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Racismo, discriminación racial, xenofobia y formas conexas de intolerancia, seguimiento y aplicación de la Declaración y el Programa de Acción de Durban

Visita a Qatar

Informe de la Relatora Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia*

Resumen

Por invitación del Gobierno, la Relatora Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, Tendayi Achiume, visitó Qatar del 24 de noviembre al 1 de diciembre de 2019.

La Relatora Especial encomia a Qatar por la ratificación de tratados de derechos humanos y por varias reformas legislativas y de políticas que promueven la igualdad racial y la no discriminación. No obstante, señala que Qatar debe hacer más, a la luz de las persistentes y complejas dificultades que debilitan el cumplimiento de sus obligaciones internacionales y hacen peligrar el logro de una igualdad y no discriminación verdaderas, como la preponderancia de la nacionalidad y el origen nacional en la determinación del acceso a los derechos humanos. Plantea su inquietud con respecto al sistema de castas de facto basado en el origen nacional, que da lugar a la discriminación estructural de los no ciudadanos. Una de las causas reside en los inmensos desequilibrios de poder entre los empleadores y los trabajadores migratorios, cuyo origen se remonta al sistema de patrocinio (*kafala*) que, a lo largo de la historia, estructuró las relaciones laborales en Qatar. Encomia las importantes reformas del trabajo y la inmigración que ha puesto en marcha Qatar para mejorar las condiciones de los trabajadores migrantes de bajos ingresos, incluidos los trabajadores domésticos, pero insta a que se adopten más medidas en esa esfera.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó y en árabe.



Annex

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her mission to Qatar

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Tendayi Achiume, visited Qatar from 24 November to 1 December 2019 to assess the authorities' efforts in eliminating racism, racial discrimination, xenophobia and related intolerance.

2. During the visit, the Special Rapporteur travelled to Doha and its surrounding areas, where she met with government representatives from the Ministry of Foreign Affairs; the Ministry of the Interior; the Ministry of Administrative Development, Labour and Social Affairs; the Ministry of Public Health; the Ministry of Education and Higher Education; the Ministry of Municipalities and the Environment and the Central Municipal Council; the Ministry of Justice; and the Public Prosecutor's Office. She also held meetings with high-level authorities, including the State Minister for Foreign Affairs; the Minister of Culture and Sports; and the Minister of Endowments and Islamic Affairs. The Special Rapporteur also met with representatives of the Shura Council, the Supreme Judiciary Council and the National Human Rights Committee, and the country's lawyer, who also serves as the Dean of the Law School of the University of Qatar.

3. The Special Rapporteur also held meetings with other stakeholders, including civil society actors, such as migrant workers, domestic workers, members of the Al-Ghufran clan, and academics, as well as representatives of United Nations entities. She met with the labour disputes committees and visited the central prison, the deportation and detention centre and the police station of the capital security department. She also carried out an on-site visit to the Al-Rayyan stadium, currently under construction for the 2022 Fédération Internationale de Football Association (FIFA) World Cup, where she met with representatives of the Supreme Committee for Delivery and Legacy and migrant workers benefiting from the workers' welfare initiative of the Supreme Committee.

4. The Special Rapporteur would like to reiterate her gratitude to Qatar for its invitation and cooperation during the visit. She appreciates the fact that she was able to meet with high-level representatives of the executive, judicial and legislative branches, demonstrating the importance that Qatar attaches to the special procedures of the Human Rights Council. The Special Rapporteur also wishes to express her gratitude to all those who took the time to meet with her.

5. The Special Rapporteur learned from government officials during her visit that the measures imposed on Qatar by Bahrain, Egypt, Saudi Arabia and the United Arab Emirates in 2017 had had a significant impact on the human rights of Qataris in those four neighbouring States. In 2018, Qatar instituted a series of inter-State complaints before the Committee on the Elimination of Racial Discrimination and the International Court of Justice alleging a violation of the International Convention on the Elimination of All Forms of Racial Discrimination.¹ The Special Rapporteur strongly urges all parties to these proceedings to respect their obligations under international human rights law and to abide by the findings of the Committee and the International Court of Justice.

¹ See www.ohchr.org/EN/HRBodies/CERD/Pages/InterstateCommunications.aspx and www.icj-cij.org/en/case/172.

