR: BRIEFING TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE**

## **49<sup>TH</sup> SESSION, NOVEMBER 2012**

### **I. Introduction**

Amnesty International welcomes the submission of Qatar's 2<sup>nd</sup> periodic report to the Committee against Torture (the Committee) and hopes that further steps will be taken towards the realization of concrete and full safeguards against torture and other ill-treatment.

The organization also notes positive steps taken by the Qatari authorities to adhere to their obligations under international human rights law. In particular it welcomes the recent amendment to the definition of torture in the Criminal Code which brings it into line with that set out in Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention). Amnesty International also welcomes the establishment of institutions and facilities, including shelters and hotlines, to assist victims of torture and other ill-treatment and other human rights violations, as set out in the Qatari government's report to the Committee<sup>1</sup>.

However, Amnesty International continues to be concerned that allegations of torture and other forms of cruel, inhuman and degrading treatment or punishment continue to be reported, that Qatari laws lack sufficient safeguards to protect detainees and torture and other ill-treatment and that there are no adequate systems in place, in practice, to ensure prompt, independent investigation of allegations of torture or other ill-treatment and adequate remedy or redress for victims. Sentences of corporal punishments continue to be passed against Muslims.

Further action by the government of Qatar is needed in order to bring its laws and practices in compliance with Qatar's obligations under the Convention.

In this briefing Amnesty International addresses some of its main concerns in relation to torture and other ill-treatment including corporal punishment, laws that could

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<sup>1</sup> Second Periodic Report of Qatar (CAT/C/QAT/2/Rev.1), pp. 7-11 and 21-22.

facilitate torture and ill-treatment, and the lack of investigations into allegations of torture and other ill-treatment.

## **II. Prohibition of torture and other ill-treatment (Article 1)**

Amnesty International welcomes the recent amendment to the definition of torture in the Criminal Code which brings it into line with that set out in the Convention.<sup>2</sup>

However, other articles of the Criminal Code and Code of Criminal Procedures relating to the prohibition and penalization of acts that may amount to torture or other ill-treatment are of concern due to their vague wording and, as such, fall below the standards required under Article 1 of the Convention.

Article 40 of the Code of Criminal Procedures states:

“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 which preserves 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.

Article 160 of the Criminal Code states:

“A penalty of imprisonment for a period not exceeding three years and a fine not exceeding 10,000 riyals or one of the two penalties shall apply to any public officer who uses the power vested in him by virtue of his office to harm any individual or to extract an illegitimate benefit for himself or third parties.”

Article 161 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 in circumstances other than those permitted by law”.

However, the meaning of the terms “harm” and “cruelty” are not defined and nor are the circumstances in which “cruelty” would be permitted under the law.

## **III. Corporal punishment (Article 16)**

Amnesty International welcomes the fact that, as stated in the Qatari government’s report to the Committee, the new law regulating penal and correctional institutions (Act No. 3 of 2009) “makes no provision for the use of flogging as a disciplinary sanction”, in contrast to its predecessor.<sup>3</sup>

However, despite the prohibition in Qatari law of the use of torture, judicial corporal punishment is not prohibited. In fact, as the Qatari government’s report to the

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<sup>2</sup> The definition is set out in Article 159 of the Criminal Code.

<sup>3</sup> Second Periodic Report of Qatar (CAT/C/QAT/2/Rev.1), p. 26.

Committee indicates,<sup>4</sup> the penalties of stoning, amputation and flogging are still provided for under Article 1 of the Criminal Code, which states:

“Islamic Shar’ia provisions are applicable to the following crimes if the suspect or the aggrieved party is a Muslim:

1. *Hudud*<sup>5</sup> crimes related to theft, highway robbery, illicit sexual relations, defamation, drinking alcohol and apostasy.

2- Crimes of *qisas*<sup>6</sup> and *diya*<sup>7</sup>.

Beyond this, the crimes and the punishments are determined due to this law and any other law.”

However, the Criminal Code does not provide any further details, such as the number of flogging lashes applicable for particular offences.

The Qatari government’s report states that “[i]n practice” the penalties of stoning, amputation and flogging “are not used”. Amnesty International is not aware of cases in which individuals have been sentenced to stoning or amputation in recent years.

