



QATAR

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Alkarama recalls that it concentrates its work on four priority areas; arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

1. Context

The State of Qatar gained its independence on 3 September 1971. It is ruled by the Emir Sheikh Hamad bin Khalifa Al Thani, who overthrew his father Khalifa bin Hamad Al Thani in 1995. The Emir is Head of State and relies on the Al Thani family to run the country. Traditionally he should take into account the opinion of an advisory board (Madjlis Al-Choura) made up of religious figures and notables appointed by him.

Under his emirate, many social and political changes were introduced. In 2003, through a referendum, the country adopted a new Constitution which came into force on 9 June 2005. This includes namely the creation of a parliament of 45 members, of which two thirds are elected by universal suffrage and one third is appointed by the Emir. This parliament is intended to assist in policy development. However, this parliament has still not been established and the Emir continues to exercise the core powers. Despite the guarantee of the freedoms of association, religion and the independence of the judiciary, political parties remain banned.

Qatar maintains close ties with the United States. On 23 June 1992 a cooperative defense agreement was signed providing U.S. military forces with facilities in Qatari territory. In December 2002, shortly before the invasion of Iraq by multinational forces, a third of *CentCom* (the detachment of the U.S. military command center in Tampa) was stationed at *As-Sayliyah* military base. On 11 December 2002 a cooperative military agreement, on the use of *Al-Udeid* airbase, was signed by the two countries. Both bases were built by the Americans, whose military presence in Qatar during the war on Iraq was decisive. Each year a joint military exercise led by the United States named *Eagle Resolve* is held. Qatar participates in this with other member States of the Gulf Cooperation Council. There are reports which indicate the existence in Qatar of secret prisons run by the CIA. ¹

Despite the fact that Qatar had not until then incurred any terrorist attacks, in 2002 it enacted a law for the "protection of society" (Law 17/2002), and then acceded to the Convention of the Gulf Cooperation Council in the Fight against Terrorism in 2004, the same year that it adopted a national anti-terrorism law. After the terrorist attack of 19 March 2005, the State ratified 9 of the 12 international legal instruments against terrorism.

Very preoccupied by the role that Qatar can play both regionally and internationally, Sheikh Hamad Al-Thani has taken many initiatives on the diplomatic, cultural, media and sports front. He was quoted as saying, "*it is more important to be recognized by the International Olympic Committee (IOC) than by the United Nations. Everyone respects the decisions of the IOC.*"² Nevertheless, the Qatari government has taken various steps in order to promote respect for human rights. It ratified certain international treaties and in 2002 created a National Human Rights Institution. A Department for Human Rights, within the Ministry of the Interior, was established pursuant to Resolution No. 26 of 2005. Child trafficking is prohibited by law 22 promulgated in 2005.

80% of Qatar's economy is based on oil revenues, a sector which depends in large part on a foreign labour force which constitutes nearly 75% of the total population of the emirate, estimated at 1.6 million inhabitants. Most workers are from the Indian subcontinent and Arab countries; they are not sufficiently protected by the law and face discrimination. This applies to domestic workers in particular. The country also has several hundred people stripped of their nationality.

¹ Jane Mayer, The Secret History of America's, "Extraordinary Rendition" Program, The New Yorker 14 février 2005.

² Journal du dimanche, Paris, 15 february 2004, quoted by Pascal Boniface, De la chaîne Al-Jazira à la promotion du sport, Le Qatar se veut un modèle pour le Golfe, Le Monde diplomatique, June 2004.

2. Observations on the Judicial System

According to Article 130 of the Qatari Constitution: "The Judiciary is independent and is exercised in different courts which render judgments according to the law." According to Article 131 of the Constitution: "Judges are independent and are subject, in their decision, to no other authority than that of the law." One problem however is that part of the judiciary staff is composed of non-nationals under contracts, which may at any time be revoked for reason of their residence status. This precarious situation does not allow them to exercise their functions in an independent manner, which can be considered as a limit to the principle of security of tenure of judges.

The 2004 Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism, to which Qatar has adhered, and the National Legislation against Terrorism enacted in the same year, both define terrorism in very broad and vague terms which allow the restricting, prohibiting or punishing of the legitimate rights to freedom of expression, association and assembly.

