



# **Universal Periodic Review: Qatar**

## **Second Cycle**

### **Submission to the Stakeholders' Summary**

**Alkarama, July 2013**

- 1 Background
- 2 The Judicial System
- 3 The Principle of Equal Treatment for all Citizens
- 4 Freedom of Association and of Expression
- 5 Definition of Torture and Refoulement to Countries Practicing Torture
- 6 Migrant workers
- 7 Recommendations

## 1 Background

1. Qatar is a state with a surface area of 11,437 km<sup>2</sup> and with a total population of 1,700,000 inhabitants of whom 85% are non-nationals. Ranked 36<sup>th</sup> in the 2012 human development index by the United Nations Development Programme (UNDP), Qatar had one of the highest GNPs per capita in the world in 2012 (90,524 USD according to figures from the World Bank<sup>1</sup>). Economically speaking, the national development strategy from 2011-2016 projects that more than 125 million USD will be made in public investments from now until 2016, and the expectations for the country's growth in the coming years is exceptionally high.

2. At the political level, the country is an emirate where the Emir exercises both executive and legislative powers. After an 18-year reign, Sheik Hamad Bin Khalifa Al Thani abdicated in favour of his son Tamim Bin Hamad Al Thani in June 2013. This abdication, which is a first in the region, is a continuation of the former Emir's voluntarism, which resulted in numerous initiatives during his reign, particularly internationally.

3. Over the course of the last few years, Qatar has effectively built up an influential place for itself on the world's diplomatic scene. In addition to obtaining the 2022 World Cup, its important financial means as well as its vectors of influence, such as the Al Jazeera channel, have allowed Qatar to play a significant role in events in North Africa and the Middle East in recent years. Its active coverage of political developments in Tunisia, Egypt, Libya, Syria, and Yemen have made space for debate and have allowed the media, which was until then was inexistent, to reveal the authoritative practices of these regimes and to denounce years of human rights abuses in these countries. Qatar also participated in the military coalition in Libya under United Nations mandate, financed a satellite chain in Doha for the Libyan opposition (Libya TV), has actively supported the transition process carried out by the Gulf Cooperation Council in Yemen, which brought about the fall of President Saleh, and today, supports the Syrian opposition to Bashar Al Assad.

4. However, Qatar's involvement in important events in the Arab world have raised questions about the independence of its media coverage when it barely covers, and remains extremely discreet as to its position on protests in Saudi Arabia, as well as the repression of the protest movement in Oman and recent political convictions in the United Arab Emirates. This contrasts particularly with the fact that Qatari troops were sent to Bahrain as part of the coalition of the Gulf Cooperation Council, which Qatar is a part of, to repress the demonstrations of 2011.<sup>2</sup>

5. The new constitution adopted by the former Emir came into full force in 2005, and sets out the election of 30 of the 45 members of the Advisory Council by Universal Suffrage, while 15 are nominated by the Emir. The council is currently composed exclusively of nominated members. It would propose legislation as well as approving the state's budget. However, at present the role of this council is only consultative, with the Emir being the only individual who can promulgate legislation. Despite these changes, no election to the Advisory Council has held been since the enactment of the new constitution. Elections have in fact been postponed several times and despite the former Emir's promise to hold the country's first legislative elections in 2013, these elections have once again been put off until 2016.

6. Some municipal elections have taken place since 1999, but they do not seem to attract public interest, mostly likely because those who are elected at the municipal level do not have any real executive power.

7. If the voluntary abdication of the former Emir, after 18 years of power, constitutes an advancement in comparison to regional traditions, it cannot be ignored that one family that is not accountable to its citizens detains complete power. The total absence of citizen participation in the

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<sup>1</sup> "GDP per capita (current US\$)", World Bank data, <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD/countries> (accessed 26 July 2013).

<sup>2</sup> *Popular Protests In North Africa And The Middle East (III): the Bahrain Revolt*, Middle East/North Africa Report N°105 – 6 April 2011, International Crisis Group, p.12. <http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/Iran%20Gulf/Bahrain/105-%20Popular%20Protests%20in%20North%20Africa%20and%20the%20Middle%20East%20-III-The%20Bahrain%20Revolt.ashx> (accessed 26 July 2013).

management of the country therefore favours a lack of transparency in the management of Qatar's important resources, and contrasts with Qatar's role on the international scene.

## 2 The Judicial System

8. Since its initial review in 2010, Qatar has been fully committed to "continu[ing] the work to ensure fair trials, particularly in cases of the death penalty, ensuring the right to be judged by an independent, impartial and competent court, the right to effective judicial protection, the right to have enough time and facilities to properly prepare the defence of a defendant, the right to the presumption of innocence, the right to appeal and the right for a sentence to be commuted,"<sup>3</sup> as recommended by Spain.

