



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

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COMMITTEE AGAINST TORTURE

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

**Initial reports of States parties due in 2000**

**Addendum**

**QATAR**

[9 February 2005]  
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### **Introduction**

The State of Qatar, desiring to preserve and protect the dignity of the human person and to safeguard individuals against any form of torture or cruel, degrading or inhuman treatment, and inspired by its commitment to the principles of the Charter of the United Nations, which affirm the faith of the peoples of the United Nations in fundamental human rights and the dignity of the human person, acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 9 February 2000.

The Convention entered into force in the State one month after the date of the deposit of the instrument of accession, i.e. on 10 February 2001, in accordance with article 27, paragraph 2, of the Convention, which provides that, for the State ratifying or acceding to the Convention, the Convention enters into force on the thirtieth day after the date of the deposit of the instrument of ratification or accession.

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.

## PART ONE

### Overview of the legislative and institutional framework for protection

1. The system of protection against torture cannot be fully understood without reference to the country's laws and institutions concerned with protection against torture.

#### A. Investigating authorities

2. The Department of Public Prosecutions is legally bound to investigate offences of torture committed by public officials and to take proceedings against the perpetrators of those offences.

3. In Qatar, the Department of Public Prosecutions is an independent judicial body presided over by the Attorney-General and staffed by one or more chief attorneys and a sufficient number of other officers. Members of the Department of Public Prosecutions perform their duties under the supervision of their superiors, depending on operational arrangements. The Department of Public Prosecutions cannot be held to account for the results of its work or for the acts which it carries out in the line of duty.

4. The Department of Public Prosecutions has the power to investigate crimes, file charges and bring prosecutions in accordance with all the applicable procedures and measures established by law. In particular, it has responsibility for the following:

(a) The investigation of offences: the Department may delegate this task to law enforcement officers. For the purposes of the work that they are engaged to perform, such officers will be treated as members of the Department of Public Prosecutions and will be subject to its supervision;

(b) The initiation of criminal proceedings, the prosecution of cases before the courts, and the filing of appeals against court judgements;

(c) The processing of bankruptcy applications from businessmen; the investigation of negligent or fraudulent bankruptcies; and the initiation and prosecution of criminal proceedings in accordance with the procedures established by law;

(d) The filing of *hisba* lawsuits [lawsuits relating to an alleged affront to Islam] which come under its jurisdiction;

(e) The review of applications for the withdrawal, termination, interruption or restoration of guardianship; the naming and designation of testamentary executors; the processing of applications for placement under guardianship and for the issuance of missing person's declarations; and all other matters relating to legal incapacity, diminished legal capacity, missing persons, and the foetus;

(f) The inspection, in cooperation and coordination with the competent authorities, of juvenile homes, prisons and other places of detention through scheduled and unannounced visits, the checking of logbooks, arrest warrants and detention orders, the receiving and investigation of prisoners' complaints and appropriate follow-up;

(g) The handling of confiscated property; the administration of fines; and the receiving and processing of security and bail payments;

(h) Any other duties required of it by law.

5. The Attorney-General is appointed by Amiral decree and holds the rank of government minister. The other members of the Department of Public Prosecutions are appointed by an administrative decision upon the Attorney-General's recommendation.

## **B. Judicial system**

6. Judges play a special role in protecting the fundamental rights of individuals in accordance with the conventions and treaties to which the State of Qatar is a party. The principle of the independence of the judiciary enables the judicial authority to guarantee fair trials in which the rights of the parties are respected.

7. In Qatar, the judiciary is independent. According to article 130 of the Constitution of the State of Qatar: "Judicial authority is independent and is vested in different types and levels of courts, which issue judgements in accordance with the law." Article 131 of the Constitution states: "Judges are independent and are subject, in their judgements, to no authority other than the law. There can be no interference in cases or in the administration of justice." According to article 2 of the Judicial Authority Act No. 10 of 2003, judges are independent and cannot be dismissed from office except in accordance with the law. There can be no encroachment upon the independence of the judiciary or interference in matters of justice.

