



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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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)

1. The Committee against Torture considered the second periodic report of Qatar (CAT/C/QAT/2) at its 1104th and 1107th meetings (CAT/C/SR.1104 and 1107), held on 5 and 6 November 2012, and adopted, at its 1124th meeting (CAT/C/SR.1124), held on 19 November 2012, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Qatar, which generally followed the reporting guidelines, but regrets that it was submitted after a delay of more than three years. The Committee emphasized the importance of the timely submission of reports to ensure a continuous analysis of the implementation of the Convention in the State party. The Committee appreciated the State party's written replies to the list of issues (CAT/C/QAT/Q/2/Add.2), which were provided by the State party in Arabic and English.

3. The Committee notes with appreciation that a high-level delegation met with the Committee and engaged in a constructive dialogue covering various areas of concern under the Convention.

B. Positive aspects

4. The Committee welcomes that, since the consideration of the initial report, the State party has ratified or acceded to the following international instruments:

(a) The Convention on the Elimination of All Forms of Discrimination against Women, on 29 April 2009; and

(b) The Convention on the Rights of Persons with Disabilities, on 13 May 2008.

5. The Committee notes with appreciation the State party's reforms in the field of human rights and ongoing efforts to revise its legislation in order to ensure stronger protection of human rights, including the rights protected in the Convention. The Committee welcomes in particular:

(a) The establishment of the Supreme Constitutional Court, pursuant to Act No. 12 of 2008;

(b) The establishment of the Qatar Foundation for Combating Human Trafficking, pursuant to Supreme Council for Family Affairs Decision No. 1 of 2008;

(c) The establishment of a standing committee to hear cases of detainees held at the Deportation Detention Centre, pursuant to Minister of State for Internal Affairs Decision No. 46 of 2008;

(d) The enactment of Act No. 3 of 2009 regulating penitentiaries and correctional institutions; and

(e) The amendment to the Act establishing the National Human Rights Committee (Act No. 38 of 2002), by Decree-Law No. 17 of 2010.

C. Principal subjects of concern and recommendations

Implementation of the Committee's previous recommendations

6. While acknowledging the various steps taken by the State party to reform some of its legislation in line with the Convention, the Committee notes with concern that many of its recommendations adopted following the consideration of the State party's initial report (CAT/C/QAT/CO/1) have not yet been implemented, and regrets that most subjects of concern remain.

The State party should re-examine and take all necessary measures to give full effect to the recommendations adopted by the Committee in its previous concluding observations.

Overarching considerations regarding implementation

7. The Committee regrets that, despite its repeated requests, most of the statistical information it requested was not provided. The absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement, security and prison personnel, expulsions of immigrants and asylum seekers, access to detention records, trial duration, rehabilitation and compensation, and trafficking and sexual violence severely hampers the identification of compliance or non-compliance with the Convention requiring attention.

The State party should compile and provide the Committee, in its next periodic report, with information on complaints, investigations, prosecution and convictions in cases of torture and ill-treatment, expulsions, length of trials of alleged perpetrators of torture and ill-treatment, rehabilitation and compensation, trafficking and sexual violence, and the outcomes of all such complaints and cases. To this end, statistical data should be disaggregated by gender, age, ethnicity status, nationality, relevant to the monitoring of the Convention.

Criminalization of torture

8. The Committee welcomes the amendment to the definition of torture in articles 159 and 159 bis of the Criminal Code in conformity with article 1 of the Convention and the amendment to its national legislation in order to apply appropriate penalties for torture and ill-treatment. However, the Committee regrets the lack of information about cases in which those legal provisions were applied by domestic courts and the punishments imposed for such acts (arts. 2 and 4).

The State party should ensure the effective implementation of the amended definition of torture under articles 159 and 159 bis of the Criminal Code, and follow up on cases in which those provisions are invoked before and by courts. The State party should

ensure that the crime of torture and ill-treatment is punishable by appropriate penalties that take into account their grave nature, as set out in article 4, paragraph 2, of the Convention.

Reservations and declarations under articles 21 and 22 of the Convention

9. While noting that the State party has taken steps to withdraw its reservations to articles 21 and 22 of the Convention, the Committee is concerned that it has not yet accepted the Committee's competence under those articles. The State party also seeks to retain a vague and extremely broad reservation to articles 1 and 16 of the Convention insofar as they are incompatible with the precepts of Islamic law and the Islamic religion. The Committee considers that the State party should face few obstacles in withdrawing its reservation in view of the fact that the State party has accepted and incorporated into domestic law the definition of torture in article 1 of the Convention, as noted in paragraph 8 of the present concluding observations. While noting the statement made by the State party's delegation that the reservation to the Convention will not impede the full enjoyment of all the rights guaranteed in it, the Committee is concerned that the general and imprecise nature of the reservation allows courts and governmental and other officials to negate many of the Convention's provisions and this raises serious concerns as to its compatibility with the object and purpose of the Convention.