9. The Qatari constitution consecrates the independence of judicial power in article 130 which states that "The judicial authority shall be independent and it shall be vested in courts of different types and grades. The courts shall make their judgments according to the law." According to article 131 of the constitution, "judges are independent and they shall not be subject to any power in the exercise of their judicial functions as provided by the law and no interference whatsoever shall be permitted with court proceedings and the course of justice."

10. Since his enthronement, the new Emir has affirmed his wish to give more independence to the justice system by increasing the salaries of judges and prosecuting magistrates by 120%.

11. But the question of the independence of Qatar's judicial system remains, notably due to the fact that part of the judicial personnel are non-national individuals working on temporary contracts. These individuals, generally originating from other Arab countries, are directly appointed by the executive. Their residency status may constitute a serious hindrance on their independence and capacity to exercise their functions serenely. The tenure principle of judges, which is essential to the independence of the judicial system, cannot be guaranteed under these conditions.

12. Furthermore, a Supreme Judicial Council was created in 1999. Its mission is to propose legislation relating to the judicial system and give advice on the appointment of judges. The seven members on this council are the President, First Vice-President, the most senior judge of the Court of Cassation, the President, the Vice President, and most senior judge of the Court of Appeal and the President of the Court of First Instance. While the creation of such a body is welcomed, the procedure for appointing members of the Council is contrary to the proclaimed objective of this institution, namely the independence of the justice system, because the power to appoint or revoke the totality of its members is left entirely up to the Emir.

13. Alkarama therefore considers that the state's parties should take the measures necessary to guarantee the tenure of judges by attributing to the Supreme Judicial Council real authority, to ensure the independence of all magistrates, including non-nationals.

## 3 The Principle of Equal Treatment for all Citizens

14. Article 34 of the Qatari constitution guarantees equal treatment for all citizens. However, according to article 12 of the code governing nationality (Law No. 38/2005), *in fine* naturalized persons enjoy less protection because their Qatari nationality can be revoked at any time under a simple proposition from the Minister of the Interior, if he believes that this measure would conform to the general interest. The inequality between those who are of Qatari origin and those who are naturalized citizens is also instated in law as naturalized citizens do not enjoy the same political rights as those of Qatari origin: no matter how long they have held Qatari nationality they cannot vote, nor can they stand for election.

15. In addition, five of the people arrested in 1995 following the attempt coup organized by the grandfather of the current Emir remain detained, for more than 18 years now, regardless of the fact that the senior figures responsible for organizing and carrying out the failed attempt, which include people related to the royal family, have been granted a pardon and were released between 2005 and

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<sup>3</sup> Report of the Working Group on the Universal Periodic Review, Qatar, A/HRC/142, 15 March 2010. Recommendation at paragraph 83 (37), p.15 of the report.

2010. The fact that these five individuals remain in detention is a violation of the right to equal treatment.

#### **4 Freedom of Association and of Expression**

16. Qatar judged, following its initial exam in 2010, that the Netherland's recommendation to "facilitate independent participation of civil society in the democratization process, and to lift restrictions on the freedom of the right of association and assembly, in accordance with international human rights standards,"<sup>4</sup> was already being applied and consequently, no particular efforts were needed to ensure its implementation.

17. However, political parties in Qatar have not yet been granted this freedom, and if certain professional or social associations have been able to register themselves, notably charitable associations, the administrative process, as defined by law, remains a deterrent to the obtention of the obligatory authorisation issued by the Minister of Work and Social Affairs, meaning that in practice, the freedom of association is not guaranteed.

18. Alkarama has identified several cases of violation of the freedom of expression and of assembly over the course of the last several years. While these violations in consideration are less numerous than those observed in the neighbouring countries and cannot be qualified as systematic, they are nevertheless still of concern.

19. Mohammed Ibn Al Dhib Al Ajami is a 37-year-old Qatari poet. He is the author of the poem entitled, "The Jasmine Poem," which pays homage to the 2011 Tunisian Revolution. In the poem he expresses the hope that change will touch other Arab countries, in an allusion to the monarchies of the Gulf, by affirming that, "We are all Tunisians facing a repressive elite." Mohammed Ibn Al Dhib Al Ajami was arrested on 17 November 2011 by the security services because of these words. On 19 November, he was accused of "inciting the overthrow of the regime." After having been detained for more than a year without a judgment (his trial was pushed back 3 times in 2012 without any reason being given), he was found guilty and was handed a life sentence in the court of first instance on 29 November 2012. His sentence was reduced to 15 years after his appeal on 25 February 2013.

20. The sentencing of Mohammed Ibn Al Dhib Al Ajami is clearly linked to his exercising of his right to freedom of expression. He has remained detained pending his final appeal.

21. Mansoor Rashid Majed Al Mansoori, 35, and Muhammad Isa Al Baker, 40, both Qatari citizens residing in Doha were arrested by the security services on 22 March 2013. On 28 January 2013 the two men had requested permission from the Ministry of Interior to hold a peaceful protest in front of the French Embassy in Doha to protest against the French military operation "Serval" in Mali. Faced with the refusal of the Ministry, the two men then decided to send a letter to the Ambassador of France expressing their disagreement with the military intervention in Mali.