II. Racial equality and non-discrimination in Qatar

6. Qatar has a population of approximately 2.8 million.² Of that number, about 2.5 million are non-citizens, who are identified in the Qatar National Vision 2030 framework as central to the nation's economic growth, development and global ambitions. In short, about 90 per cent of the population are non-citizens, who represent over 70 nationalities.³ About 71 per cent of the national population is comprised of low-income migrant workers.⁴

A. Legal framework

7. Article 35 of the Permanent Constitution of Qatar enshrines rights to racial equality and non-discrimination: "All persons are equal before the law and there shall be no discrimination whatsoever on grounds of gender, race, language or religion."⁵ In addition, articles 18, 19 and 34 contain several legal guarantees of equality. Justice, freedom and equality, along with benevolence and high moral standards, are highlighted as core societal values under article 18. Articles 19 and 34 include provisions for equal rights, opportunities and duties for all citizens.

8. The Special Rapporteur commends Qatar on its recent accession to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. This accession significantly expands the State's existing human rights treaty commitments. Qatar is now party to seven United Nations human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

9. As noted by the Committee on the Elimination of Racial Discrimination, Qatar has not adopted a legal definition of racial discrimination that fully implements article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.⁶ The Special Rapporteur urges the Government to rectify this shortcoming without delay. She notes the ongoing elaboration of a national action plan for human rights but regrets that Qatar has not yet developed an action plan to combat racism. She urges the Government to adopt a national action plan to combat racism, racial discrimination and related intolerance in accordance with the Durban Declaration and Programme of Action, and to establish an independent equality body mandated to prevent and combat racism, xenophobia and other forms of discrimination. These measures would represent significant strides towards addressing some of the challenges highlighted below.

10. The Special Rapporteur notes with appreciation that human rights are mainstreamed across several ministries through the establishment of human rights departments, including within the Ministry of Foreign Affairs, the Ministry of the Interior and the Ministry of Administrative Development, Labour and Social Affairs. She appreciates the establishment of a section within the Ministry of Foreign Affairs responsible for the follow-up of treaty body recommendations. The Special Rapporteur commends the Government for such good practices, which could be replicated by other States Members of the United Nations.

11. The Special Rapporteur commends the establishment in 2002 of the National Human Rights Committee, mandated to promote and protect human rights. She welcomes

² See www.psa.gov.qa/en/statistics1/StatisticsSite/Pages/Population.aspx.

³ See Fragomen, Del Rey, Bernsen & Loewy, LLP, "Qatar crisis – report (January 2018)", available at https://assets.fragomen.com/s3fs-public/fragomen_-_qatar_crisis_report_january_2018.pdf, and Global Detention Project, "Qatar: issues related to immigration detention", submission to the Committee on the Elimination of Racial Discrimination, available at www.globaldetentionproject.org/submission-cerd-qatar.

⁴ Qatar, Ministry of Development Planning and Statistics, *Measuring the Standard of Living in Qatar: Household Expenditure and Income Survey 2012/2013*. Available at www.psa.gov.qa/en/statistics/Statistical%20Releases/Social/HouseholdIncomeAndExpenditure/2013/Living-Conditions-2012-2013-En.pdf.

⁵ See www.gco.gov.qa/en/about-qatar/the-constitution/.

⁶ CERD/C/QAT/CO/17-21, para. 7.

the contribution of that Committee in further advancing racial equality and non-discrimination, including through its recommendations to the Government and its submissions to human rights mechanisms such as the Committee on the Elimination of Racial Discrimination. However, she notes that the work of the National Human Rights Committee and its impact on racial equality and the combating of racism and xenophobia remain limited. Indeed, although the National Human Rights Committee is empowered to receive complaints, the Special Rapporteur was informed that none of the complaints that it had received related to allegations of racial discrimination. She also learned that the National Human Rights Committee had not taken steps to determine the extent of nationality-based discrimination, although it was an issue of serious concern in Qatar. The Special Rapporteur regrets that despite awareness-raising and education measures implemented by that Committee,⁷ including a media campaign on the occasion of the International Day for the Elimination of Racial Discrimination,⁸ there is a serious lack of awareness among the population and State institutions on what constitutes prohibited racial discrimination. The National Human Rights Committee should play a more prominent role in combating racism and effectively implementing the International Convention on the Elimination of All Forms of Racial Discrimination.