The State party should consider withdrawing the reservation so as to ensure it is in compliance with the requirements of the Convention. The Committee recommends that the State party consider making the declarations under articles 21 and 22 of the Convention.

Fundamental legal safeguards

10. While noting that article 39 of the Constitution and articles 40, 112 and 113 of the Code of Criminal Procedure provide some legal safeguards to detainees, the Committee is concerned that these provisions are not always respected in practice, in particular for non-citizens, and do not cover all fundamental safeguards required by the Convention, in particular the right to have an independent medical examination upon deprivation of liberty. The Committee also expresses its concern at the lack of information on detention registers as well as the lack of monitoring of the implementation of safeguards, in particular given that the State party stated that it had documented no cases in which the authorities had failed to properly register detainees during the reporting period. While noting the provisions in the Code of Criminal Procedure requiring persons to be charged or released within 48 hours, the Committee remains concerned that detention without charge may be extended by the Attorney General for 16 days. Of further concern are reports on persons detained without charge or trial, inter alia, the case of Mohamed Farouk al Mahdi, undertaken by the Working Group on Arbitrary Detention (A/HRC/WGAD/2010/25) (arts. 2 and 16).

The State party should promptly take effective measures to ensure that all detainees, including non-citizens, are afforded, in practice, all fundamental legal safeguards from the very outset of detention, including the rights to promptly receive independent legal assistance and a medical examination by an independent doctor, contact relatives, and appear before a judge within a time limit in accordance with international standards. The State party should also take steps to ensure effective monitoring of the adherence of all personnel to the laws governing safeguards, and discipline or prosecute those who fail to provide them to persons deprived of their liberty as required by law. The State party should ensure that all detainees, including minors, are included on a central register. The State party is encouraged to introduce systematic video and audio monitoring and recording of all interrogations, in all

places where torture and ill-treatment are likely to occur, and provide the necessary resources to that end.

Arbitrary detention under special legal provisions

11. The Committee is deeply concerned that persons detained under the provisions of the Protection of Society Law (Law No. 17 of 2002), the Law on Combating Terrorism (Law No. 3 of 2004) and the Law on the State Security Agency (Law No. 5 of 2003) may be held for a lengthy period of time without charge and fundamental safeguards, including access to a lawyer, an independent doctor and the right to notify a family member and to challenge the legality of their detention before a judge. The Committee is concerned about reports that persons detained under those laws are often subject to incommunicado detention or solitary confinement, as seen in the cases of Mohammed al-Ajami, Fawaz Al-Attayah, Abdullah Khowar and Salem Al Kuwari (arts. 2 and 16).

The Committee urges the State party to:

(a) **Ensure that all fundamental safeguards are provided, in law and in practice, for all persons deprived of their liberty. This includes the availability of judicial and other remedies that will allow them to have their complaints promptly and impartially examined, and to challenge the legality of their detention or treatment;**

(b) **Amend the Protection of Society Law and the Law on Combating Terrorism to bring them into conformity with the Convention. The State party should review the use of incommunicado detention with a view to its abolition and ensure that solitary confinement remains an exceptional measure of limited duration, in line with international standards; and**

(c) **Provide statistics indicating the number of persons arrested by the State security agency personnel, as well as all persons arrested on suspicion of violating the Protection of Society Law and the Law on Combating Terrorism, and the length of time that elapsed before they were charged with an offence.**

Corporal punishment as criminal sanctions

12. While noting that the new Act regulating penitentiaries and correctional institutions (Act No. 3 of 2009) makes no provision for the use of flogging as a disciplinary sanction unlike the previous law (Act No. 3 of 1995), the Committee remains concerned that flogging and stoning continue to be punishments under article 1 of the Criminal Code. According to information before the Committee, and which the State party did not dispute, at least 45 people were given flogging sentences between 2009 and 2011 (art. 2).

The State party should put an end to its imposition of corporal punishment, which constitutes a breach of the Convention, and modify its legislation accordingly. The State party should ensure that criminal sanctions are in full conformity with the Convention.