8. The Higher Council of the Judiciary works to ensure this independence. It also performs the following tasks:

(a) It gives its opinion on matters affecting the judiciary and reviews draft legislation on the development of the judiciary;

(b) It gives its opinion on the appointment, promotion, transfer, assignment and secondment of judges in accordance with the above-mentioned Act;

(c) It investigates complaints about members of the judiciary. Its decisions on such matters are final;

(d) It nominates the president of the Appeal Court and the presidents of the other divisions;

(e) It carries out any other tasks entrusted to it under any other law and deals with any matters which the Chairman of the Council may bring to its attention.

9. The above-mentioned Act deals with the organization and running of the courts. Article 4 of the Act states that the courts consist of:

(a) The Supreme Court

This court comprises a president and an appropriate number of vice-presidents and justices. It has various divisions which hear challenges to judgements handed down by the Court of Appeal. Each division is presided over by a president, a vice-president or a senior justice. The divisions and competences of the Court are defined by a decision of the Higher Council of the Judiciary.

(b) The Court of Appeal

This court consists of a president and an appropriate number of vice-presidents and justices. It has competence for hearing appeals relating, inter alia, to *hadd* offences [offences for which the prescribed penalty cannot be altered in any way], *qisas* offences [for which the penalty is retaliation] and criminal, civil, commercial and personal status and inheritance cases. The Higher Council of the Judiciary establishes the divisions of the Court and decides on their areas of competence.

Each division is presided over by a president, a vice-president or a justice. Vice-presidents and justices are assigned to the different divisions by a decision of the president of the Court, and judgements are handed down by three justices.

(c) The Court of the First Instance

This court consists of a president and an appropriate number of judges. Its divisions hear, inter alia, *hadd* offences, *qisas* offences and criminal, civil, commercial, personal status and inheritance cases.

The Higher Council of the Judiciary establishes these divisions and decides on their areas of competence. The Council selects and nominates the justices and judges who preside over the court and its divisions for a three-year renewable term. The president of the court assigns judges to these divisions and verdicts are delivered by three judges.

These courts have their own budget, which is annexed to the general State budget. Their judgements are delivered and executed in the name of the Amir.

It is clear from the foregoing that judges make their decisions without any external interference and that the independence of the judiciary is guaranteed by law.

The fact that the courts are organized and run in such a way as to vest them with full competence for adjudicating all civil and commercial disputes and personal status and criminal cases strengthens the State's judicial system and offers numerous advantages, of which the most important is the realization of the principle of equality before the law and the avoidance of the problems which arise when it is difficult to identify which body has competence for hearing a particular case.

### **C. Prisons**

10. Since prisons are places of detention in which individuals can be subjected to torture and other forms of criminal and degrading treatment, the Prisons Act No. 3 of 1995 emphasizes the importance of reforming and rehabilitating inmates and making efforts to turn them into useful members of society by treating them in a humane manner which fosters their sense of responsibility towards themselves and their community.

#### **The regulation of prisons**

11. Prisons are established in locations specified by a decision of the Minister for Internal Affairs. Prisons can be divided into central, decentralized and special prisons and can be further subdivided into men's and women's prisons.

12. Prisons are run by prison governors and every prison has an officer who answers to the governor for the enforcement of prison laws and regulations in the prison which he runs and for the guarding of prisoners. The officer liaises with the prisoners' affairs officer and all administrative staff and guards.

13. The women's prison is run by a female officer, who has all the same powers and responsibilities as her male counterpart. If no female officer can be found, the prison will be run by a male officer, who must work in cooperation with a female supervisor reporting to him. Every possible effort is made to staff the prison with female officers. In any event, the prison guards and ancillary personnel must be women. Depending on their duties, the prison officer, the prisoners' affairs officer and the supervisor of the women's prison all hold the rank of law enforcement officer.

14. Each prison maintains the following records:

- (a) A general file on prisoners;
- (b) A reports and investigations logbook;
- (c) A register of prisoners' property;
- (d) A daily log of prisoners' accidents;
- (e) Prisoners' employment records;
- (f) A punishments book;
- (g) A file on escapees;
- (h) A register of prisoners' complaints and requests;
- (i) A register of official visits, including comments by official visitors;
- (j) A register of ordinary visits;

