

# 1 Background

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The period since Qatar's last Universal Periodic Review (UPR) in 2014 has seen the ascent of Sheikh Tamim Bin Hamad Al Thani, who took the throne following the voluntary abdication of his father. Despite some first attempts at political reform, the state's political and institutional configuration does not allow for a strict separation of powers between the executive, legislative and judicial branches.

On 5 June 2017, Saudi Arabia, Bahrain and the United Arab Emirates (UAE) severed all diplomatic ties with Qatar and enforced a trade embargo over its alleged support of terrorist organisations and close links with Iran.<sup>1</sup> This was followed by the expulsion of Qatari citizens from their respective territories and a call for the return of their nationals living in Qatar within 14 days.<sup>2</sup> On 23 June 2013, the three countries and Egypt issued a list of demands to be fulfilled by Qatar in order for sanctions to be lifted.<sup>3</sup>

In the wake of the Gulf Diplomatic Crisis, there have been a number of human rights developments, some of which have been constructive, and others more worrying. Among the constructive developments is the state's recent ratification of the international human rights covenants. On the other hand, the adoption of the Cybercrime Law has restricted freedom of expression online, and amendments to anti-terrorism legislation have weakened due process and fundamental safeguards in national security cases.

## 1.1 Scope of international obligations

Qatar acceded to the International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR) in May 2018.<sup>4</sup> However, it made a number of reservations<sup>5</sup> and declared that it would interpret particular provisions in line with Sharia Law.<sup>6</sup> This includes the definition of "punishment", thus enabling the continued use of capital and corporal punishment. In addition, Qatar stated that the definition of "trade unions" would be interpreted in line with domestic

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<sup>1</sup>Human Rights Watch, "Qatar events of 2017", [website] <https://www.hrw.org/world-report/2018/country-chapters/qatar>, (accessed 3 September 2018).

<sup>2</sup> *Ibidem*.

<sup>3</sup> *Ibidem*.

<sup>4</sup> During its second UPR cycle, Qatar accepted ten recommendations on ratifying the international human rights covenants: n.124.3 (Turkmenistan); n.124.4 (United States of America); n.124.5 (Rwanda); n.124.6 (Slovenia); n.124.7 (Japan); n.124.8 (Montenegro); n.124.9 (Tunisia); n.124.10 (Russian Federation); n.124.11 (Germany); n.124.12 (Australia).

<sup>5</sup> In particular, Qatar's reservations relate to Articles protecting women's rights. This includes reservations to Articles 3 and 23(4) of the ICCPR, which provide for the equal rights of men and women to the enjoyment of civil and political rights and equality in marriage respectively. In addition, they lodged a reservation to article 3 of the ICESCR, which protects the equal rights of men and women in the enjoyment of economic, social and cultural rights. The reservations reinstate similar reservations the state has lodged to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), specifically to Articles: 2(a) on embodying equality between women and men in their constitution; 9(2) equality between men and women in regards to the nationality of their children; 15(1) equality of women and men before the law; 15(4) equal rights of women and men in regards to freedom of movement; 16(1)(a) the same right to enter marriage; 16(1)(c) same right during marriage and its dissolution; 16(1)(f) equal rights of women and men with regards to guardianship, wardship, trusteeship and adoption of children.

<sup>6</sup> See: UN Treaty Body Collection, "International Covenant on Civil and Political Rights", [https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=\\_en&mtdsg\\_no=IV-4&src=IND](https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND), (accessed 3 September 2018) and UN Treaty Body Collection, "International Covenant on Economic, Social and Cultural Rights", [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-3&chapter=4&clang=\\_en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=_en#EndDec), (accessed 3 September 2018).

legislation, denying migrant workers – who make up 90% of the national work force – the right to unionise.<sup>7</sup>

Furthermore, Qatar has still not ratified the Optional Protocols to the ICCPR, ICESCR and Convention against Torture (UNCAT), nor has it ratified the Rome Statute of the International Criminal Court (ICC) or the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).<sup>8</sup>

## Recommendations

- Withdraw all reservations and declarations to the ICCPR and ICESCR;
- Ratify the Optional Protocols to the ICCPR, ICESCR and UNCAT;
- Ratify the Rome Statute of the ICC and the ICPPED.