22. Following their arrest without a warrant they were interrogated by the security services about their political activities. The two men were detained without trial and without access to a lawyer until their release on 18 April 2013. Their arbitrary detention is clearly related to their request to demonstrate peacefully in expression of their political opinions.

#### **5 Definition of Torture and Refoulement to Countries Practicing Torture**

23. Article 36 of the Qatari Constitution provides: "... no person may be subjected to torture, or any degrading treatment; and torture shall be considered a crime punishable by law."

24. In its initial review, Qatar committed to "include in its national legislation the concept of torture as defined in article 1 of the Convention against Torture, and to enact legislation to abolish all types of corporal punishment and other forms of cruel, inhumane or degrading treatment"<sup>5</sup>.

25. Alkarama notes that Qatar has implemented this recommendation by incorporating the definition of torture as set out in the Convention into its domestic law, Law No. 8 of 2010, as well as

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<sup>4</sup> Report of the Working Group on the Universal Periodic Review, Qatar, A/HRC/142, 15 March 2010. Recommendation at paragraph 85.19, p. 21 of the report.

<sup>5</sup> Report of the Working Group on the Universal Periodic Review, Qatar, A/HRC/142, 15 March 2010. Recommendation at paragraph 85.7 p.20 of the report.

taking legal provisions to fight against the impunity. Qatar, however, should provide appropriate penalties for the crime of torture, taking into account the severity of the crime, as was recommended by the Committee against Torture in its 2013 concluding observations, following its second periodic review of Qatar.<sup>6</sup>

26. Alkarama also remains concerned about the lack of legal provisions expressly prohibiting the expulsion, return or extradition of a person to another State where there were substantial grounds for believing that he or she would be subjected to torture as stipulated in article 3 of the Convention, as well as the absence of an effective appeals process available to persons likely to be subject to such measures.

27. The case of Awad Awad Muhammad Al Hiqi, a Yemeni citizen born on 23 March 1979, is one example of Qatar's violation of article 3 of the Convention. Imam of a mosque in Doha, Al Hiqqi was summoned by police in Doha on 18 October 2010 for questioning. The police informed him that he was under arrest on the grounds that he was wanted by the Saudi authorities. He was then extradited to Saudi Arabia without having been notified of his right to appeal against this decision and his family returned to Yemen. Al Hiqi is still being held in Saudi Arabia, where, as we feared, he was severely tortured. This case highlights the need for the State parties to adopt specific legislation in this regard.

## 6 Migrant workers

28. A significant number of workers present in the emirate are from the Indian subcontinent and work in the construction industry. Their working conditions are difficult and accommodation deplorable. They do not benefit from social rights and legally speaking, are placed at the mercy of their employers.

29. Qatar had considered the recommendation made by the United Kingdom of Great Britain and Northern Ireland to "ensure that its domestic laws guarantee the protection of the human rights of migrant workers, including their right to freedom of movement and the right to an adequate standard of living"<sup>7</sup> as already implemented and therefore requiring no legislative changes.

30. However, Act No. 4 of 2009 "on the entry, exit residence and sponsorship of expatriates" states at its article 18 that "expatriates cannot leave the State, be it temporarily or permanently unless their sponsor has issued an exit permit." However, no provision obliges the sponsor to explain the reasons for a potential refusal of such a permit, thus opening the door to many abuses.

31. Many people are thus denied the issuance of an exit visa because of conflicts with their employer, forcing workers to comply with the conditions of their sponsor. A security check by customs and border police should replace the current legal provisions as the only appropriate measure that the State should use to combat crime by foreigners.

## 7 Recommendations

1. Introduce political reforms that lead to the effective participation of all citizens in public life and transparent management of national resources. Hold elections by universal suffrage to elect two thirds of the members of the Advisory Council as provided by the 2005 Qatari constitution.
2. Guarantee and ensure *de jure* and *de facto* equality of treatment for all citizens without exception and bring national legislation in accordance with article 34 of the Constitution. Ensure all detainees benefit from equal conditions of pardon by releasing them.
3. Enshrine the principle of security of tenure of judges by extending it to all judges in the country, including foreign contract judges, to ensure real independence of the judiciary.
4. Consider ratifying the International Covenant on Civil and Political Rights.
5. Withdraw reservations on articles 21 and 22 of the Convention against Torture and consider ratifying the Optional Protocol (OPCAT).

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<sup>6</sup> Concluding Observations issued following Qatar's second periodic review, adopted by the Committee at its forty-ninth session, Qatar, CAT/C/QAT/CO/2, 25 February 2013, paragraph 8.

<sup>7</sup> Report of the Working Group on the Universal Periodic Review, Qatar, A/HRC/142, 15 March 2010. Recommendation at paragraph 85.21, p.21 of the report.