Independence of the judiciary

13. While noting the Constitution and the Judicial Authority Act No. 10, which recognize the independence of the judiciary, the Committee is concerned at the lack of the independence of judges in practice, mainly due to the insecurity of tenure of judges. The Committee notes with concern that a large proportion of judges are foreign nationals dependent on residence permits granted by civil authorities and that the Emir approves the appointment of judges (art. 2).

The Committee reiterates its recommendations that the State party should adopt effective measures to fully ensure the independence of the judiciary, in conformity with international standards, such as the Basic Principles on the Independence of the Judiciary.

Complaints and prompt, thorough and impartial investigations

14. The Committee reiterates its concerns about the absence of data on individual complaints of torture or ill-treatment, or the results of investigations or prosecutions related to the provisions of the Convention. The Committee notes with concern the information provided by the State party that it has not recorded any complaint on torture or ill-treatment, which contradicts a number of reports of ill-treatment of detainees submitted by several sources, including the Qatari National Human Rights Committee (NHRC) (arts. 12, 13 and 16).

The State party should ensure that information about the possibility and procedure for filing a complaint against the police is made available and widely publicized, including by being prominently displayed in all detention facilities. The State party should ensure that all allegations of torture and ill-treatment are investigated promptly and thoroughly by independent bodies, with no institutional or hierarchical connection between the investigators and the alleged perpetrators among the police. As indicated in paragraph 7 of the present concluding observations, the State party should provide, in its next periodic report, statistical data, disaggregated by crimes, nationality, age and gender, on complaints relating to torture and ill-treatment and any related investigations, prosecutions, penal and disciplinary sanctions.

Monitoring and inspection of places of deprivation of liberty

15. The Committee is concerned at the lack of systematic and effective monitoring of all places of deprivation of liberty by national and international monitors. Furthermore, it remains concerned at the adequacy and frequency of visits, including unannounced visits, by the existing monitoring mechanisms and the lack of information on the extent to which their recommendations have been implemented by the authorities (arts. 2, 11 and 16).

The State party should ensure that fully independent monitoring of all places used for deprivation of liberty, including the Deportation Detention Centre, psychiatric facilities and the State security prison, takes place on a regular basis, as well as including unannounced visits, and should follow up effectively on the outcome of such systematic monitoring in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The State party should strengthen the mandate and resources of the National Human Rights Committee and other national monitoring mechanisms to that end. The State party is encouraged to accept monitoring of places of detention by non-governmental organizations and relevant international mechanisms and to consider ratifying the Optional Protocol to the Convention as soon as possible.

National Human Rights Committee

16. While noting the NHRC role in monitoring detention facilities and raising cases on human rights violations with the authorities, the Committee expresses concern about reports that NHRC visits are infrequent and refused sometimes and that NHRC lacks medical expertise for the detention visits and interpreters for the visits to the deportation centre. Further, a large proportion of the NHRC members continue to be composed of Government officials, although they serve in a non-voting capacity. The Committee is also concerned at the lack of comprehensive data on complaints received by NHRC relating to violations of

the provisions of the Convention, and the actions taken by the authorities in response, as well as their outcome (arts. 2, 12 and 13).

The State party should intensify its efforts to ensure that (a) the National Human Rights Committee is able to independently and impartially monitor and investigate torture or ill-treatments by State officers and has sufficient resources to that end; and (b) all relevant authorities follow up on the recommendations issued by NHRC. Furthermore, the State party is encouraged to consider reducing the number of governmental officials who are members of NHRC and limiting their roles, in particular, in undertaking detention monitoring and adopting recommendations, with a view to strengthening the full independence of NHRC in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

Human rights defenders

17. The Committee is concerned at the lack of information on measures taken to prevent harassment of human rights defenders and journalists and prosecute and punish perpetrators. It also regrets the lack of information on the case of Sultan al-Khalaifi, founder of a human rights organization, who was arrested in March 2011 and detained for a month without charge. Furthermore, the Committee notes with concern allegations of recent cases of arrest and detention of other human rights defenders in Qatar, referred to in an urgent appeal made by the Special Rapporteur on the situation of human rights defenders and three other special procedure mandate holders (A/HRC/18/51, case No. QAT 1/2011). The Committee regrets the insufficient role played by non-governmental bodies in the State party in monitoring the implementation of the Convention at the national level (arts. 13, 14 and 16).

The State party should take necessary measures to ensure the protection of human rights defenders from intimidation or violence as a result of their activities. Furthermore, it should ensure prompt, impartial and effective investigation and appropriate punishment of such intimidation or violent acts. It should take affirmative measures to encourage the formation of independent non-governmental bodies in the State party to monitor, promote and protect universal human rights for all.