12. The Special Rapporteur notes the adoption of Law No. 12 of 2015 amending Decree Law No. 17 of 2010 regulating the National Human Rights Committee, in order to secure the independence and immunity of the Committee's members.⁹ She encourages Qatar to ensure the effective independence of the Committee and to provide it with sufficient human and financial resources to carry out its mandate in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) as previously recommended by the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women.¹⁰

13. During her visit, it was difficult to confirm the extent of racial discrimination in Qatar due to the lack of disaggregated statistical data on the ethnic and racial composition of the population, both among Qataris and non-Qataris. In this respect, the Special Rapporteur recalls that the Committee on the Elimination of Racial Discrimination previously expressed a similar concern.¹¹

B. Direct, indirect and structural racial discrimination, including based on nationality and national origin

14. Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination defines prohibited racial discrimination as any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. The prohibition on racial discrimination in international human rights law aims at much more than a formal vision of equality. Equality in the international human rights framework is substantive, and requires States, including Qatar, to take action to combat intentional or purposeful racial discrimination, as well as to combat de facto or unintentional racial discrimination. It also requires States to combat structural racial discrimination, which occurs when the combined effect of laws,

⁷ See National Human Rights Committee, *Fourteenth Annual Report: 2018 – Human Rights Situation in Qatar* (Doha). Available at <https://nhrc-qa.org/en/themencode-pdf-viewer-sc/?file=https://nhrc-qa.org/wp-content/uploads/2019/06/NHRC-ANNUAL-REPORT-2018-ENGLISH.pdf&settings=1111111111&lang=en-US#page=&zoom=auto>.

⁸ National Human Rights Committee, shadow report submitted to the Committee on the Elimination of Racial Discrimination (2018). Available from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fFN%2fQAT%2f32871&Lang=en.

⁹ CERD/C/QAT/17-21, para. 17.

¹⁰ CERD/C/QAT/CO/17-21, para. 10 and CEDAW/QAT/CO/2, para. 20.

¹¹ CERD/QAT/CO/17-21, para. 5.

policies and practices is to undermine human rights on the basis of race, national or ethnic origin, even in the absence of explicit prejudice.

15. Although States may make distinctions between citizens and non-citizens, including with respect to exclusions, restrictions and preferences, these may not be applied in a racially discriminatory manner or as a pretext for racial discrimination. As the Government of Qatar itself argued in its ground-breaking inter-State communication before the Committee on the Elimination of Racial Discrimination, discrimination on the basis of nationality that impedes equal enjoyment of human rights is prohibited under the International Convention on the Elimination of All Forms of Racial Discrimination.¹² In its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee on the Elimination of Racial Discrimination has made clear that distinctions between citizens and non-citizens must not undermine racial equality and non-discrimination. Thus, although Qatar retains a sovereign right, as do all nations, to draw distinctions between citizens and non-citizens, international law limits this right in order to ensure the inherent dignity of all human beings, irrespective of race, national origin and ethnicity.¹³

16. A serious concern for Qatar is structural forms of racial discrimination against non-nationals because of the way that bilateral agreements, transnational labour recruitment practices, Qatari labour and residency laws, private sector contracts and practices, and other factors combine in complex ways to condition human rights significantly on the basis of national origin and nationality. To put the issue differently, for many in Qatar, national origin and nationality determines the extent of their enjoyment of their human rights. Other factors such as class, gender and disability status are also salient, but stratification of quality of life according to nationality and national origin on the scale the Special Rapporteur witnessed during her visit raises serious concerns of structural racial discrimination against non-nationals in Qatar. The Special Rapporteur offers examples in the sections below.

17. Addressing the overwhelming role that national origin and nationality play in shaping human rights experiences and outcomes in Qatar presents a very complicated challenge, not least because, as already mentioned, many inequalities are determined by policies in countries of origin. At the same time, discrimination and inequality are also a product of Qatari public and private sector policies and practices. The Government must take urgent steps to dismantle what is in effect a quasi-caste system based on national origin. Of note, the international human rights obligations of Qatar require it to take action to combat discrimination, even in the private sector.¹⁴ In order to discharge its obligations to eliminate racial discrimination by private actors, Qatar must enact special measures targeted to achieve and protect racial equality throughout the public and private sphere.¹⁵ The country's human rights obligations require it to eliminate labour market discrimination

¹² See www.ohchr.org/EN/HRBodies/CERD/Pages/InterstateCommunications.aspx.