## 1.2 Constitutional and legislative framework

During its last UPR cycle, Qatar accepted five recommendations on abolishing the exit visa system for migrant workers.<sup>9</sup> To this end, in September 2018, it adopted Law No.13 of 2018,<sup>10</sup> allowing foreign workers to leave Qatar without acquiring the consent of their employers. However, the new law is still not in conformity with international standards, as it allows employers to request that up to 5% of their workforce seek prior consent before leaving the country.<sup>11</sup> It also excludes certain types of workers, such as domestic workers and those working in the military and the public sector.<sup>12</sup>

In addition, while Qatar claimed to have “already implemented” nine recommendations on freedom of expression during its last UPR,<sup>13</sup> it nevertheless adopted the Cybercrime Law in October 2014, which restricts online freedom of expression.<sup>14</sup> Under this law, the publication of “incorrect news” harmful to the state’s reputation or public order is punishable with up to three years in prison and a fine of 500,000 Qatari Riyals (137,000 USD).<sup>15</sup>

## Recommendations

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<sup>7</sup> In particular, Article 116 of Qatar’s Labour Law stipulates that membership in trade unions “shall be confined to Qatari workers”. See: Law No 14 of the Year 2004, available at: [www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_125871.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_125871.pdf), (accessed 3 September 2018).

<sup>8</sup> During its second UPR Cycle, Qatar rejected 8 recommendations on ratifying these conventions and Optional Protocols. See recommendations n.124.1 (France); 124.13 (Portugal); 124.14 (Austria); 124.15 (Maldives); 124.16 (Uruguay); 124.18 (Costa Rica); 124.19 (Denmark); 124.20 (Tunisia).

<sup>9</sup> Recommendation n. 124.72 (United Kingdom of Great Britain and Northern Ireland); n.124.73 (Brazil); n.124.74 (Ireland); n.124.75 (Australia); and 124.76 (Switzerland).

<sup>10</sup> The Peninsula, “End of exit permits for most workers in Qatar welcomed by the ILO”, available at: <https://www.thepeninsulaqatar.com/article/04/09/2018/End-of-exit-permits-for-most-workers-in-Qatar-welcomed-by-ILO> (accessed 10 September 2018), Article 8.

<sup>11</sup> *Ibidem*.

<sup>12</sup> *Ibidem*.

<sup>13</sup> Recommendations n.124.45 (Australia); n.124.47 (Germany); n.124.48 (Slovenia); n.124.49 (France); n.124.50 (Ghana); n.124.51 and n.124.54 (Czech Republic); n.124.52 (Austria); n.124.53 (Sweden).

<sup>14</sup> Law No.14 of 2014, available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/100242/120183/F1232109237/100242.pdf>, (accessed 4 September 2018).

<sup>15</sup> *Ibid*, Article 6. This reads “[a]nyone who creates or administers a website on the information network or via IT means in order publish incorrect news, with the intention of endangering state security, public order or internal or external security can be punished with imprisonment for a period not exceeding three years and a fine of no more than 500,000 Qatari Riyals or one of these two punishments”.

- Abolish the exit visa system for all migrant workers;
- Amend the Cybercrime Law to bring it into line with international standards on freedom of expression.

## 1.3 Human rights infrastructure

Despite having been granted an “A” status by the Global Alliance of National Human Rights Institutions’ Sub-Committee on Accreditation in 2015,<sup>16</sup> Qatar’s National Human Rights Institution – the National Human Rights Committee (NHRC) – is not in full compliance with the Paris Principles.

The NHRC is insufficiently independent of the executive. It was both established and reorganised in 2010 by emiri decrees,<sup>17</sup> and the nomination, appointment and dismissal of its members is subject to approval by the emir.<sup>18</sup> The NHRC is financed entirely by the state and the executive retains the power to both allocate funds to the institution and decide on its expenses.<sup>19</sup>

Further, Decree Law No.17 of 2010 does not specify the authority to which the NHRI is accountable. As such, it fails to ensure its independence from the government.

### Recommendation

- Ensure that the NHRC is in full compliance with the Paris Principles, particularly by amending Law No.17 of 2010 in order that the requirement to be answerable to parliament is clearly enshrined in law.

