**Partners report to the Committee Against Torture about the State of Qatar**

**Submitted by:** Partners for Transparency (an organization in consultative status with the UN Economic and Social Council)

**Submitted to:** The Committee Against Torture (CAT)

**Submitted in:** January 2021

**Preamble**

Partners for Transparency submits this report to clarify the status of Qatar with regard to combating torture, including the Qatari legislative framework, its violation of the absolute prohibition of torture, the lack of independence of the Qatari judiciary, and its impact on investigations related to torture and ill-treatment of migrant workers, especially domestic workers. Finally, the report ends with Partner’s recommendations to the Qatari government, hoping that they will be thoroughly considered and implemented on the ground.

The Committee against Torture (CAT) had considered the third periodic report of Qatar (CAT/C/QAT/3) at its 1627th and 1630th meetings (see CAT/C/SR.1627 and 1630), held on 1 and 2 May 2018, and adopted the concluding observations at its 1647th and 1648th meetings, held on 15 May 2018. On October 14, 2019, Qatar submitted its information on the follow-up of the concluding observations, and will submit its fourth periodic report on May 18, 2022. In due course, the Committee will submit to the State Party (Qatar) the list of issues referred before the report is submitted, and the State party's responses to this list will be the subject of the fourth periodic report under Article 19 of the Convention against Torture.

**The Qatari legislative framework and its violation to the absolute prohibition of torture:**

Upon accession to the Convention against Torture, Qatar made incomprehensible reservations to Articles (1) and (16) thereof, and only after reviewing the Qatari national legislations, it became clear that a number of Qatari laws are clearly flawed and don’t criminalize torture or ill-treatment, these flawed laws are explained as follows:

1. After reviewing all Qatari laws, it became clear that they do not contain any explicit provisions guaranteeing the absolute and non-derogating prohibition of torture, which clearly contradicts the text of Article 2 of the Convention, which stipulates that “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”[[1]](#footnote-1)
2. Article No. (1) of the Qatari Penal Code[[2]](#footnote-2) still contains vaguely-worded provisions that allow flogging, stoning, and other corporal punishment as criminal penalties, which clearly contradicts the text of Articles 2, 4 and 16 of the CAT.
3. Article No. (48) of the Qatari Penal Code[[3]](#footnote-3) exempts from criminal responsibility public servants who execute the order of a superior that they must obey, or that they thought was their duty to obey, or those who enforce law, or believe in good faith that it is their duty to enforce it, which is clearly inconsistent with the text of Article No. (2) of the CAT.
4. Articles No. (22) and (159) bis of the Penal Code[[4]](#footnote-4) stipulates that the minimum penalty imposed for the crime of torture is three years imprisonment, but we note that Article No. (92) of the same law enables the perpetrators of the crime of torture to receive a reduced sentence, which may almost explicitly contradict the text of Articles (1 & 4) of the CAT.
5. Article No. (14) of the Code of Criminal Procedure[[5]](#footnote-5) states that the statute of limitations for the crime of torture is ten years after which it is forfeited according to the legal text, allowing the perpetrators of this heinous crime to escape from prosecution and punishment.
6. Article No. (117) of the Code of Criminal Procedure[[6]](#footnote-6) permits precautionary detention of the accused for a period of four days, which may be extended for another four days before appearing before a judge, and in addition, in case the crimes harm the national economy, the eight-day period may be extended for another period or other similar periods, in clear contradiction to the text of Article No. (2) of the CAT.
7. Article No. (18) of the Anti-Terrorism Law[[7]](#footnote-7) permits preventive detention of the accused for a period of fifteen days, which may be extended to six months without a judicial order or supervision, before appearing before a court, which not only breaches but also undermines the basic guarantees guaranteed to people deprived of their freedom.
8. Article No. (7) of the Law on the Establishment of the State Security Apparatus[[8]](#footnote-8) allows people to be detained for a period of 30 days prior to their appearance before the Public Prosecution, and it is also considered an arbitrary ruling that violates the rights of detained persons.
9. Article No. (2) of the Community Protection Law[[9]](#footnote-9) allows - unfortunately - the precautionary imprisonment of the accused, with the approval of the Prime Minister, for a period of up to one year for crimes related to “state security” and “public morals,” which explicitly contradicts the text of Article No. (11) of the CAT.
10. Article No. (7) of the law on the establishment of the Qatar Military Intelligence Service[[10]](#footnote-10) permits the detention of the accused for a period of up to two weeks before his appearance before the Public Prosecution, with the possibility of extending this period for another two weeks for members of the armed forces and an additional week for others, which contradicts Articles No. ( 2, 11, & 16) of the CAT, as well as inconsistent with Articles from 43 to 46 of the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