- (k) A register of scheduled and unannounced inspections;
  - (l) A personal file on each prisoner, including full details about the prisoner's physical and mental health and social circumstances;
  - (m) Any other records that the prison governor may wish to keep.
15. The prisoners' affairs officer must answer to the prison officer for the maintenance and accuracy of these records.
16. In addition to the tasks specified in the Act, the prison officer is also required to:
- (a) Take appropriate steps to ensure that prisoners receive a copy of any notice of a judgement or document sent to them while they are in prison. If the prisoner asks for a copy of the notice to be sent to a particular person, then the officer must send the document to the person concerned;
  - (b) Check any case files, appeal files or other legal documents which the prisoner wishes to send, through the prison officer, for timely transmission to the competent body;
  - (c) Inform the prison governor immediately about any death, suicide, escape, accident or serious injury of any prisoner or of any serious offence committed by, or against, prisoners in the prison. The prison governor must promptly bring these matters to the attention of the Minister for Internal Affairs;
  - (d) Promptly notify the prison governor about serious incidents such as riots and epidemics and take appropriate action to deal with them. The prison governor must promptly bring these matters to the attention of the Minister for Internal Affairs;
  - (e) Monitor prison work in order to make sure that it is properly administered and does not breach the laws or administrative regulations. The officer must accept prisoners' written or oral complaints and pass them on to the prison governor after logging them in the requests and complaints book.
17. The prison officer may authorize any individual or body to visit the prison under certain conditions. For example, visitors must explain why they wish to make a visit and must provide proof of identity and abide by the rules and regulations on prison visits, together with any instructions which they are given during visits.
18. No one may be imprisoned except pursuant to a written order from the authority with legal competence for issuing such orders. No one may be kept in prison beyond the date specified in an order.

### **Categories and subcategories of prisoner and treatment of prisoners**

19. Prisoners are divided into four categories, categories A, B, C and D.



20. Category A is for persons in preventive custody, persons sentenced to a short term of imprisonment, persons imprisoned for non-payment of debts, persons imprisoned for non-payment of maintenance, civil debts or indemnities for bodily injury [*diyah*].

21. Category B is for persons sentenced to imprisonment with hard labour or flogging.

*Note bene:* The competent authorities are considering amending the Prisons Act with a view to abolishing the penalties of hard labour and flogging in conformity with the new Penal Code No. 11 of 2004, which does not provide for either of these penalties.

22. Category C is for persons condemned to death.

23. Category D is for persons held in preventive detention in connection with political offences and persons convicted of political offences.

24. Each category has two further subcategories, depending on the prisoner's age, previous record, the nature of offence committed, the length of the sentence, the prisoner's social and cultural background and his or her capacity for rehabilitation.

25. Category A prisoners are allowed to wear their own clothes and order in their own food. Their lawyers can visit them on their own, provided that they obtained prior permission, in writing, from the Department of Public Prosecutions. Foreign prisoners are allowed to contact their country's consulate or the body representing their interests, after having received permission from the Ministry of Internal Affairs.

26. Category B prisoners are paid for the work that they do in prison. They are paid extra for technical work and are allowed to correspond with their relatives and friends. The prison board arranges visits by consular staff and others representing the interests of foreign prisoners in this category after written authorization has been provided by the Ministry of Internal Affairs.

27. Category C prisoners and persons on death row are not allowed to mix with other prisoners and must wear different clothing from other prisoners.

28. Category D prisoners are treated like category A prisoners, since there are currently no regulations on treatment of this category of prisoner.

### **The health, social and cultural welfare of prisoners**

29. No prisoner can be deprived of meals or given short rations except on medical grounds;

(a) Prison uniforms must be compatible with health and atmospheric conditions;

(b) Prisoners must be supplied with water and soap at least once a week and must have their hair cut to an appropriate length. Women only have their hair cut on medical grounds. Prisoners are given one hour a day for exercise. In special circumstances, prison officers may reduce this time to half an hour or increase it to one and a half hours.

30. Every prison has an infirmary run by a doctor, who is required to take all necessary measures to safeguard prisoners' health and protect them from disease.

### **Prison discipline**

31. Any prisoner who infringes prison laws, regulations or rules will be subject to disciplinary action, without prejudice to any criminal responsibility which he may bear for his acts. The disciplinary measures which the prison management can take against a prisoner include:

- (a) A warning;
- (b) Withdrawal, for a period of up to 30 days, of all or some of the privileges accorded to prisoners in the relevant category;
- (c) A cut in pay for a period of up to seven days;
- (d) Up to seven days' solitary confinement;
- (e) Up to 20 lashes of the whip, provided that the prisoner is proved to be medically fit to sustain a flogging, and having due regard to the rules and procedures relating to the infliction of the penalty of flogging.