## 2 Cooperation with international human rights mechanisms and bodies

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In June 2018, the Committee against Torture (CAT) adopted its Concluding Observations following its review of the third periodic report of Qatar. The Committee noted the lack of information provided by the authorities on at least 11 occasions.<sup>20</sup> In addition, it raised its concern that recommendations from

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<sup>16</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, Geneva, 16-20 November 2015, p. 36.

<sup>17</sup> Decree Law No.38 of 2002 on the Setting up of a Human Rights Committee, available at: <http://nhrc-qa.org/en/decreed-law-no-38-of-2002-on-the-setting-up-of-the-national-human-rights-committee/>, (accessed 3 September 2018) and Decree Law No.17 of 2010 on the Organisation of the National Human Rights Committee (NHRC), as amended, available at: <http://nhrc-qa.org/en/decreed-law-no-17-of-2010-on-the-organization-of-the-national-human-rights-committee-nhrc/>, (accessed 3 September 2018).

<sup>18</sup> Decree Law No.17 of 2010. Available at: <http://nhrc-qa.org/en/decreed-law-no-17-of-2010-on-the-organization-of-the-national-human-rights-committee-nhrc/>, (accessed 12 September 2018), article 5 and 10.

<sup>19</sup> *Ibid*, Articles 17, 19 and 21. Article 17 provides: “The financial resources of the NHRC shall include: Appropriations allocated by the State. Subsidies, donations, grants and bequests made to it from national bodies”. Article 19 reads: “The NHRC shall prepare its annual budget estimates and final accounts in accordance with the rules set by its financial regulations”. Article 21 stipulates: “The NHRC shall develop its own executive, organisational, administrative and financial regulations against a resolution issued by the NHRC Chairman.”

<sup>20</sup> UN Committee Against Torture, *Concluding Observations on the third periodic report of Qatar*, 4 June 2018, CAT/C/QAT/CO/3, paras. 13, 15, 17, 21, 23, 29, 35, 37, 43, 45 and 47.

previous Concluding Observations on fundamental legal safeguards, the abolition of corporal punishment, investigations into acts of torture, and violence against women had not been implemented.<sup>21</sup>

Furthermore, Qatar has failed to respond to three of the eight communications it has received from UN Special Procedures since the second UPR review.<sup>22</sup>

## Recommendation

- Fully cooperate with the UN human rights mechanisms, particularly by responding to all UN Special Procedures' communications, and effectively implement recommendations made by the CAT, including by respecting the follow-up procedure.

# 3 Implementation of international human rights obligations

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## 3.1 Freedom of expression

Domestic legislation in Qatar continues to criminalise acts falling under freedom of expression both online and in print. Article 8 of the Cybercrime Law punishes defamation with up to three years in prison and a fine of up to 100,000 Qatari Riyals (27,470 USD).<sup>23</sup>

The Law on Publications and Publishing regulates the media in Qatar. It punishes “criticism of the emir” and the publication of “prohibited materials” with up to six months in prison and a fine of up to 3,000 Qatari Riyals (824 USD).<sup>24</sup> This can also lead to an administrative investigation of the offending publication, along with the confiscation and destruction of printed materials, and the closure of the publication.<sup>25</sup>

Similarly, Article 134 of the Penal Code punishes with up to five years in prison anyone who publically challenges or criticises the emir, deputy emir or the crown prince.<sup>26</sup>

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<sup>21</sup> *Ibid*, paras. 6 and 31.

<sup>22</sup> For communications that the Qatari authorities responded to, see: OHCHR, *QAT 3/2017*, 14 November 2017; OHCHR, *QAT 2/2015*, 16 October 2015; OHCHR, *QAT 1/2015*, 27 March 2015; OHCHR, *QAT 3/2014*, 14 November 2014; OHCHR, *QAT 2/2014*, 2 October 2014. For communications that the Qatari government did not respond to, see: OHCHR, *QAT 2/2017*, 5 May 2017; OHCHR, *QAT 1/2017*, 13 March 2017; OHCHR, *QAT 4/2014*, 28 November 2014.