With respect to flogging, the National Human Rights Committee told Amnesty International delegates visiting Qatar in October 2012 that it had found no evidence of any judicial flogging sentences being passed within the last three years. However, officials from both the Ministry of Interior and Public Prosecution told Amnesty International during the same visit that judicial flogging sentences continue to be imposed and applied, while stressing that such punishments were only applied against Muslims. Ministry of Interior officials confirmed, for example, that there continued to be cases of convicted prisoners held in the Central Prison in Doha who had been sentenced to flogging and had the punishment carried out against them. One senior official stressed that flogging was not a commonly applied punishment, that it was carried out “lightly” when implemented and that beforehand a medical examination was carried out by a doctor who decided whether the person was fit enough for the punishment to be carried out and into how many sessions the total number of lashes should be divided. He pointed out that some detainees nonetheless requested that all the lashes be administered in one session in order to have the punishment completed more quickly and that such requests were sometimes met.

The Public Prosecution official explained that flogging was administered in order to “cleanse” those convicted of certain Shari’a offences and that the Criminal Code is not more specific about the punishments envisaged under Article 1 because some of the crimes attract a *ta’zir* punishment<sup>8</sup> and it is therefore at the discretion of the judge to decide the punishment.

According to media reports, dozens of people have been given flogging sentences – ranging from 40 to 100 lashes – since 2004, including at least 45 between 2009 and 2011. When flogging is imposed as a *hudud* punishment it has an upper limit of

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<sup>4</sup> Second Periodic Report of Qatar (CAT/C/QAT/2/Rev.1), p. 26.

<sup>5</sup> Under Shari’a law, *hudud* are serious offences that carry fixed punishments.

<sup>6</sup> Under Shari’a law, *qisas* refers to retribution in kind.

<sup>7</sup> Under Shari’a law, *diya* refers to financial compensation paid to the family of a murdered victim.

<sup>8</sup> Under Shari’a law, *ta’zir* punishments are discretionary punishments for offences that have no fixed punishment under *hudud* or *qisas* provisions.

100 lashes. Sentences are reported to have been imposed on Muslims convicted of consuming alcohol and engaging in “illicit sexual relations”.

#### **IV. Laws that could facilitate torture and other ill-treatment (Article 2)**

Under Qatar’s Code of Criminal Procedures, detainees must be charged or released within 48 hours following arrest, unless a prosecutor extends their detention without charge for up to a further 16 days, following which they must be brought before a judge. The detainee must be informed of their right to contact whomever they wish.

However, the guarantees mentioned above do not apply where individuals are detained under Law No.17 of 2002 on the Protection of Society and Law No. 3 of 2004 on Combating Terrorism.

Those detained under the Protection of Society Law can be held without charge or trial for up to six months by order of the Minister of 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. Article 3 of the law provides that detainees or their relatives may appeal in writing to the Prime Minister against the detention or its renewal. However, the 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 also makes no provision for detainees to have access to relatives or legal counsel.

Amnesty International has received information that since 2006 around a dozen people detained under the Protection of Society law have been subjected to incommunicado detention for weeks or months without charge or trial.

The law on Combating Terrorism similarly provides for prolonged detention without charge or trial. Persons detained under this law, on grounds such as being suspected of “forming a terrorist organization” or “assisting terrorists”, can be held without charge or trial for up to six months under successive, renewable 15-day detention orders. The courts have no jurisdiction to consider challenges to detentions under this law or to order the release of detainees. The law makes no provision for detainees to have access to their families or legal counsel, effectively permitting them to be held incommunicado.

Amnesty International asked the Qatari authorities for statistics on the number of people currently detained under the Protection of Society law and the law on Combating Terrorism during its visit to the country in October 2012, but has so far been unable to obtain such figures. Based on testimonies from detainees Amnesty International has interviewed in recent years, it appears that detainees held under these laws are often detained in facilities operated by State Security, a body that reports directly to the office of the Amir. Several detainees held in such facilities during recent months have told Amnesty International that there were other prisoners still detained there when they were released but that they were not allowed to speak to them or able to obtain further information about their detention.