(*Nota bene:* It is worth mentioning that the competent authorities in Qatar are considering amending the Prisons Act with a view to repealing the provisions on the penalty of flogging.)

- (f) Placing the prisoner in a lower subcategory.

32. None of these penalties can be inflicted until an investigation has been carried out and the prisoner has been confronted with the charges against him and given an opportunity to make a statement in his defence. An explanation must be given for any decision to inflict a punishment on a prisoner and the prison officer or his deputy must keep a written record of the investigation.

### **D. Means of redress available to individuals**

33. With regard to the redress available to any individual who alleges that he has been a victim of torture or any other form of cruel, inhuman or degrading treatment or punishment, the Permanent Constitution of the State of Qatar and the laws in force provide that anyone who alleges that any of the rights guaranteed to him by the Constitution or the prevailing laws have been violated may seek redress before the courts in accordance with their respective areas of competence. This principle is enunciated in article 130 of the Constitution, which states: "The right to seek legal redress is safeguarded and is guaranteed to all. The law shall specify the procedures and circumstances under which this right shall be exercised."

34. Article 23 of the Code of Criminal Procedures of 2004 defines the procedures and conditions for instituting criminal proceedings. It also provides full legal guarantees of the right to seek legal redress.

35. Anyone who alleges that any of the rights guaranteed to him by law have been violated is entitled to bring this matter to the attention of the Amir himself, since the Amir's Office and Council are open to all citizens.

36. The National Human Rights Committee was established in Qatar pursuant to Decree Law No. 38 of 2002. The Committee works to protect human rights and human freedoms by pursuing the following aims:

- (a) Achieving the aims of the international human rights conventions and covenants to which the State is party;
- (b) Investigating infringements of human rights and freedoms and recommending appropriate ways of dealing with them and preventing them from occurring in the future;
- (c) Increasing awareness of, and knowledge about, human rights and freedoms.

#### **E. Procedural guarantees for persons under arrest**

37. These rights are set out in the Constitution of the State of Qatar, particularly article 36 thereof which reads as follows: “Personal freedom shall be guaranteed. No one may be imprisoned, searched, confined to a particular place or deprived of his freedom to choose his place of residence or to move around except in accordance with the law. No one may be subjected to torture or degrading treatment. Torture is an offence which is punishable by law.” According to article 37 of the Constitution: “Privacy is inviolable. 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.”

38. These rights and guarantees are also assured by the Code of Criminal Procedures, which is an important law in terms of the protection of human rights and fundamental freedoms because the legal safeguards which it contains ensure the highest standards of justice during any kind of criminal proceeding against any individual.

39. The Code contains provisions which make it illegal to subject an accused person to torture or assault. Article 40 of the Code states: “No one may be arrested or imprisoned except pursuant to an order issued by the competent authorities and under the circumstances specified by law. Such persons must be treated in a manner conducive to the preservation of their human dignity and may not be subjected to physical or mental harm. Law enforcement officers must inform the accused of his right to remain silent and to contact a person of his own choosing.”

40. Since international standards require lawyers to discharge their professional duties in a manner consistent with the promotion and protection of human rights and fundamental freedoms, the Code of Criminal Procedures grants accused persons the right to engage a lawyer during all stages of proceedings, beginning with questioning (see articles 101 and 102). Article 101 of the Code stipulates: “Except in cases of *flagrante delicto* and of urgent need arising from the fear of losing evidence, no member of the Department of Public Prosecutions may question an accused person or have him confront other accused persons or witnesses unless that person’s lawyer has been invited to attend, assuming that a lawyer has been appointed.”

41. Article 102 stipulates: “The lawyer for the accused must be allowed to examine the investigation file at least one day before the interview or confrontation, unless a member of the Department of Public Prosecutions decides otherwise. Under no circumstances shall the accused be separated from his lawyer during questioning.”

42. The Code also states that no reliance may be placed in a confession extracted from the accused under torture. This provision is found in article 232 of the Code, which stipulates: “The judge has full freedom to rule on the case on the basis of the conviction which he has formed. However, he may not base a ruling on any evidence that was not presented in court or that was obtained illegally. No reliance shall be placed in any statement established to have been obtained from an accused person or a witness under coercion or threats.”