The Code of Criminal Procedure indicates that persons detained should be charged or released within forty-eight hours. However, detention without charge may be extended by the Attorney General for 16 days before the person is presented before a judge.

In the framework of the fight against terrorism, two laws were enacted. First, the Act No. 17 of 2002 on the "protection of society" indicates in Article 1 that, "the Interior Minister, in crimes related to state security, indecent assaults or public morality, may decide to detain a suspect if there are strong presumptions against him, based on a report submitted by the Director General of General Security." Article 2 indicates that "the period of detention is two weeks extendable one or several times, yet without exceeding a total period of 6 months and with the consent of the President of the Council of Ministers. The duration of detention may be doubled in cases of crime related to state security." The total duration of detention under the emergency law can thus reach a period of two years.

The 2004 Anti-Terrorism Law confirms these provisions. No appeal before a court is possible when decisions are taken under these two laws, which effectively legalise arbitrary and incommunicado detention and open the door to a wide range of abuses. The suspects are not under the control of the law; they are at the mercy of their jailors. Those detained under the emergency laws cannot challenge their detention and are without access to legal counsel. Even if these laws are often not put into application, the fact that they exist means that they can be enforced.

Article 36 of the Constitution indicates that, "No one shall be subjected to torture or degrading treatment. Torture is a crime punishable by law." The Penal Code of 2004 does not, however, include a single provision to punish this crime.

The Code of Criminal Procedure considers it unlawful to subject a person accused of a criminal offense to torture or ill-treatment: "No person shall be arrested or imprisoned except by virtue of a warrant issued by the competent authorities and under circumstances prescribed by law. Those arrested must be treated with due respect for human dignity and cannot be subjected to physical abuse or psychological. The police officers must inform them of their right to remain silent and to contact a person of their choice."³ According to Article 232 of the same Code, "No value is given to a statement which is established to have been obtained under duress or threat."

The Committee against Torture noted in its concluding remarks that, "There is a lack of comprehensive definition of torture in domestic law necessary to meet the requirements of article 1 of the Convention. References to torture in the Constitution and to cruelty and harm in other domestic law, including the Penal Code and Code of Criminal Procedures, are imprecise and

³ Article 40 of the Code of Criminal Procedure cited in the initial report presented to the Committee against Torture in 2005, CAT/C/58/Add.1, 5 October 2005.

incomplete.” The UN body recommends that such a definition “should ensure that all acts of torture are offences under criminal law, and that appropriate penalties are established for those responsible for such acts.”⁴

In their initial report, the authorities confirmed that, “With the State’s accession to the Convention, the Convention acquired the force of domestic law so that it can be invoked before the courts in any case involving an infringement of its provisions. Under article 68 of the Permanent Constitution of the State of Qatar and article 24 of the Provisional Basic Law, as amended, a treaty acquires the force of law once the State has ratified it or acceded to it.”⁵

Qatar has, however, not provided internal legal provisions prohibiting the expulsion, return or extradition of a person to another State where there are substantial grounds for believing that he would be subjected to torture as stipulated in Article 3 of the Convention against Torture. Moreover, the law provides no legal provisions relating to the granting of asylum or refugee status in Qatar.

3. Arbitrary detention and ill-treatment of detainees

The national laws of criminal procedure guarantee a legal framework for prosecution and determine the limits of detention under custody, as well as the right of a prosecutor general to visit and monitor places provided by law for the purpose of detention in their jurisdiction.

Article 40 of Law No. 23/2004 of the Code of Criminal Procedure indicates that, “No arrest or detention may be ordered except by a competent authority and in cases indicated by the law.” Article 43 of the Code provides that the accused must be brought before a prosecutor within 24 hours and that the prosecutor has the same delay to hear the case of the accused, and that following the hearing, the accused is either released or placed in preventative detention.

