



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

Distr.: General
22 May 2006
English
Original: French

COMMITTEE AGAINST TORTURE

Thirty-sixth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 710th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 10 May 2006, at 3 p.m.

Chairperson: Mr. MAVROMMATIS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (*continued*)

Initial report of Qatar (*continued*)

* No summary record was prepared for the second part (closed) of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (*continued*)

Initial report of Qatar (CAT/C/58/Add.1) (*continued*)

1. *At the invitation of the Chairperson, the members of the delegation of Qatar took places at the Committee table.*

2. Mr. AL-BOAINAIN (Qatar) expressed appreciation of the many questions asked and reaffirmed the importance he attached to dialogue with the Committee. Qatar had the political will to respect its obligations under the Convention and would apply the Committee's recommendations with a view to implementing its more fully.

3. Mr. AL-THANI (Qatar) welcomed the opportunity offered to his country to engage in high-level dialogue with the Committee on the implementation of the Convention. Responding to a question concerning Qatar's attachment to the provisions of the Convention, he said that the reservations it had entered on accession in no way compromised its will to implement the Convention and give effect to the Committee's recommendations. The institutional and legislative developments in his country referred to earlier by the head of delegation were significant in that regard.

4. On the question whether the National Human Rights Committee enjoyed sufficient independence and what its projects were, he recalled its main lines of action, set out in Act No. 38 of 2002. Since its establishment, it had carried out numerous development and promotion activities which had had a positive effect on human rights in Qatar. As it emerged from its annual reports for 2004 and 2005, it had thoroughly examined the situation in the country at the constitutional and legislative levels and had thus been able to make recommendations to improve the human rights situation. The legal framework governing its activities should be modified so as to strengthen its independence in accordance with the Paris Principles. The Committee against Torture would be kept informed of developments.

5. Turning to article 1 of the Convention, he said that, while Qatari legislation did not contain a single definition of torture and cruel, inhuman or degrading treatment, the Constitution and criminal law included numerous provisions which, taken together, were in line with that definition. That being said, the delegation of Qatar took note of the Committee's recommendation that the various parts of the definition should be grouped together in a single text. Thus, the Constitution, in its article 36, guaranteed the right of each person not to be subjected to degrading treatment or torture. Article 40 of the Code of Criminal Procedures, which set out the obligations of law-enforcement services upon an arrest, and article 232 of the same Code, under which a statement obtained through torture had no legal value, strengthened that protection. Similarly, the Penal Code prohibited all forms of torture. Its article 159 listed the penalties for an abuse of power or the use of threats or torture by a public official against the person of a detainee. Articles 160 to 163 laid down the penalties that could be incurred by public officials found guilty of acts of cruelty in the performance of their duties or of unlawful search or imprisonment. All penalties were in proportion to the gravity of the offence.

6. Furthermore, article 68 of the Constitution provided that international treaties to which Qatar was party had force of law upon their publication in the official gazette. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by decree no. 27 of 2001, had been in force in Qatar since its publication in official gazette no. 11 of 2001.

7. Responding to a question on the independence of the judiciary, he said that the Higher Council of the Judiciary selected and appointed judges in accordance with internationally-recognized criteria. The Emir confirmed appointments by decree. Moreover, the principle of the independence of the judiciary was enshrined in the Constitution. As for the status of foreigners, their stay and their employment contract could only be terminated in accordance with the rights granted to them under the relevant legal provisions.

8. Mr. AL-MUHANADI (Qatar), referring to the procedural safeguards available to arrested persons, said that, under articles 40 and 113 of the Code of Criminal Procedures, all arrested persons had the right to contact a lawyer and notify their families. In addition, article 65 provided that the accused person, his or her lawyer, the victim and the complainant had the right to participate in the entire process of investigation and the Attorney-General was required to inform them of all details of the procedure, unless the demands of the investigation required otherwise. Similarly, article 101 stipulated that the Attorney-General must strictly apply the rule that the lawyer must be present during any questioning or interview.