## **V. Allegations of torture or other ill-treatment (Articles 3, 11 and 16)**

Amnesty International has received around a dozen of reports of torture or other ill-treatment against detainees during the period covered by the Qatari government's report (2004-2009) and since then. Most of the allegations relate to treatment during periods of detention prior to charge or trial, particularly during periods of incommunicado detention by State Security. Detainees have told Amnesty International that they were subjected to torture or other ill-treatment to force them to confess or coerce them to provide information.

The methods of torture and other ill-treatment reported to Amnesty International include beating, suspension for hours, sleep deprivation, solitary confinement in small cells for weeks or months, being made to stand for long hours continuously, being made to sleep on the floor without a mattress, denial of access to toiletries such as soap, and being subjected to grossly excessive air conditioning for prolonged periods.

In some instances detainees have been subjected to threats that could amount to torture or other ill-treatment. Former detainees have informed Amnesty International that they were told by security forces that if they spoke about their detention, the authorities would publicly say that they were "terrorists" and that consequently "no one would care about their detention". A Syrian detainee held by State Security in 2012 told Amnesty International that he was accused of being a spy for the Syrian government and told that they he would be handed over to the Free Syria Army. Amnesty International has received information that in 2011 another Syrian detainee who was detained by State Security was subjected to torture and deported to Syria.

## **VII. Investigation of allegations of torture or other ill-treatment (Articles 12 and 13)**

Amnesty International notes the statistical information provided by the Qatari government in its report to the Committee on "complaints about torture or degrading treatment brought against public officials and referred to the competent courts" during the years 2005-2008.<sup>9</sup>

However, the organization continues to receive complaints of torture or other ill-treatment which the authorities have failed to investigate.

One man who was detained at a State Security detention facility in Doha for most of 2011 told Amnesty International that he complained to the Public Prosecution about the torture and other ill-treatment he said he was subjected to and submitted the results of a subsequent medical examination. He said the Public Prosecution had promised to investigate his allegations, but that, as far as he was aware, no action had been taken in relation to his complaint so far.

In some cases, former detainees have said that they were threatened with further torture or other ill-treatment if they complained about their treatment. One detainee told Amnesty International that he was made to stand up for 14 hours continuously and deprived of sleep while detained by State Security in 2011. He was reported to have been told by State Security officials that if he complained he would "get more of this treatment".

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<sup>9</sup> Second Periodic Report of Qatar (CAT/C/QAT/2/Rev.1), p. 15.

In some cases, compensation appears to be offered to persuade those wishing to complain about torture or other ill-treatment not to do so formally. One former detainee held by State Security told Amnesty International that the authorities agreed to pay him five million Qatari riyals as compensation for the torture he had suffered on condition that he accepted that no one would be held criminally liable for the act. He said that he was eventually paid one million riyals, instead of the five million offered.

In one case known to Amnesty International, a detainee was apparently offered a form of retaliation against an alleged perpetrator. He told the organization that he was detained for several months in 2011 and subjected to beatings, suspension and other forms of torture or other ill-treatment in a State Security detention facility and that, when he complained to the authorities, they brought one of those he alleged had tortured him and encouraged him to beat him in retaliation.

Amnesty International has also received reports that some of those detained by State Security have been made to sign undertakings that they do not speak about their detention or treatment.

### **VIII. Recommendations**

Amnesty International 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 Convention:

- End the imposition of corporal punishment, including flogging and other forms of cruel, inhuman or degrading treatment and punishment;
- Review vague provisions on crimes and punishments, in particular Article 1 of the Criminal Code;
- Enact new legislation 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 and judicial oversight to ensure that detainees are not subjected to torture or other ill-treatment in custody;
- Impose strict limits, both in 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;
- Establish procedures to ensure that all allegations of torture or other ill-treatment by state officials are investigated, promptly, transparently, and independently, that any officials responsible for torture or other ill-treatment are brought to justice, and that any persons subject to torture or other ill-treatment receive appropriate compensation;
- Stop the deportation to countries where they could risk torture and other ill-treatment and ensure that they are given the opportunity to seek asylum in Qatar.