**The lack of independence of the Qatari judiciary, and its impact on torture-related investigations:**

**Partners for Transparency** would like to draw the attention of the esteemed committee to the fact that the legislative body is not clearly separate from the judiciary. The current thirty-five members of the Shura Council have been appointed, and the Council has no formal legislative role. The permanent constitution stipulates the formation of a Shura Council consisting of 45 members, 30 of them are elected by direct, general and secret ballot, and to grant this Council limited legislative power to formulate and approve laws. However, the elections have not been organized, and the former Shura Council is still in existence, and no date has been announced yet for organizing these elections. In addition, the Special Rapporteur on the independence of judges and lawyers has expressed grave concern about the many allegations reported to it during its visit to Qatar regarding the violations of guarantees of due process and fair trial and the repercussions of these violations on the lives of individuals and the respect for their human rights. Besides, both local and foreign judges are afraid of losing their current job, as they may be dismissed by a decision of the Emir "for the purpose of the public interest," and in addition to the fact that foreign judges are appointed under temporary contracts that are renewed annually, which raises questions about their independence and integrity[[11]](#footnote-11), in clear contradiction to the text of Article No. (2) of the CAT, which may negatively affect investigations of cases related to crimes of torture or ill-treatment.

**Abusing migrant workers, especially domestic workers:**

Migrant workers in Qatar still depend on their employers to facilitate their entry, residence and work in the country, which means that employers are responsible for applying for residence and work permits, renewing them, and canceling them, and they are subject to the Qatari labor law. Unfortunately, Qatar continues to impose harsh penalties on "absconding", which is for a migrant worker to leave his employer without permission or to stay in the country for a longer period than the grace period after the expiration or revocation of his residence permit. Penalties include fines, detention, deportation, and a ban on returning to Qatar. Domestic workers are among the migrant workers who suffer from numerous violations, as they are subjected to constant humiliation, ranging between slapping in the face, spitting, and insulting, in addition to being subjected to physical abuse and sexual harassment, and in some cases they are raped by force. In light of this, the United Nations Special Rapporteur on the human rights of migrants indicated that the domestic workers detained in Qatar are held in very poor conditions, lacking proper sanitation, adequate ventilation, enough beds and food.[[12]](#footnote-12)

**Recommendations**

* Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
* The importance of including in national legislation an explicit text prohibiting torture, in accordance with Article 2 (2) of the Convention against Torture.
* Qatar's need to withdraw its reservations to Articles 1 and 16 of the Convention against Torture.
* The need to ensure that the Qatari legislature ensures that the perpetrators of the crime of torture are punished with appropriate penalties that take into account its grave nature, in accordance with Article 4 (2) of the Convention against Torture.
* It is important for Qatar to ensure that a statute of limitations does not apply to the crime of torture, in order to exclude any possibility of impunity in relation to the investigation of acts of torture and the prosecution and punishment of the perpetrators.
* The importance of taking effective measures to ensure that all detainees enjoy, in law and in practice, all basic guarantees from the outset of their deprivation of liberty in accordance with international standards.
* Make the necessary amendments to the Criminal Procedure Law with the aim of abolishing the provision that allows detainees to be kept in police custody for eight days or more, depending on the crime, and to replace this provision with a maximum period in accordance with international standards.
* The need to review Qatari laws and legislation related to national security and combating terrorism, in line with the provisions of the International Convention against Torture.
* Inform all detainees, including those held under security laws, of the charges against them, record their detention in a registry, and ensure that they are brought promptly before a judge.
* Allow detainees, as soon as they are deprived of liberty, to communicate with family members, lawyers and independent doctors, and to ensure effective oversight of the authorities’ provision of these guarantees.
* Not to resort to solitary confinement except in exceptional cases as a last resort, and for the shortest possible period, subject to independent review, and to apply it only with permission from a competent authority, in accordance with articles 43 to 46 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).
* Expand the scope of professional training programs targeting judges and prosecutors to ensure that they are able to detect torture and ill-treatment and investigate all allegations of these acts.
* Take all necessary measures to establish and guarantee the independence of the judiciary, including ensuring the term of office for judges and breaking administrative and other ties with the executive authority, in line with international standards, especially the basic principles regarding the independence of the judiciary.
* The necessity to revise the methods of appointing foreign judges and the length of their service to ensure their independence, autonomy and integrity, and that they cannot be completely dismissed.
* Ensure that NGO representatives have unimpeded access to all places of detention, especially through unannounced visits, and the ability to speak with detainees in private.
* The importance of taking all necessary steps to enable it to effectively exercise universal jurisdiction over persons allegedly responsible for acts of torture, including foreign perpetrators temporarily residing in Qatar.
* Ensure that all law enforcement personnel receive mandatory training that focuses on the interconnectedness of non-coercive interrogation methods, the prohibition of torture and ill-treatment, and the obligation of the judiciary to invalidate confessions extracted under torture.
* The necessity and importance of Qatari legislators enacting laws that explicitly and clearly prohibit corporal punishment against children in various places.
* Take the necessary legislative measures to ensure the prompt and impartial investigation of all cases of exploitation and abuse of migrant workers, especially domestic workers.
* Refrain from detaining illegal immigrants for long periods, and not resort to detention except as a last resort and for the shortest possible period, and promote alternatives to detention, in addition to the necessity to provide them with all means of legal aid.