<sup>23</sup> Law No.14 of 2014, available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/100242/120183/F1232109237/100242.pdf>, (accessed 4 September 2018). Article 8 reads “[a]nyone who infringes on social principles or values or publishes news, photos, visual or voice recordings related to the private or family life of another individual, even if it is true, or insults or defames them on the information network or through IT means can be punished with imprisonment for a period not exceeding three years and with a fine not exceeding 100,000 Qatari Riyals, or with one of these punishments”.

<sup>24</sup> Law No. 8 of 1979, Available at: <http://www.almeezan.qa/LawView.aspx?opt&LawID=414&language=en>, (accessed 21 September 2018), Articles 46, 47, 81 and 82.

<sup>25</sup> *Ibid*, Article 83. This stipulates: “The conviction of any person who violates the provisions of Articles 46 and 47 may result in an administrative investigation of the relevant publications and their subsequent confiscation and destruction.”

<sup>26</sup> Law No.11 of 2004 Issuing the Penal Code, available at: [https://www.unodc.org/res/cld/document/qat/penal-code\\_11\\_2004\\_html/2014\\_Penal\\_Code\\_Law\\_11\\_2004\\_26.pdf](https://www.unodc.org/res/cld/document/qat/penal-code_11_2004_html/2014_Penal_Code_Law_11_2004_26.pdf), part 2, Article 134. This stipulates: “The penalty of imprisonment for a term not exceeding five years shall apply to any person who challenges by any public means the exercising by the Emir of his rights or authorities, or criticizes his person. The same penalty shall apply to any person who commits any of the previous offences on the deputy Emir or the Crown Prince.”

## Recommendation

- Decriminalise defamation and amend the Cybercrime Law and the Law on Publications and Publishing to bring them into line with international standards on the right to freedom of opinion and expression.

## 3.2 Freedom of peaceful assembly and association

The rights to peaceful assembly and association continue to be severely restricted in both law and in practice, with Qatar rejecting both recommendations on the issue during its previous review.<sup>27</sup>

The Law on Public Meetings and Demonstrations provides that no public gathering can take place without a licence.<sup>28</sup> Further, Article 9 provides that the organisers of public meetings are responsible for ensuring that they “do not exceed their purpose”, by violating “the tenants of religion”, “public order or public morals” or by “defaming the reputation of states”.

Public meetings held without a licence are punishable with up to three years in prison and a fine of up to 50,000 Qatari Riyals (13,740 USD).<sup>29</sup> The law further punishes anyone who knowingly attends or publicises an unlicensed public meeting with at least one month in prison and a fine of up to 20,000 Qatari Riyals (5,495 USD).<sup>30</sup>

Similarly, Law No. 12 of 2004 provides that institutions and associations can only be established if granted a licence.<sup>31</sup> Article 14 severely restricts unionisation, prohibiting professional associations and their members from “stopping work or inciting others to stop work, or participating in or making statements not related to the profession”. Similarly, Article 35(3) stipulates that ministers may dissolve an association for “engaging in political activities”.

Under Article 43 of the law, establishing an association without a licence or carrying out prohibited activities is punishable with imprisonment of up to one year and a fine of up to 50,000 Qatari Riyals (13,740 USD).

## Recommendations

- Bring domestic legislation on freedom of peaceful assembly into line with international standards, in particular by decriminalising unauthorised public gatherings and amending Article 9 of the Law on Public Meetings and Demonstrations;

<sup>27</sup> Recommendations n.124.55 (Ireland); and n.124.56 (Czech Republic).

<sup>28</sup> Law No. 18 of 2004. Available from: <http://www.almeezan.qa/LawPage.aspx?id=128&language=en>, (accessed on 4 September 2018), Articles 1 and 3. The former reads: “In implementing this law, every meeting attended, or is expected to be attended, by more than 20 persons, or where no special invitation is required for attendance thereof, to be held at a private or public place other than public roads and parks for the discussion of one or more public issues, shall be deemed to be a public meeting”. The latter provides: “No convening, organisation, invitation, announcement or coverage of news on any public meeting shall take place without obtaining a license under this law.”