#### **F. Publication of the Convention**

43. According to the Provisional Basic Law, as amended by the Constitution of the State of Qatar, no treaty shall enter into force until it has been ratified and published in the Official Gazette. Article 68 of the Permanent Constitution of the State of Qatar contains the same provision.

44. Publication is regarded as being akin to an order to all organizations and authorities to implement the law in question in their respective areas of jurisdiction. It is worth pointing out that all human rights conventions which the State ratifies or accedes to, including the Convention forming the subject of the present report, have been published in the Official Gazette and copies have been distributed to the ministries and bodies concerned.

## **PART TWO**

### **Details about the provisions of the Convention and their implementation in the State of Qatar**

#### **Article 1**

For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

#### **Comment**

45. The use of torture as a policy or instrument of State power is totally prohibited. No State official, be they a civilian or a member of the military, has a licence to commit, or to order others to commit, any act of torture.

46. Likewise, no public official may conceal, authorize or acquiesce in the commission of any form of torture. Any act of torture within the meaning of this Convention shall be deemed illegal under Qatari law. Anyone who commits such an act shall be subject to the criminal penalties prescribed, inter alia, in the Penal Code and other criminal laws.

47. The Islamic sharia totally prohibits acts of torture and other forms of ill-treatment, since such acts are an affront to human dignity, which the religion enjoins us to respect and protect.

48. Since many persons regard acts of torture and closely related practices such as cruel, inhuman or degrading treatment as some of the most repellent and cruellest forms of physical and mental suffering, and since such acts stir up powerful feelings of resentment and disgust in ordinary individuals, the authors of the Constitution of the State of Qatar made sure to write explicit provisions into the Constitution prohibiting and criminalizing torture. Thus, article 36 of the Constitution stipulates: "No one may be subjected to torture or degrading treatment. Torture is an offence which is punishable by law."

49. This provision is consistent with article 1 of the Convention, insofar as it makes a distinction between torture and acts of lesser gravity which may constitute degrading or inhuman treatment but do not amount to torture. It is clear, then, that the Constitution devotes a special provision to the prohibition of acts of torture, as a separate category of offence.

## Article 2

Each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

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.

An order from a superior officer or a public authority may not be invoked as a justification of torture.

### Comment

50. Since acts of torture are normally committed in places where investigations are carried out, and since ill-treatment mostly occurs during the early stages of a person's arrest, detention and imprisonment, Act No. 10 of 2002, concerning the Department of Public Prosecutions, stipulates, in its article 4, paragraph (vi), that the Department of Public Prosecutions has the authority to inspect, in coordination and cooperation with the competent authorities, juvenile homes, prisons and other places of incarceration through scheduled and unannounced visits, the examination of logbooks, arrest warrants and detention orders, the receiving of complaints and taking of whatever action it deems appropriate.

51. This authority serves as a form of guarantee against the use of torture and ill-treatment in detention centres, prisons and correctional facilities.

52. This provision, by guaranteeing that visits are made to juvenile homes, also ensures that the State meets its obligations under the Convention on the Rights of the Child, to which Qatar became a party in 1995 pursuant to Decree No. 54 of 1995. Article 37 (a) of the decree states that no child may be subjected to torture or any other form of cruel, inhuman or degrading treatment or punishment. The provision is also consistent with the State's obligation, under article 19 of the Convention, to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. The Department of Public Prosecutions has been vested with this authority to enable it to check up on children who have been deprived of their liberty and verify compliance, in the places concerned, with the international standards established in the United Nations rules relating to the protection of juveniles deprived of their liberty, the treatment of prisoners and the administration of juvenile justice. With a view to further criminalizing acts of torture and other inhuman treatment, the Qatari legislature, through article 103 of the Code of Criminal Procedures, prohibits the practice of accepting statements under oath from accused persons.

53. The Code also provides that any statement or information obtained under torture or coercion shall be deemed null and void and that no reliance shall be placed therein. Article 232 of the Code stipulates: "No reliance shall be placed in any statement established to have been obtained from an accused person or witness under coercion or threats."

### **Article 3**

No State party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

#### **Comment**

54. The competent authorities of the State are looking into whether this article can be incorporated into domestic law.

### **Article 4**

Each State party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

Each State party shall make these offences punishable by appropriate penalties which take into account their grave nature.