Migrant workers

18. The Committee is deeply concerned about reports of widespread torture or ill-treatment and abuse of migrant workers, in particular under the sponsorship system (*kafeel*), constraints on lodging complaints against their employers and the lack of information on cases in which sponsors were punished for torture or ill-treatment of migrant workers. The Committee notes the concerns raised by the Committee on the Elimination of Racial Discrimination (CERD/C/QAT/CO/13-16, para. 15) that, despite the legal provisions prohibiting conduct such as passport and wage-withholding by sponsors, the fundamental nature of the sponsorship system increases the dependency of the migrant workers on sponsors, rendering them vulnerable to various forms of exploitation and abuses. In addition, the Committee regrets the absence of labour legislation that protects domestic work, while noting that a draft law on domestic workers is presently under review. The Committee regrets the lack of information provided by the State party on complaints of violence made by migrant domestic workers during the reporting period and whether these led to investigations and prosecutions of perpetrators, particularly in the light of information before the Committee reflecting numerous allegations by migrant workers of physical abuse, sexual violence, rape and attempted rape (arts. 2, 12, 14 and 16).

The State party should strengthen its efforts to provide legal protection to migrant workers, including female domestic workers, in its territory against torture, ill-treatment and abuse and guarantee access to justice. In that regard, the State party should:

(a) Adopt, as a matter of urgency, labour legislation covering domestic work and providing legal protection to migrant domestic workers against exploitation, ill-treatment and abuse;

(b) Consider abolishing the sponsorship system for all migrant workers, as recommended by the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23/Add.2, para. 95); and

(c) Provide data of complaints of ill-treatment of migrant workers filed with the authorities, the action taken to solve cases, remedies provided to victims and the punishment imposed against employers responsible.

Violence against women, including domestic violence

19. The Committee notes with encouragement various measures begun by the State party, including the Qatar Foundation for the Protection of Women and Children, such as the launch of a hotline and the provision of shelters and legal assistance to some victims. However, the Committee expresses concern over the persistence of violence against women, including domestic violence and sexual violence against domestic workers and, as indicated in paragraph 7 of the present concluding observations, the lack of statistical information on the overall complaints of domestic violence reported and investigations, convictions and punishments meted out (arts. 2, 12, 14 and 16).

The State party should strengthen its efforts to prevent violence against women, including domestic and sexual violence, inter alia, by:

(a) Establishing effective measures to guarantee victims' right to complain in relation to violations of the Convention and their inalienable rights promptly and without torture or ill-treatment or intimidation as a consequence of her or his complaint. The State party should work with appropriate non-governmental or international bodies, including foreign embassies, to that end and inform the Committee of its efforts to assess the accessibility and effectiveness of such system;

(b) Ensuring accountability of all perpetrators of such acts by undertaking prompt, impartial and effective investigations into complaints, prosecuting perpetrators of such violence and punishing them with appropriate penalties; and

(c) Ensuring that all victims of violence against women are provided with adequate redress and reparation, including compensation and the means for as full rehabilitation as possible.

Trafficking in persons

20. While welcoming various measures undertaken by the State party, in particular, the Qatar Foundation for Combating Human Trafficking, such as the adoption of the Arab Initiative against Human Trafficking, the Committee is concerned that Qatar continues to be a destination country for men and women subjected to forced labour and forced prostitution. The Committee also regrets the lack of information on the number of complaints, investigations, prosecutions and convictions of perpetrators of trafficking. The Committee, while noting the promulgation of the Law No. 15 of 2011 on trafficking, is concerned that, as raised by the Qatar NHRC in its 2011 annual report, article 5 of the aforementioned law allows for the return of victims to their countries without ensuring an assessment of risk upon return (arts. 2, 3, 4 and 16).