<sup>29</sup> *Ibid*, Article 15. This reads: “Any person who conducts or organises a public meeting or procession without a license shall be punished with detention for a term not less than six months and not exceeding three years, and a fine of no less than ten thousand (10,000) Riyals and not exceeding fifty thousand (50,000) Riyals”.

<sup>30</sup> *Ibid*, Article 17. This stipulates: “Whoever commits any of the following acts, shall be punished with detention for a term of no less than one month and a fine of no less than five thousand (5,000) Riyals and not exceeding twenty thousand (20,000) Riyals.”

<sup>31</sup> Available from: [http://www.icnl.org/research/library/files/Qatar/7\\_Qatar\\_PrivAssoc\\_2004.pdf](http://www.icnl.org/research/library/files/Qatar/7_Qatar_PrivAssoc_2004.pdf), (accessed 4 September 2018), Articles 2, 7 and 8.

- Revise Law No. 12 of 2004 in order to remove undue restrictions on the establishment of associations and institutions and their activities.

### 3.3 Independence of the judiciary

During its last UPR, Qatar claimed to have “already implemented” a recommendation on building an independent judiciary.<sup>32</sup> Despite this, upon her country visit in 2015, the former Special Rapporteur on the independence of judges and lawyers noted a clear lack of separation of powers between the judicial and the executive branches of government.<sup>33</sup>

All presidents and judges of ordinary Qatari courts are appointed by an emiri order or emiri decree upon the recommendation of the Supreme Council of the Judiciary.<sup>34</sup> Similarly, members of the prosecution and the attorney general are all appointed by the emir.<sup>35</sup>

Furthermore, there is no written code of conduct for judges, and the emir has the competence to dismiss both judges and prosecutors if this is deemed to be in the “public interest”.<sup>36</sup>

Finally, non-Qatari judges continue to be employed under temporary contracts that must be renewed annually, leaving them vulnerable to dismissal and undue influence.<sup>37</sup>

#### Recommendation

- Guarantee the independence of the judiciary, including by ensuring the tenure of foreign judges and establishing a written code of conduct for judges.

### 3.4 Torture, cruel, inhuman and degrading treatment

#### 3.4.1 Definition, absolute prohibition and criminalisation of torture

There are no provisions in domestic Qatari law that enshrine the absolute prohibition of torture, and the state has made vague reservations to Articles 1 and 16 of the UNCAT.<sup>38</sup>

Furthermore, a number of the punishments for acts of torture and cruel, inhuman and degrading treatment enshrined in the Penal Code do not constitute “appropriate penalties” as set out in Article 4(1) UNCAT. For example, the sentences prescribed in articles 159, 159 *bis* and 160 only refer to a maximum penalty, and therefore fail to take into account the gravity of the offence.<sup>39</sup>

<sup>32</sup> Recommendation n.124.44 (Canada).

<sup>33</sup> UN Human Rights Council, Report of the Special Rapporteur on the Independence of Judges and Lawyers, Addendum: Mission to Qatar, 31 March 2015, A/HRC/29/26/Add.1.

<sup>34</sup> *Ibid.*, paras. 22, 24, 26 and 28.

<sup>35</sup> *Ibid.*, para. 75.

<sup>36</sup> *Ibid.*, para. 42.

<sup>37</sup> *Ibid.*, para. 48.

<sup>38</sup> The reservation reads: the state of Qatar “partially withdraws its general reservation, while keeping in effect a limited general reservation within the framework of Article 1 and 16 of the Convention”.

<sup>39</sup> Law No.11 of 2004, available at: [https://www.unodc.org/res/cld/document/qat/penal-code\\_11\\_2004\\_html/2014\\_Penal\\_Code\\_Law\\_11\\_2004\\_26.pdf](https://www.unodc.org/res/cld/document/qat/penal-code_11_2004_html/2014_Penal_Code_Law_11_2004_26.pdf), (accessed 5 September 2018). In addition, Article 159 stipulates that the death penalty may be applied in instances where torture results in the death of the victim. Whereas, Article 160 punishes torture with a fine of up to 10,000 Riyals (2,500 USD).