#### **Comment**

55. In addition to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the State of Qatar is also a party to other conventions which completely prohibit acts of torture, including the Convention on the Rights of the Child of 1989, the four Geneva Conventions of 1949 and Additional Protocol I of 1977.

56. Prevailing Qatari legislation prohibits and criminalizes torture and other practices which constitute ill-treatment or harsh punishment. According to the Code of Criminal Procedures, no one may be arrested or detained except by order of the competent authorities and under the conditions specified by law. Everyone must be treated in a manner that preserves his or her human dignity and no one may be subjected to physical or mental harm (art. 40).

57. Thus, it criminalizes acts of torture, although it refers to a specific period of time, namely the arrest and detention stage.

58. Chapter III, section III, of the Penal Code, which deals with the exploitation of workers and abuses of authority, contains provisions prescribing a penalty of up to five years’ imprisonment for any public official who uses or orders the use of torture, force or threats against an accused person, a witness or an expert for the purpose of obtaining a confession to an offence, coercing the person into making a statement or providing information about an offence or covering up an offence.

59. If, as the result of an act committed by a public official, the victim sustains an injury which causes permanent disability, the perpetrator shall be liable to a penalty of up to 10 years' imprisonment. If the victim dies as a result of the act, the perpetrator faces a penalty of death or life imprisonment (art. 159).

60. The above provision clearly rules out any form of immunity which a public official could invoke after committing, attempting to commit, or participating in, an act of torture, which is an offence under article 4 of the Convention. The use of force or infliction of pain in order to induce a person to talk during questioning not only violates the right of the accused to be protected from torture, but also his right to remain silent during questioning. Thus, article 40 of the Code of Criminal Procedures stipulates that accused persons must be informed of their right to remain silent and to contact a person of their own choosing.

61. The individual's right not to be forced to testify against himself also includes the right to remain silent while in detention and during questioning, regardless of whether or not the information sought would implicate him in a crime.

62. The Qatari legislature, mindful that abuses of power can occur during questioning, has provided, in article 89 of the above-mentioned Code, that a member of the Department of Public Prosecutions may refuse to ask a witness a question which has nothing to do with the case in hand or which is formulated in such a way as to be prejudicial to others. Witnesses must not be exposed to any act, statement or utterance which causes them feelings of mental distress or fear.

63. The Penal Code does not overlook acts which cause harm and pain but do not amount to torture. Public officials are punished for using their official powers to harm individuals (art. 159). The word "harm" includes material, physical and mental harm (art. 189).

64. Article 161 of the Penal Code makes the following distinction between torture and other acts of cruelty or ill-treatment: "A penalty of up to three years' imprisonment and/or a fine of up to 10,000 rials shall be imposed on any public official who, during the course of his duties, commits or orders others to commit acts of cruelty under circumstances other than those permitted by law.

65. Outside the context of public office, the Penal Code contains a chapter on offences against personal freedom and inviolability of person (arts. 318-333) which penalizes illegal abduction, arrest, forced labour, detention and deprivation of liberty. The penalty for such acts is a term of up to 15 years' imprisonment, depending on the circumstances, including: "Where the act was committed by means of deception or was accompanied by abuse of power, threats, murder or physical or mental torture" (art. 318).

## **Article 5**

Each State party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;



- (b) When the alleged offender is a national of that State;
- (c) When the victim was a national of that State if that State considers it appropriate.

Each State party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

### **Comment**

66. Chapter II of the Penal Code, which deals with the Code's scope of application, stipulates that it applies to:

(a) The commission, outside Qatar, of an act rendering a person the perpetrator of, or an accomplice to, an offence committed wholly or in part in Qatar;

(b) The commission, in Qatar, of an act rendering a person the perpetrator of, or an accomplice to, an offence committed wholly or in part outside Qatar, provided that the act is punishable under the Code and the law of the country in which it was committed;

(c) Where the intention of the author of, or accomplice to, an offence committed outside Qatar was to undermine the State's internal or external security or where the offence entailed the forging or falsification of official documents, seals or insignia, or government stamps, of the forging or counterfeiting of paper or metal currency which is legal tender in Qatar, or the possession or distribution of forged or counterfeit currency;