9. Articles 40 to 46, 104 to 109, 110 to 118 and 119 to 125 of the Code of Criminal Procedures dealt in detail with pretrial detention, the arrest warrant, arrest, appearance in court and release on bail. In cases of *flagrante delicto* punishable by more than six months' imprisonment (for example, theft, fraud or resistance to authority) the judge could issue a detention order if he had sufficient evidence. In the case of criminal offences, such as public abuse, assault, forcible entry, issuing a bad cheque or making an attempt on someone's life, the perpetrator could only be arrested if a complaint in due form was lodged. If the Attorney-General had enough evidence to charge the accused person with an offence punishable by more than six months' imprisonment, he could place that person in detention for a renewable term of four days. In the case of an offence affecting the national economy, the term could be increased to eight days. When for the purposes of the investigation it was necessary to keep the accused person in detention, that person would appear before a judge of first instance, who could increase the term to 30 days. The judge could also order that the person be released, with or without bail. Pretrial detention could not exceed six months, except in the case of a felony. The accused person then appeared before a criminal court, which could order the person's continued detention for a renewable term of 45 days. All accused persons must be released upon completion of half the maximum period of detention prescribed for the crime with which they were charged. An arrest warrant ceased to be valid six months from the date of signature. The Attorney-General could issue a further arrest warrant against a released person only if he had fresh evidence in his possession.

10. Article 4, paragraph 6, of Act No. 10 of 2002 empowered the Attorney-General to make regular or unannounced visits to places of detention and check arrest warrants and detention registers. He also had responsibility for investigating complaints made to him by detainees. Article 395 of the Code of Criminal Procedures confirmed that right of visit and inspection. Article 396 provided that all

detained persons had the right to make a complaint to the officer in charge of the detention centre where they were being held, who was required to register the complaint and transmit it to the Attorney-General. Any person having knowledge of a case of unlawful arrest or of detention in an unlawful place was required to notify accordingly the Attorney-General, who must go immediately to the place where the detained person was being held for the purpose of undertaking an investigation and, if appropriate, ordering the person's release, after making a report.

11. Under Prisons Act No. 3 of 1995, prison governors or any person designated by them as well as members of the Department of Public Prosecutions were authorized to inspect penitentiary institutions. Prison governors, for their part, were responsible for ensuring that regular and frequent visits were made to check that applicable laws and rules were observed, particularly in regard to safety, sanitation and health conditions. The results of such inspections were recorded in the register maintained for that purpose. Prison governors were also required to receive written or oral complaints from detainees, which were then recorded in the register of prisoners' complaints.

12. In accordance with resolution no. 26 of 2005 establishing the Human Rights Department within the Ministry of the Interior, that Department was also authorized to make visits to penitentiary institutions and other places of detention to verify that human rights were respected and was required to report regularly to the Minister. To date, three visits had been carried out. The Department received and examined complaints from individuals and from the National Human Rights Committee, following which investigations could be launched and recommendations could be made to the Minister. The Human Rights Department was empowered, within its remit, to receive complaints directly from detained persons. Since it had been set up, 109 complaints had been referred to it: 70 had been dismissed, 18 had been settled and 120 were under review. The National Human Rights Committee along with other human rights bodies like the International Committee of the Red Cross (ICRC) had also carried out visits to a number of penitentiary institutions. Under article 2, paragraph 3, of decree law no. 38 of 2002 establishing the National Human Rights Committee, that Committee was empowered to receive complaints from detained persons, undertake investigations into human rights violations and recommend solutions.

13. Currently, 457 men and 109 women were held in prison; a single case of death had been recorded among detainees, but it had been from natural causes. As for the penalties imposed for acts of torture, several public officials had been found guilty of such acts in the performance of their duties and had been either given prison sentences and a fine or suspended from their functions for periods of up to three years.

14. Mr. AL-THANI (Qatar), responding to a question on the fate of the persons charged following the attempted coup d'Etat, said that they had been given a fair trial and care had been taken to ensure that the sentence handed down was based on freely obtained testimony, without the use of any form of coercion or any attempted influence. The trials had been before an ordinary court, not a special or military court. Decisions handed down by the latter could not be subject to any appeal. The Emir alone had the power to quash convictions by granting an amnesty. Representatives of NGOs and ICRC had attended the trials. The persons concerned who had been given prison sentences enjoyed the same rights as all other prisoners.