¹³ See A/HRC/38/52.

¹⁴ International Convention on the Elimination of All Forms of Racial Discrimination, art. 2 (1) (d); Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, para. 9; Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 8; and Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 11.

¹⁵ Committee on the Elimination of Racial Discrimination, general recommendation No. 32 and Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 11. See also Committee on the Elimination of Racial Discrimination, general recommendation No. 29 (2002) on descent in the context of article 1 (1) of the Convention, sect. 7.

and segregated or discriminatory housing practices,¹⁶ and to ensure that businesses open to the general public do not engage in racial discrimination.¹⁷

C. Racial stereotypes and racial profiling

18. During her visit, the Special Rapporteur encountered many officials who assured her that equality and non-discrimination were fundamental to Qatari national values, as the State's formal human rights commitments in international and domestic law showed. Many officials spoke frankly about the challenges of realizing those commitments in reality. However, a number of officials denied the very existence of racism and racial discrimination in Qatar. There is no country in the world that can claim to be entirely free of racism and racial discrimination, and denialism regarding racism and racial discrimination is a serious threat to achieving equality and non-discrimination in reality.

19. Racial and ethnic stereotypes operate on the basis of implicit and explicit biases. Racial stereotyping inflicts considerable harm on society, especially when left unchallenged. Without a concerted effort to eliminate stereotyping, persistent social behaviour and social organization can entrench these stereotypes, undermining equal enjoyment of human rights in both the public and private spheres.¹⁸ The Working Group of Experts on People of African Descent has observed that racial stereotyping, among other harms, skews judicial proceedings; stigmatizes and excludes racial minorities; leads to impermissible inequalities in access to education and social services; and increases the likelihood of violence against racial minorities.¹⁹ Consultations and reports in Qatar revealed that racial and ethnic stereotypes operate in both the public and private spheres, according to which, for example, sub-Saharan African men are presumed to be unsanitary, sub-Saharan African women are presumed to be sexually available, and certain South Asian nationalities are presumed unintelligent. The Special Rapporteur received credible reports that, on the other hand, North Americans, Europeans and Australians are presumed superior, and whites in general are presumed to be inherently competent in various contexts, such as hiring and promotion decisions.

20. The harms of racial stereotyping also extend to the criminal justice system. Stereotyping contributes to, and is exacerbated by, law enforcement practices of racial profiling. Racial profiling can be defined as law enforcement decision-making that incorporates generalizations or stereotypes related to presumed race, colour, descent, nationality, place of birth, or national or ethnic origin as a basis for suspicion that people with such characteristics are prone to engage in or may be involved in criminal activity. Reports the Special Rapporteur received during her visit highlighted the prevalence of racial and ethnic profiling by police and traffic authorities, and even private security forces working in public parks and in shopping malls across Doha. South Asians and sub-Saharan Africans reported denial of access to these locations on account of their appearance. Such practices are racially discriminatory.

21. International human rights law requires Qatar to combat both racial stereotyping and racial profiling.²⁰ Those practices are incompatible with the country's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination to ensure equality before the law, to discourage racial divisions and to eliminate practices of racial discrimination by all persons, groups and organizations.

¹⁶ International Convention on the Elimination of All Forms of Racial Discrimination, para. 5 (e); Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 11; Human Rights Committee, general comment No. 31, para. 8; and Committee on the Elimination of Racial Discrimination, general recommendations No. 29, sects. 3 and 7, No. 30, paras. 33–35, and No. 34 (2011) on racial discrimination against people of African descent, paras. 58–59.

¹⁷ Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 11; and Committee on the Elimination of Racial Discrimination, general recommendations No. 27 (2000) on the discrimination against Roma, para. 35 and No. 29, sect. 3.

¹⁸ Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 12.

¹⁹ See A/74/274.

²⁰ *Ibid.*, paras. 16–20.

22. As highlighted by the Minister of Culture and Sports in the Special Rapporteur's meetings with him, the ultimate effect of laws and policies that aim to promote equality and non-discrimination depends, to a great extent, on the values, beliefs and perceptions that fundamentally structure any society. The Special Rapporteur commends the Ministry of Culture and Sports for the important investments it is making in using arts, culture and sports to shift societal values, beliefs and perceptions fundamental to equality and non-discrimination, including through Islam. The Special Rapporteur also had the privilege of visiting the Bin Jelmoed House at the Msheireb Museums, which she understands is the first museum in the world devoted to the history of Indian Ocean trade in enslaved persons, and which includes the history of enslavement in Qatar. The Special Rapporteur wishes to commend the museum for the powerful and crucial contribution to Qatar and the world more broadly.