The State party should take all necessary measures to:

- (a) Effectively implement the current laws combating trafficking, including Law No. 15 of 2011;**
- (b) Ensure systematic procedures to identify victims of trafficking among vulnerable groups, such as those arrested for immigration violations or prostitution, and provide protection for victims and access for them to medical, social rehabilitative and legal services, including counselling services, as appropriate; and**
- (c) Create adequate conditions for victims to exercise their right to make complaints, and conduct prompt, impartial and effective investigation into all allegations of trafficking, bring perpetrators to justice and ensure punishment with penalties appropriate to the nature of their crimes.**

Refugees and non-refoulement

21. The Committee is concerned at the absence of national legislation and procedures explicitly regulating expulsion, refoulement and extradition, consistent with the requirements of article 3 of the Convention. The Committee regrets the lack of information on the case of the forced return of Eman al-Obeidi, who had been allegedly raped by Libyan soldiers, to Libya, even though she had been recognized as a refugee by the Office of the United Nations High Commissioner for Refugees. Furthermore, the Committee notes that, in spite the humanitarian measures by the Qatari authorities to help some refugees, the State party has not yet ratified international instruments relating to the protection of refugees and asylum seekers (art. 3).

The State party should:

- (a) Adopt national asylum legislation and procedures providing effective protection to asylum seekers and refugees from refoulement to a State where are substantial grounds for believing that he or she would be in danger of being subjected to torture or ill-treatment, in accordance with article 3 of the Convention;**
- (b) As indicated in paragraph 7 of the present concluding observations, provide disaggregated data on the precise number of asylum applications received, the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin, the number of deportations with an indications of the number of deportations relating to asylum seekers, and the countries to which deportations have been carried out; and**
- (c) Consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Juvenile justice

22. The Committee reiterates its serious concerns that the minimum age of criminal responsibility is 7 years in Qatar (arts. 2 and 16).

The State party should accelerate the process of its legislative measures, including the draft law on the children's rights, to raise the minimum age of criminal responsibility to an internationally acceptable level. The State party should ensure the full implementation of juvenile justice standards as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines).

Training

23. While noting with appreciation that the State party organized several training sessions for law enforcement officials on human rights, the Committee is concerned at the lack of specific training of 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 sequelae of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, the Committee regrets relatively low number of training participants and insufficient assessment of the impact of the trainings conducted and their effectiveness in reducing incidents of torture and ill-treatment (art. 10).

The State party should further develop and strengthen educational programmes and training to ensure that all officials dealing with persons deprived of liberty are fully aware of the provisions of the Convention. Furthermore, all relevant personnel, including medical personnel, should receive specific training on how to identify signs of torture and ill-treatment. To this effect, the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), should be included in the training material. In addition, the State party should develop and implement a methodology to assess the effectiveness and impact of such training programmes on the reduction of cases of torture and ill-treatment.

Redress, including compensation and rehabilitation

24. The Committee is concerned at the lack of comprehensive information and statistical data on reparation and compensation, including rehabilitation, for victims of torture and other cruel, inhuman or degrading treatment or punishment in the State party. The Committee notes with concern the extremely low number of cases of compensation and rehabilitation for victims, in particular, domestic workers. For the period from 2007 to 2012, the State provided compensation to eight domestic workers and the Qatar Foundation for Combating Human Trafficking provided rehabilitation for 12 victims (art. 14).

The State party should strengthen its efforts to provide victims of torture and other ill-treatment with fair and adequate reparation and compensation, including rehabilitation. The State party should include migrant workers and persons subjected to trafficking in redress programmes and ensure that they have access to effective remedies for torture and ill-treatment, including compensation and rehabilitation. The Committee draws the attention of the State party to the recently adopted general comment No. 3 (2012) on implementation of article 14 of the Convention, which explains the content and scope of the obligations of States parties to provide full redress to victims of torture.

Universal jurisdiction

25. While noting that the Qatari Penal Code provides for universal jurisdiction in cases of torture, the Committee is concerned at the lack of information provided on how the State party has exercised its jurisdiction over cases of torture referred to in articles 4 and 5 of the Convention (art. 5).

The State party should ensure that acts of torture are subject to universal jurisdiction in its domestic law in accordance with article 5 of the Convention.

26. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, in particular, the International Covenant on Civil and Political Rights and its Optional Protocols, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for

the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

27. The State party is encouraged to disseminate widely the reports submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

28. The Committee requests the State party to provide, by 23 November 2014, follow-up information in response to the Committee's recommendations related to (a) ensuring or strengthening legal safeguards for persons detained, (b) conducting, prompt, impartial and effective investigations, (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, and (d) violence against women, as contained in paragraphs 10, 14 and 19 of the present concluding observations.

29. The State party is invited to submit its next report, which will be the third periodic report, by 23 November 2016. To that purpose, the Committee invites the State party to accept, by 23 November 2013, to report under its optional reporting procedure, consisting in the transmittal, by the Committee to the State party, of a list of issues prior to the submission of the report. The State party's response to this list of issues will constitute, under article 19 of the Convention, its next periodic report.