15. Mr. AL-MUHANADI (Qatar) said that in cases of sexual violence in prisons, procedures for receiving complaints and undertaking investigations were governed by the Code of Criminal Procedures. Only one complaint had been referred to the Department of Public Prosecutions in 2006; an investigation was in progress. As for the criminalization of unlawful sexual relations, the penalty laid down by the Penal Code was the death penalty. On the question of laws to protect society and combat terrorism, they could be applied only in very specific circumstances. Amnesty International had reported no case of ill-treatment or acts of torture committed under those laws, which should be revised in the light of Qatar's obligations under human rights instruments, in accordance with the recommendations of the National Human Rights Committee in its 2004 and 2005 annual reports.

16. The duty of obedience was enshrined in criminal and military law in order to guarantee respect for the hierarchy. However, only legitimate orders, not contrary to customary law, positive law or divine law, were to be executed. A subordinate was therefore not required to carry out an order that did not meet that criterion. Nevertheless, he was accountable for his own mistakes and could be held criminally responsible, unless it was established that had considered in good faith that his acts did not constitute criminal offences. In such cases, the Penal Code provided that it was the person who had given the order who was to be held criminally responsible. The texts governing the public sector made it incumbent on all public officials to respect the law in the performance of their duties, to honour their profession and to ensure its good repute in all circumstances. Any breach of that principle was punishable by disciplinary measures such as salary reductions, suspension or dismissal.

17. With regard to the protection granted to foreigners by Qatari legislation, the Constitution clearly established that non-nationals enjoyed the same protection as Qataris and that all were equal before the law, without discrimination. Expulsion could be ordered by a court pursuant to the Penal Code or by the Ministry of the Interior upon its being established that the presence in the territory of the person concerned constituted a threat to the internal security of the country, its economy, public health or public morality.

18. A bill had been drawn up to abolish the penalties of flogging and stoning. Article 1 of the Penal Code stipulated that Islamic sharia applied to the crimes of theft, banditry, adultery, apostasy and alcohol consumption, when the perpetrators or victims were Muslims. Under the same article, stoning and amputation concerned only a very small number of offences and were hardly ever put into practice.

19. Mr. AL-THANI (Qatar), responding to questions on article 5 of the Convention, said that torture was a criminal offence under the legislation and Constitution of Qatar. Under the Penal Code, the State was competent to take cognizance of offences committed by Qatari residents or nationals within or outside the territory of Qatar. The State was also competent to take cognizance of offences committed on aircraft or vessels belonging to or operated by the State. The courts of Qatar could also be seized of cases of acts of torture committed outside the territory of Qatar in the context of extradition procedures.

20. Bilateral extradition treaties concluded by Qatar did not list extraditable offences because of a concern that some criminals would escape all punishment, as frequently occurred, if the offence committed by them was not included in the list. Qatar sought rather to define the seriousness of an offence or the minimum penalty

it could incur and based the conventions it signed on the minimum penalty prescribed for extraditable offences, subject to the offence in question being punishable under the laws of both States parties. Political and military offences were not included in the bilateral extradition treaties concluded by Qatar. However, acts of torture, which were punished in all States, were an extraditable offence. In the absence of a treaty between Qatar and another State, the Convention against Torture served as a basis for extradition, which nevertheless remained subject to the provisions of Qatari law, if Qatar was the plaintiff State.

21. One section of the Code of Criminal Procedures was devoted to the subject of international judicial cooperation. Chapter IV dealt with requests for legal assistance in connection with the prosecution of ordinary offences, including torture. Article 428 of that Code specified the circumstances in which a request for legal assistance might be turned down, namely: where the requested procedures were prohibited by law or were incompatible with general practice in Qatar; where the act for which the request for legal assistance had been submitted did not constitute an offence under Qatari law, unless the accused person explicitly agreed to the execution of the request for legal assistance; and where the offence for which the request for legal assistance was submitted was not an extraditable offence.