1. اتفاقية اتفاقية مناهضة التعذيب وغيره من ضروب المعاملة، أو العقوبة القاسية أو اللاإنسانية أو المهينة، اعتمدتها الجمعية العامة وفتحت باب التوقيع والتصديق عليها والانضمام اليها، في القرار 39/46 المؤرخ في 10 كانون الأول / ديسمبر 1984، تاريخ بدء النفاذ: 26 حزيران/ يونيه 1987،وفقا للمادة 27 (1)، للإطلاع على كافة نصوص الاتفاقية. <https://cutt.us/XjKaW> [↑](#footnote-ref-1)
2. قانون رقم (11) لسنة 2004 بإصدار قانون العقوبات، نصوص القانون كاملة. <https://cutt.us/Q8RZt> [↑](#footnote-ref-2)
3. قانون رقم (11) لسنة 2004 بإصدار قانون العقوبات، نصوص القانون كاملة. <https://cutt.us/Q8RZt> [↑](#footnote-ref-3)
4. قانون رقم (11) لسنة 2004 بإصدار قانون العقوبات، نصوص القانون كاملة. <https://cutt.us/Q8RZt> [↑](#footnote-ref-4)
5. قانون رقم (23) لسنة 2004 بإصدار قانون الإجراءات الجنائية، نصوص القانون كاملة. <https://cutt.us/05bCm> [↑](#footnote-ref-5)
6. قانون رقم (23) لسنة 2004 بإصدار قانون الإجراءات الجنائية، نصوص القانون كاملة. <https://cutt.us/05bCm> [↑](#footnote-ref-6)
7. قانون رقم (3) لسنة 2004 بشأن مكافحة الإرهاب، نصوص القانون كاملة. <https://cutt.us/WU5sz> [↑](#footnote-ref-7)
8. قانون رقم (5) لسنة 2003 بإنشاء جهاز أمن الدولة، نصوص القانون كاملة. <https://cutt.us/ZYfD7> [↑](#footnote-ref-8)
9. قانون رقم (17) لسنة 2002 بشأن حماية المجتمع، نصوص القانون كاملة. <https://cutt.us/0jZQo> [↑](#footnote-ref-9)
10. قانون رقم (10) لسنة 2004 بإنشاء جهاز الاستخبارات العسكرية، نصوص القانون كاملة. <https://cutt.us/l3E4q> [↑](#footnote-ref-10)
11. خبراء وقانونيون: القضاء القطرى «غير مستقل» وتحركه الأسرة الحاكمة، الوطن نيوز، 7 أبريل 2018. <https://cutt.us/f21xE> [↑](#footnote-ref-11)
12. قطر: العاملات المنزليات يروين قصصاً مروعة حول الأذى والاستغلال، العفو الدولية، 20 أكتوبر 2020. <https://cutt.us/PsvI6> [↑](#footnote-ref-12)