(d) Anyone who is found in the State after committing or participating in any offence perpetrated abroad that entails the trafficking of drugs or human beings, piracy or international terrorism;

(e) Any Qatari who commits, while abroad, an act that is classified as a serious or lesser offence under the Code shall be punished under the Code upon return to Qatar, if the act was also punishable under the law of the country in which it was committed;

(f) The Code applies to offences committed on board ships and aircraft belonging to, or operated, for any reason, by the State, regardless of where they may be;

(g) Without prejudice to the conventions and treaties to which the State is party, the provisions of the Code shall not apply to offences committed on board foreign ships and aircraft present in, or passing through, Qatari territory, unless the offences concerned constitute a breach of State security or the perpetrator or victim is a Qatari national or the captain of the ship or aircraft asks the Qatari authorities for assistance.

### **Article 6**

Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State party in whose territory a person alleged to have committed any offence referred to in article 4 is present, shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

Such State shall immediately make a preliminary inquiry into the facts.

Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, to the representative of the State where he usually resides.

When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said State and shall indicate whether it intends to exercise jurisdiction.

#### **Comment**

67. Qatari legislation does not deal with the subject referred to in this article. It leaves it up to Qatar and other States to incorporate these kinds of provisions into the bilateral agreements which they conclude between them.

### **Article 7**

The State party in territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found, shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

#### **Comment**

68. Qatari laws contain no provisions which hamper the application of the principle of extradition or prosecution of criminals. This stems from the conviction that criminals in any State must take their punishment without any obstacles being put in the way of their extradition.

This is an appropriate way out of the impasse created by loopholes in certain treaties and by the inability of some States to extradite accused persons because, for example, they are nationals of those States.

### **Article 8**

The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States parties. States parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

If a State party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

States parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

Such offences shall be treated, for the purpose of extradition between States parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

### **Comment**

69. The State of Qatar does not make it a practice, in the bilateral extradition treaties which it concludes, to impose restrictions, such as drawing up a list of extraditable offences which is then annexed to the treaty, since this practice can help some criminals evade punishment, if the offence which they have committed is not mentioned in the list. This is a constant problem, owing to the many forms which offences can take. Qatar's policy, rather, is to precisely define the gravity of an offence or the minimum penalty therefor and to base the conventions which it signs on the minimum penalty prescribed for extraditable offences, subject to the proviso that the offence in question must be punishable under the laws of both States parties.

70. We should like to make the following points:

(a) The bilateral conventions which Qatar has signed exclude certain offences, such as political and military offences, from the extradition process;

(b) Since acts of torture are acts of a grave nature and since there is no doubt that they are punished in all States, they are therefore classified as extraditable offences;

(c) In the absence of a treaty between Qatar and another State, the Convention against Torture serves as the basis for extradition to other States which have signed the Convention. However, in such cases, extradition will be subject to other conditions set forth in Qatari law, if the State of Qatar is the requesting State.

71. The Qatari Code of Criminal Procedures devotes an entire chapter to international judicial cooperation, including the extradition of convicted and accused persons and the surrender of material objects. The chapter also contains some substantive and procedural rules on extradition. The Code follows the approach of bilateral conventions and does not place restrictions on the kinds of offences which can be classified as extraditable offences. In addition, the Code stipulates that the provisions of the chapter shall be without prejudice to the bilateral and multilateral conventions to which the State is party. Therefore, the Code does not affect the provisions of the Convention against Torture.

### **Article 9**

States parties shall afford one another the greatest measure of assistance in connection with civil proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

States parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

### **Comment**

72. The Code of Criminal Procedures contains a title on the subject of international judicial cooperation. Chapter IV deals with requests for legal assistance as a means of rendering assistance in the prosecution of ordinary offences, including torture. These matters are dealt with in articles 427-433 of the Code.

73. Article 428 specifies the circumstances in which a request for legal assistance may be turned down, namely:

(a) Where the requested procedures are prohibited by law or are incompatible with general practice in Qatar;

(b) Where the act for which the request for legal assistance has been submitted does not constitute an offence under Qatari law, unless the accused person explicitly agrees to the execution of the request for legal assistance;

(c) Where the offence for which the request for legal assistance is submitted is not an extraditable offence.