Finally, Article 48(1) of the Penal Code excludes criminal responsibility in cases where public servants are “executing the order of a superior”, in violation of Article 2(3) of the UNCAT.<sup>40</sup>

## Recommendations

- Enshrine the absolute prohibition of torture in national legislation and lift reservations to Articles 1 and 16 of the UNCAT;
- Bring criminal punishments for acts of torture into line with international standards, particularly by setting a minimum penalty for acts of torture and ill-treatment that reflect their gravity;
- Adopt clear provisions stating that no order from a superior officer or a public authority may be invoked as justification for torture or ill-treatment.

### 3.4.2 Counter-terrorism and national security

Qatari counter-terrorism legislation lacks legal certainty and allows for derogation from fundamental safeguards enshrined in the Code of Criminal Procedure.

The Law on Combating Terrorism (as amended in 2017) defines terrorism in overly broad terms.<sup>41</sup> In addition, Article 18 states that an individual can be held in “precautionary detention” for a period of up to six months upon the decision of the public prosecutor.<sup>42</sup>

Furthermore, Article 2 of the Law on the Protection of the Community permits the use of pre-trial detention, with the approval of the prime minister, for up to one year for crimes related to “public morals” and “public decency”.<sup>43</sup> The penalty is doubled if the offence relates to state security.

Under the Law on the Military Intelligence Service, military personnel may be held in custody for up to four weeks, and any other individual may be detained for one week before being brought before a prosecutor.<sup>44</sup>

## Recommendation

<sup>40</sup> *Ibid.* Part 4, Article 48(1) reads: “There is no crime if a public servant commits the act in any of the following cases: 1) Executing the order of a superior that he must obey, or that he thought was his duty to obey”.

<sup>41</sup> Law No.3 of 2004, (as amended in 2017), available at: <http://www.almeezan.qa/LawPage.aspx?id=294&language=en>, (accessed 5 September 2018). Article 2 stipulates: a “terrorist purpose” is “when the motive for using force, violence or threat, or causing terror” includes “breaching public order” and “damaging national unity”.

<sup>42</sup> *Ibidem.* This reads: “Notwithstanding the provisions of the Code of Criminal Procedures, orders for precautionary detention issued by the Public Prosecutor after interrogating a suspect with respect to crimes to which the provisions of the present Law apply, shall normally expire at the end of fifteen days, and may be extended by similar periods, where this would be in the interests of the investigation, provided that such extensions shall not exceed six months in total. Further extensions shall be by order from a competent court.”

<sup>43</sup> Law No.17 of 2002, available at: <http://www.almeezan.qa/LawArticles.aspx?LawArticleID=5193&LawId=1116&language=en>, (accessed 21 September 2018). Article 2 stipulates: “The duration of the provisional detention shall be two weeks, extendable for additional similar period or periods to a maximum of six months. The duration may be extended for an extra period not exceeding six months with the consent of the Prime Minister. The period of provisional detention shall be doubled if the offence relates to state security.”

<sup>44</sup> Law No.10 of 2004, available at: <http://almeezan.qa/LawPage.aspx?id=3&language=en>, (accessed 5 September 2018), Article 7. This reads: “Without prejudice to the Criminal Procedure Law, the MIS President shall have the power to order the arrest of any person suspected of committing an act related to a crime that falls within the jurisdictions of the MIS, before presenting such person to the public prosecutor, for a period of two weeks, renewable for the same period, in respect of the armed forces’ members; and for a maximum period of one week in respect of any other person.”

- Bring counter-terrorism and national security legislation into line with international standards, particularly in relation to the definition of terrorism and the length of custody and pre-trial detention.

### 3.4.3 Non-refoulement

The Law on the Regulation of Political Asylum, provided to us by the NHRI, was adopted in September 2018 and sets out the conditions for the granting of political asylum.<sup>45</sup> A number of the provisions lack legal certainty, including Article 13, which stipulates that individuals may be deported if they participate in “political activities” while in Qatar or if they are deemed to pose a threat to national security or the public order.<sup>46</sup>

Furthermore, while Article 15 stipulates that an individual may not be extradited to a country where they may be subjected to “harm” or “persecution”, this provision remains vague and does not meet the standards of non-refoulement enshrined in Article 3 of the UNCAT.