22. A law adopted in 2005 prohibited the recruitment of children as camel-jockeys; those who were employed as such, most of whom were from other countries, benefited from reintegration programmes developed under bilateral agreements with the authorities of the countries concerned.

23. A national coordinator had been appointed, under the authority of the Supreme Council for Family Affairs, to help fight trafficking in human beings. A home had also been established to shelter child victims of that scourge and offer them protection, and a hot line, put into service at the request of the Ministry of the Interior, allowed victims to make themselves known.

24. A national institution for the protection of women and children had also been set up; its function was to take care of victims of sexual abuse and ill-treatment. Accordingly, several hot lines had been established and their telephone numbers had been widely publicized in the media. Extensive multilingual campaigns were being conducted to make the public aware of those services.

25. Mr. AL-MUHANADI (Qatar) promised to forward to the Committee texts relating to the death penalty in Qatar but could already state that the death penalty was never applied without the approval of the Emir.

26. A large number of training courses on human rights promotion and protection, in particular on United Nations human rights instruments, including the Convention against Torture, were offered to judicial personnel, law-enforcement officials, attorneys, members of the police and security forces, and in general to all officials of the Ministry of the Interior. In addition, symposia and other conferences were organized by the National Human Rights Committee in collaboration with the Arab Institute for Human Rights.

27. Domestic violence was classified as a crime and acts of domestic violence could therefore be subject to criminal prosecution.

28. Mr. AL-THANI (Qatar) said that, under article 68 of the Constitution, international treaties had force of law upon their publication in the official gazette,

as the Convention against Torture had been in 2001. There was consequently no obstacle to the implementation of the Convention in Qatar.

29. Mr. AL-MUHANADI (Qatar) recalled that under the terms of article 232 of the Code of Criminal Procedures, “No reliance shall be placed in any statement established to have been obtained from an accused person or a witness under coercion or threats”.

30. Ms. GAER, Country Rapporteur, raised the question whether non-nationals had the same rights as Qatari nationals and, in particular, whether they could take legal action to assert their rights; she also asked what the appointment procedure was for non-Qatari judges. She welcomed the State’s party’s intention of grouping together in a single legislative text all domestic provisions giving effect to the provisions of the Convention, which had up to now been scattered; that would allow the Committee to ascertain that all the principles enshrined in the Convention were effectively covered in domestic legislation. She wished to know the reasons for the particular high proportion of women prisoners in the State party – accounting for nearly a quarter of the prison population, as against one tenth in most countries – and what type of offences they had committed.

31. She noted with satisfaction that article 37 of the Constitution established the inviolability of the right to privacy by providing in particular that “No one shall be subjected to any intrusion into his personal or family affairs or his home or correspondence, or to any other intrusion likely to damage his honour or reputation except in accordance with the law and the procedures established thereby”, but noted that in many countries that principle had the effect of perpetuating abusive practices within the private sphere. She therefore asked how that provision was interpreted and, more specifically, in what cases it could be waived and whether it was possible for it to be so for the purpose of investigations into crimes based on sexual orientation.

32. She also inquired how the authorities concerned managed to determine the country or place of origin of children recruited as camel-jockeys and to relocate their parents or family, and whether shelters had been specially set up to house such children.

33. She wished to know, lastly, whether the decrease in the number of cases of flogging, amputation and stoning was recent or predated the adoption of the new Constitution in 2003.

34. Mr. WANG Xuexian, Alternate Country Rapporteur, requested additional information concerning the remedies available to persons held in pretrial detention for extended periods under the protection of society and anti-terrorism legislation. Could the courts, where appropriate, order their release? Furthermore, in view of the very wide range of grounds on which a decision of expulsion could be taken, he would appreciate a comment on the matter from the delegation.