However, those arrested under emergency laws, in particular under the Act for the Protection of Society, do not enjoy the protection that the legislature intends to give them under the provisions of the Code of Criminal Procedure. They are usually arrested and interrogated by intelligence services. They are detained indefinitely in the State Security headquarters which are not under the authority of the Ministry of Justice, nor are they intended as detention centers which are subject to control measures and monitoring by the Prosecutor General, as indicated in section 395 of the Code of Criminal Procedure. Persons detained in these conditions have no possibility to challenge their detention, be it before a court or not.

In recent years, Alkarama has submitted cases of people arrested and detained incommunicado for a period of several months without being brought before a judge or being subjected to any legal procedure. On 30 May 2006 our organisation submitted communications to the Working Group on Arbitrary Detention in the cases Mohamed Jassem Seif Salem and Ibrahim Aissa Haji Mohamed Al Baker, arrested on 7 and 9 January 2006 and released without trial on 19 September 2006.

Abdullah Mohamed Salem Al Souidane, Fahd Jadi Rashid Al Mansouri, Khaled Saïd Fadl Rashid Al Bouainine and Naif Salem Mohamed Adjim Al Ahababi, were arrested between November 2005 and January 2006 and released 22 June 2006. These four people were never subject to any legal proceedings. They were not given access to a lawyer or any legal procedures for challenging the legality of their detention. The legal reasons for their detention during this period are not known. Only after several months of incommunicado detention were their relatives able to visit them.

On 31 May 2006 Alkarama submitted to the Working Group the case of Mr Hamed Alaa Eddine Chehadda, a Jordanian national who lived and worked in Qatar. He was held incommunicado for 3 months before being allowed to see his wife. He was released 19 months after his arrest without

⁴ Consideration of reports submitted by states parties under article 19 of the convention, conclusions and recommendations of the Committee against Torture, Qatar, CAT/C/QAT/CO/1, 25 July 2006, Page 2, Paragraph 10

⁵ Consideration of reports submitted by states parties under article 19 of the convention, initial reports of States parties due in 2000, Addendum, Qatar (CAT/C/58/Add.1), 5 October 2005, introduction, page 3

being subject to a judicial proceeding or been presented before a judge. After his release he was subject to restrictive measures, although no legal procedure has been initiated against him. He was banned from traveling.

Abdullah Ghanim Khowar and Salem Al-Hassen Kuwari, both arrested by the intelligence services 27 June 2009, have not so far been presented before a judge nor have they been charged. They still have had no opportunity to challenge their detention and have been unable to contact a lawyer; their parents remain unaware of the reasons for their arrest.

The National Human Rights Committee found that during 2007, three people were arrested on the basis of the Act for the Protection of Society. Their status remains unknown. The National Committee asked the authorities that all prisoners, on the basis of this law, be released or brought to justice.⁶

Thirty people were arrested between 1995 and 2000 as part of the investigation into the attempted coup organized by the father of the current Emir of which 18 were sentenced to death in May 2001. Since then, the deposed emir, after an exile of several years in Europe, was allowed to return to his country where he now lives. The two main authors of the failed attempt, Bakhit Marzouq Al Abdullah and Sheikh Hamad bin Jassem bin Hamad Al Thani, who had also been sentenced to death were pardoned by the Emir and released in 2005. 28 other people, who sometimes played a secondary role in this event remain in detention to this day.

4. Qatari citizens stripped of their nationality

A code governing nationality was promulgated in 2005 (Law No. 38/2005). In this Act the Emir is given sweeping powers in the granting, revocation or reinstatement of Qatari nationality. Article 11 authorizes him, in particular, to deprive any citizen of his nationality in certain cases, especially when one has joined foreign forces or an institution or organization that undermines the social, economic or political organisation of the country.

Individuals naturalized enjoy even less protection as the country's nationality can be withdrawn at any moment based on a proposal by the Minister of Interior if he deems this measure to conform with the general interest (Article 12 *in fine*). The inequality between native Qatari citizens and naturalized citizens is established in the law, since the latter do not enjoy the same rights as the former; whatever the length of their naturalization, they can neither be voters nor candidates.

Deprivation of nationality can take on a collective form as in the case of the Al Ghufuran tribe, a branch of the large Al Merrra Arab tribe who historically roamed in the east and northeast of the Arabian Peninsula, present-day Qatar and Saudi Arabia.