74. Article 417 of the Code provides for a different form of international cooperation and assistance, namely the surrender of objects that may be in the possession of a person who has been ordered to hand over items acquired from, or used in, the commission of the offence with which he is charged or which may be used as evidence.

75. The State of Qatar has concluded numerous bilateral conventions with other States on legal assistance, including, inter alia, the following:

No.	Agreement or memorandum of understanding	Signed	Ratified
1	Security cooperation and extradition agreement with the Kingdom of Saudi Arabia	Riyadh, 21 February 1982	Pursuant to Decree No. 52 of 1982
2	Memorandum of understanding on security cooperation with the French Republic	1996	No ratification required
3	Legal and judicial cooperation agreement with Tunisia, 1997	Tunis, 6 January 1997	Instrument of ratification issued on 14 April 1998
4	Legal and judicial cooperation agreement with the Hashemite Kingdom of Jordan	Doha, 15 July 1997	Instrument of ratification issued on 14 April 1998
5	Memorandum of understanding between the respective interior ministries of Qatar and the Islamic Republic of Iran on combating drugs and psychotropic substances	1999	
6	Security cooperation agreement with the Yemeni Republic, 2000	Sana`a, 7 August 2000	Instrument of ratification issued on 15 April 2004
7	Security cooperation agreement with the Turkish Republic, 2001	Ankara, 25 December 2001	Cabinet approved ratification at a meeting held on 13 February 2002
8	Memorandum of understanding on security cooperation and coordination between the respective interior ministries of Qatar and the United Arab Emirates	Signed in 2002	

### Article 10

Each State party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

Each State party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

### Comment

76. The State is considering holding a workshop and training courses for law enforcement personnel, medical personnel and other persons who may be involved in the custody or interrogation of any individual subjected to any form of detention. The State will ask for the assistance of the relevant United Nations bodies in order to organize these courses.

### **Article 11**

Each State party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

#### **Comment**

77. The Department of Public Prosecutions Act, to which reference was made in part one (investigating authorities) of the present report, carries out checks and inspections with a view to preventing any acts of torture.

### **Article 12**

Each State party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

### **Article 13**

Each State party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

#### **Comment**

78. The individual's right to complain about an act of torture is guaranteed by the Qatari Constitution and Qatari law, which grant everyone the right to report any case of torture and refer the matter to the courts. In addition, when Qatar acceded to the Convention against Torture in 1999, the Convention became part of Qatar's domestic law and can therefore be invoked before the courts and other competent judicial and administrative tribunals of the State of Qatar. Furthermore, the State of Qatar established the National Committee for Human Rights pursuant to Decree Law No. 38 of 2002. Article 2, paragraph (3), of the Decree Law vests the Committee with the authority to investigate infringements of human rights and freedoms, if they occur, and to recommend appropriate ways of dealing with them and preventing them from occurring in future.

79. It follows that everyone is entitled to submit complaints to the Committee against any infringement of his or her rights, including the right not to be subjected to torture.

### **Article 14**

Each State party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.

Nothing in this article shall affect any right of the victim or other person to compensation which may exist under national law.

### **Comment**

80. A person who suffers damage as the result of acts of torture or other forms of ill-treatment may institute proceedings before the Qatari courts in order to claim compensation. The courts render justice to victims in accordance with the general rules regulating this matter.

### **Article 15**

Each State party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

### **Comment**

81. As mentioned above, in the comment on article 2 of the Convention, Qatari criminal law makes sure that no statement which is established to have been made under torture, coercion or threats, is invoked as evidence.

### **Article 16**

Each State party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.

The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion.

### **Comment**

82. As mentioned in the comment on article 4 of the Convention, the legislature, in the Penal Code, does not overlook acts which cause harm and pain but do not amount to torture. Article 159 of the Code stipulates that public officials will be punished if they use their official powers to harm individuals. Moreover, as already mentioned above, the word "harm" includes material, physical and mental harm.

83. It goes without saying that the Permanent Constitution of the State of Qatar, in article 36, explicitly prohibits torture and degrading treatment.

**Members of the Committee**

Hadi Nasir al-Haji	Ministry of Foreign Affairs	Chairman
Ibrahim Khalil al-Muhandi	Ministry of Internal Affairs	Member
Nasir Jabir al-Labdah	Ministry of Justice	Member
Fatih al-Rashid Abd al-Rahman	Ministry of Foreign Affairs	Member

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