35. Ms. BELMIR, noting that the period of temporary detention for persons suspected of misappropriation of funds was a renewable term of eight days, wished to know whether the issuing of a bad cheque fell into that category of offences. With regard to juveniles, she asked whether the period of temporary detention could go up to 45 days as in the case of adults. In addition, recalling that in its 2001 concluding observations on the initial report of Qatar (CRC/C/15/Add.163), the Committee on the Rights of the Child had expressed serious concern about the fact

that under the 1994 Juvenile Act the death penalty or life imprisonment could be imposed for offences committed by persons when they were under 18 years old and had stressed that such provisions were contrary to the Convention on the Rights of the Child (paragraph 37), she wished to know whether the relevant provisions of that Act had since been repealed. Lastly, she would be interested to learn the opinion of the delegation regarding the idea that certain forms of child labour covered by International Labour Organization Recommendation No. 190 on the Worst Forms of Child Labour were akin to torture.

36. Mr. MARIÑO MENÉNDEZ, noting that that delegation had stated that the reservation entered by Qatar on its accession to the Convention in no way affected its obligations under that instrument and recalling that the purpose of a reservation was in fact to modify the scope of the obligations laid down in the Convention, asked whether that reservation was indeed truly a reservation or no more than a declaration.

37. Ms. SVEAASS wished to have fuller information about the right of women to form organizations and wished to know how many judges in Qatar were women. She welcomed the establishment of a hot line and wondered how many foreign women employed as servants had access to it, in view of the language problems that could arise, and whether women and children who felt threatened could thereby obtain protection. She would also like to know whether the training programmes for police and prison personnel were designed to raise their awareness of women's issues, considering the high number of women in detention centres in the country.

38. Noting that the perpetrators of acts of domestic violence were prosecuted only if the constituent elements of such acts were punished by the Penal Code, she requested further information as to the criteria for defining acts of domestic violence as such. Since, according to the delegation, sharia law applied only to Muslims, she wished to know whether persons belonging to Muslim families but who did not define themselves or behave as Muslims would nevertheless be so considered if they committed an offence and be punished under sharia law.

39. The CHAIRPERSON asked the delegation to explain what was meant by the penalty of retaliation (report, para. 9 (b)).

40. Mr. AL-THANI (Qatar) recalled in connection with flogging and amputation that, under article 1 of the Penal Code, that penalty was applicable only if the guilty person and the victim were Muslim and exclusively in the case of *hadd* or religious offences. However, although they were provided for by law, those penalties were only very rarely applied in practice. Moreover, in the draft amendments to the Prisons Act, it was proposed that the provision authorizing such penalties should be repealed.

41. On the question of the protection of foreigners offered by the law and expulsion, the Minister of the Interior had discretionary power to determine the circumstances in which expulsion might be necessary; however, it was the courts that handed down the decision, which could also apply to members of the family of the person considered to represent a danger for the nation.

42. Mr. AL-MUHANADI (Qatar) said that judges were selected and appointed by the Higher Council of the Judiciary, which determined their mandate and their obligations on the basis of the norms of international law. They could not be removed from office and ceased their activities only if they decided to resign. Their

independence was guaranteed by the Constitution, which prohibited any interference in the operation of the judicial system.

43. Regarding the *Hamda Fahad Jassem Al Thani* case, social workers from the National Human Rights Committee had visited that woman in her home and had found her to be in good physical and mental health and to be leading a normal life within her family. She had not complained to those social workers nor to a judicial body. Any further information concerning that person would be communicated to the Committee and replies to questions that the delegation had been unable to answer orally during the examination of the report would be provided subsequently.

44. Mr. AL-BOAINAIN (Qatar), welcoming the constructive dialogue established with the Committee, said that its observations on the reservations entered by Qatar on its accession to the Convention would be duly transmitted to the competent authorities. The possibility of making the declarations provided for in articles 21 and 22 and of acceding to the Optional Protocol to the Convention would be examined. With regard to training, courses on the Convention were planned for all occupational categories in the judicial system and for law-enforcement officials. Qatar hoped that it would receive technical assistance for that purpose. Lastly, the statistics requested by the Committee would be sent in good time and the following periodic reports would be submitted punctually.

45. The CHAIRPERSON invited the delegation to send the Committee its written replies to the unanswered questions as soon as possible and, welcoming the fruitful dialogue that had taken place, declared that the Committee had completed its examination of the initial report of Qatar.

46. *The delegation of Qatar withdrew.*

The first part (public) of the meeting ended at 5 p.m.