927 heads of families representing 5266 people were deprived of their nationality based on the decision of the Minister of Interior on 1 October 2004. This figure is even more significant if it is related to the total population of the country. Some members of the Al Ghufuran tribe took up the cause of the father of the current emir at the time of his dismissal and the ensuing failed coup; this measure has been interpreted by some observers as collective punishment.

Specifically, civil servants, men and women have been dismissed without notice, children excluded from school and entire families deprived of social security and benefits (housing, free medical care, authorization to drive a vehicle, etc.) and have been ordered to regularize their situation with the authorities as foreigners.

While many cases have been regularized since and the families concerned have had their rights reinstated by the authorities, hundreds of people remain to date deprived of their nationality.

5. Violations of the rights of migrants

⁶ National Human Rights Committee, Annual Report 2008, <http://www.nhrc-qa.org/ar/files/downloads/NHRC%20Annual%20Report%20-%20A%20-%202008.pdf>

Three quarters of the population of Qatar are migrant workers from Pakistan, India, Nepal, Bangladesh, Philippines, Indonesia, but also from Sudan, Egypt and Syria, etc. The vast majority work in the construction sector. Working conditions are very difficult. Candidates must first pay a fee to the recruiter, for whom they agree to work for about a year to repay the loan. They have employment contracts of three years.⁷ They are, due to the sponsorship system instated, at the mercy of their employers, some of which exploit them, threaten them with detention, under-pay them, confiscate their travel documents, deprive them of their wages, prevent them from resigning or changing jobs and or to leave the country without permission, etc. These workers live in deplorable housing conditions and do not enjoy adequate social security coverage.

The non-payment of wages has pushed foreign workers to organize strikes and sit-ins despite restrictions on the right to strike and rally. "In March 2006, for example, 1500 Nepalese construction workers stopped working. They were protesting against salary arrears of two to six months and salary deductions for visa fees. On 4 November 2006, 2000 construction workers stopped work and demanded higher wages and better working conditions."⁸

Migrant workers cannot organize themselves into unions. When riots break out, protesters are evicted. According to the Qatari delegation involved in the initial report by the Committee against Torture, the Interior Minister has discretionary power to determine the circumstances under which evictions may be necessary - but it is the tribunals that make the decision, which may also involve members of the family of the individual deemed a danger to the nation.⁹

However, the delegation also notes that "With regards to the protection afforded by the law of Qatar to foreigners, the Constitution clearly states that non-nationals are allowed to enjoy the same protection as the Qataris and that all are equal before the law, without any discrimination."¹⁰

6. Recommendations

- Implement policy reforms, meaning genuine participation of citizens in public life of the country; the set up of the Parliament according to the Constitution and hold elections by universal suffrage to appoint the 2/3 of eligible members.
- Enact the principle of immovability of judges by extending it to all judges in the country, including foreign judges on contract, to ensure real independence of the judiciary.
- Repeal the emergency legislation and in particular Law No. 17 of 2002 on the "protection of society".
- Take steps to fight against situations of statelessness under the Convention on the Reduction of Statelessness of 30 August 1961.
- Based on the principle of the equality of citizens in rights and duties (s.34 of the Constitution), to extent the right of pardon to all persons convicted in May 2001 following the attempted coup of 1995.

On the regulatory level:

- The state should consider ratifying the International Covenant on Civil and Political Rights.
- The State should incorporate into domestic law the crime of torture as defined by Article 1 of the convention against Torture, establishing appropriate penalties of punishment, revoke the reservations made concerning articles 21 and 22 and consider ratifying the Optional Protocol.

⁷ Tristan Bruslé, Au Qatar, visages des soutiers de la croissance, Rue 89, 7 juillet 2008, <http://www.rue89.com/2008/07/07/au-qatar-visages-des-soutiers-de-la-croissance>

⁸ International Trade Union Confederation (ITUC), 2007, Annual Survey of violations of Trade Union Rights, <http://survey07.ituc-csi.org/getcountry.php?IDCountry=QAT&IDLang=EN>

⁹ Summary record of the first segment of the 710th session on 10 May 2006 (CAT/C/SR.710) of 22 May 2006.

¹⁰ *ibid*