In May 2017, Qatar violated its obligations under Article 3 of the UNCAT when it extradited human rights defender and co-founder of the Union for Human Rights Mohammed Al Otaibi to Saudi Arabia.<sup>47</sup> Al Otaibi was arrested at Doha airport while on his way to Norway, where he had been granted political asylum. While in prison in Saudi Arabia, he was held *incommunicado* for two weeks, spent three months in solitary confinement,<sup>48</sup> and was denied access to medical care. On 25 January 2018, Al Otaibi was sentenced to 14 years in prison in Saudi Arabia on charges related to his peaceful activism, including “abusing the Kingdom on Twitter” and “calling to change the basic system of governance”.

Finally, Qatar has not ratified the Refugee Convention, nor its 1967 Optional Protocol.

### Recommendations

- Amend the Law on Regulating Political Asylum in order to bring it into line with international standards, including Article 3 of the UNCAT;
- Ratify the Refugee Convention and its 1967 Optional Protocol.

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<sup>45</sup> According to Article 3 of the Law, in order to be eligible for political asylum, an individual must have not have been convicted of a serious crime outside of Qatar, committed war crimes, crimes against humanity or hold more than one nationality.

<sup>46</sup> This reads “After consulting with the Committee [on political asylum], the Minister of Interior can issue a decision to deport the political asylum seeker from the country in the following cases: 1) If he is convicted of any of the crimes or acts described in Article 3 of this law, whether before applying for, or after gaining, political asylum. 2) If he participates in political activities while residing in the country. 3) If his presence constitutes a threat to national security or public order.

<sup>47</sup> UN Committee against Torture, Concluding Observations on the third periodic report of Qatar, 4 June 2018, CAT/C/QAT/CO/3, para.37.

<sup>48</sup> Solitary confinement, as stressed in General Assembly Resolution 60/148 (UNGA res. 60/148), not only “facilitate[s] the perpetration of torture and other cruel, inhuman or degrading punishment”, but can also “in itself constitute a form of such treatment”. Similarly, rule 43 of the Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) outlaws disciplinary sanctions that amount to torture, or other cruel, inhuman or degrading treatment or punishment, including “prolonged solitary confinement” (i.e. exceeding 15 days). For more, see: UNGA, Resolution 60/148 (A/RES/60/148), 21 February 2006, para. 11 and the Nelson Mandela Rules, available at: [https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf), (accessed 27 September 2018).



### 3.4.4 Death penalty and corporal punishment

The Qatari Penal Code authorises the use of flogging, stoning and other forms of corporal punishment for certain crimes, including theft, banditry and adultery, when the plaintiff is Muslim.<sup>49</sup> In addition, it allows for the application of the death penalty for crimes that do not meet the threshold of the “most serious crimes” under international law.<sup>50</sup>

Between 2014 and 2017, Qatar handed out 16 death sentences, but did not carry out any executions.<sup>51</sup>

Finally, the Law on Combating Terrorism imposes the death penalty for a wide-range of vaguely-defined terrorist acts.<sup>52</sup>

### Recommendations

- Legally abolish corporal punishment as a sentence for a crime;
- Establish a moratorium on executions and commute death sentences to prison sentences, with a view to abolish the death penalty. In the meantime, ensure that the death penalty is only imposed for those crimes that fall within the category of the “most serious crimes” and after trials that fully comply with international fair trial standards.

## 3.5 Statelessness

Qatar has between 1,200 and 1,500 stateless people – also known as Bidoon – who claim to have a right to citizenship. The Bidoon face severe discrimination, including being denied the right to work legally or register for public health services and education.<sup>53</sup>

State legislation does not permit Qatari women married to non-Qataris to pass their nationality onto their children.<sup>54</sup> As such, the expulsion of citizens as part of the Gulf diplomatic crisis has resulted in family separations. In light of this, in September 2018, the cabinet adopted the Law on Permanent Residence, allowing the children of women married to non-Qataris to gain permanent residence and have access to

<sup>49</sup> Law No.11 of 2004. Available at: [https://www.unodc.org/res/cld/document/qat/penal-code\\_11\\_2004\\_html/2014\\_Penal\\_Code\\_Law\\_11\\_2004\\_26.pdf](https://www.unodc.org/res/cld/document/qat/penal-code_11_2004_html/2014_Penal_Code_Law_11_2004_26.pdf), (accessed 12 September 2018), part 1, Article 1. This reads: “The provisions of the Islamic Shari’a shall be applicable to the following offences when the defendant or the plaintiff is a Muslim 1) The Dogma/Qur’anic offences (*hudud* offences) such as: 1) Theft 2) Banditry 3) Adultery 4) Defamation 5) Drinking alcohol 6) Apostasy. 2) Offences of retribution (*qisas*) and blood money (*diya*). Save as otherwise specified above, the provisions of the present law and other laws shall be applicable to determine the offences and penalties”.

<sup>50</sup> In its report under the List of Issues, the Qatari authorities provided a list of crimes punishable by execution under Qatari law, this included a substantial number of offences that do not meet the threshold for the “Most Serious Crimes” under international law, including “infringing on the independence of the state” and “helping the enemy by giving it information or acting as a guide”. For more, see: Committee against Torture, *Third periodic report of States parties due in 2016 Qatar*, 8 December 2016, CAT/C/QAT/3, pp.42-43.

<sup>51</sup> Qatar handed out 1, 4, 9 and 2 death sentences between 2014 and 2017 respectively. For more, see: Amnesty International, *Death Sentences and Executions Reports*. Available from: <https://www.amnesty.org/en/latest/research/?contentType=2564&issue=1583&documentType=Report&sort=date> (accessed on 21 September 2018).

<sup>52</sup> Law No.3 of 2004, (as amended in 2017), available at: <http://www.almeezan.qa/LawPage.aspx?id=294&language=en>, (accessed 5 September 2018). Article 1 in conjunction with Articles 2, 3, 6 and 7.

<sup>53</sup> Human Rights Watch, *World Report 2013: Qatar*, [website], 2013, <https://www.hrw.org/world-report/2013/country-chapters/qatar>, (accessed 10 September 2018).

<sup>54</sup> During its last UPR, Qatar rejected four recommendations on this issue: n.124.35 (Norway); n.124.36 (Greece); n.124.37 (France); n.124.38 (Mexico).

public healthcare and education.<sup>55</sup> However, the law limits the granting of residency permits to 100 per year<sup>56</sup> and does not grant individuals Qatari citizenship.

The Law on the Acquisition of Qatari Nationality provides that individuals may only apply for Qatari nationality after having lived in the state for 25 consecutive years.<sup>57</sup>

Under Article 11 of the same law, individuals may have their nationality revoked as punishment for a number of vague acts, including joining “any authority, organisation, association or group whose purpose is to undermine the state”.

Between 2004 and 2005, the Qatari government revoked the nationality of 5000 members of the Al Murra tribe as collective punishment for the involvement of some of its members in an attempted coup in 1996.<sup>58</sup> While the authorities have now reinstated the nationality of some members, others who did not originally have their nationalities revoked run the risk of being subjected to this violation if they are considered to pose a threat to the government.

## Recommendations

- Take steps towards granting nationality to the Bidoon and restoring the nationality of all members of the Al Murra tribe;
- Allow Qatari women to pass their nationality onto their children, beginning by lifting all reservations to the CEDAW, ICCPR and ICESCR on this issue;
- Bring the Law on the Acquisition of Qatari Nationality into line with international standards.

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<sup>55</sup> Law No.10 of 2018, available at: <https://futuregategroup.com/permanent-residency-law-no-10-of-2018/>, (accessed 24 September 2018), Articles 2(1) and 6.

<sup>56</sup> *Ibid*, Article 4. This reads “Permanent Residency Permits shall be granted to no more than 100 individuals per year. It is possible, with the agreement of the emir, upon the proposal of the Minister of Interior, for this number to be increased depending on the year”.

<sup>57</sup> Law No.38 of 2005, available at: <http://www.almeezan.qa/LawView.aspx?opt&LawID=2591&language=en>, (accessed on 13 September 2018), Article 2.

<sup>58</sup> Human Rights Watch, *World Report 2013: Qatar*, [website], 2013, <https://www.hrw.org/world-report/2013/country-chapters/qatar>, (accessed 10 September 2018).

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