23. A significant challenge is that the transnational economic and legal regime that structures the country's labour recruitment reinforces and consolidates some racial and ethnic stereotypes. Visas issued in blocks function as an informal quota system according to which different nationalities are given permission to enter the country. Most non-nationals are recruited for specific jobs, and private companies will commonly meet the need for specific types of workers by bringing in co-nationals, the result of which is a firm societal association between certain types of work and specific nationalities.

24. For example, the Special Rapporteur learned that Bangladeshis, Sri Lankans and Nepalis are among the most commonly employed in low-income jobs such as construction. This is not to say that all Bangladeshis and Nepalis in Qatar are invariably construction workers, but that the vast majority are brought into the country to work in this sector. Consultations with South Asian migrant workers typically recruited for low-income jobs reported that their nationality often functions as a barrier to their advancement to higher-paying jobs, even when they possess the necessary skills, in part because of stereotypes and implicit judgments by employers and others that fix Bangladeshis, Nepalis and Sri Lankans to low-income roles. For Western and Arab nationalities, their passports confer upon them privilege that results in better contractual benefits, even when they are performing the same tasks as certain South Asian and sub-Saharan African nationalities. The Special Rapporteur's concern is that in effect, even if not as a matter of intent, nationality and national origin entrench *de facto* castes among non-nationals according to which European, North American, Australian and Arab nationalities systematically enjoy greater human rights protections than South Asian and sub-Saharan African nationalities.

III. Migrant workers' labour conditions

25. Based on figures provided by the Ministry of Administrative Development, Labour and Social Affairs, there are approximately 1.9 million migrant workers in Qatar. As at 2 December 2019, among migrant workers, about 1.7 million were men and about 140,000 were women. The majority were from India (737,050), followed by Bangladesh (430,739), Nepal (352,911), the Philippines (240,721), Egypt (212,223), Pakistan (156,285), the Sudan (68,547), Jordan (56,114) and the Syrian Arab Republic (54,630). Sub-Saharan Africans are also increasingly represented, and include approximately 40,000 Kenyans. Although the exact numbers are unavailable, according to reports, there are also migrant workers from Burundi, Ethiopia, Ghana and Nigeria, among other countries.

A. Labour exploitation and access to justice

26. Immense power imbalances persist between employers and migrant workers, imbalances rooted in the *kafala* (sponsorship) system that has historically structured labour relations and conditions of residency for low-income workers in Qatar.²¹ The result is that, both because of the content of the law and the power it confers upon employers over employees, many low-income workers are too afraid to seek justice for labour violations,

²¹ CERD/C/QAT/CO/17-21, para. 15 (a).

and reasonably so. Migrant workers, especially low-wage earners in the construction, service and domestic work sectors, frequently experience non-payment or delayed payment of salaries. One worker in the service industry reported receiving only one month's salary after four months of not being paid. Another, a domestic worker, reported working for 10 months without pay. A construction worker testified with resignation that he had been waiting for over a year to receive 60,000 Qatari riyals in back wages, even after receiving a labour judgment in his favour. Some expressed a desire to report their employers to labour authorities but feared their employers would retaliate by terminating their contracts or falsely accusing them of leaving work, which is popularly referred to as "absconding" and is an offence punishable by imprisonment under Law No. 21 of 2015.²² The very use of this terminology of "absconding", even if it is not present in the law, points to the indentured or coercive labour conditions that are the reality for too many low-income workers in Qatar. It also recalls the historical reliance on enslaved and coerced labour in the region.

27. Low-income (and even high-income) migrant workers reported that salaries greatly depended on their countries of origin, such that workers performing the same tasks often earned significantly different salaries. This is partly due to poor labour regulations regarding pay equity,²³ but, as mentioned above, national origin discrimination and racial and ethnic stereotyping also contribute to the problem. For example, despite possessing professional degrees, some migrant workers reported being relegated to low-income jobs most commonly linked to and occupied by workers of their racial or ethnic group.

28. Low-income migrant workers also reported facing prohibitive hurdles when seeking to change employment due to the requirements of "no objection" certificates, which employees must secure from their sponsoring employer before they can legally terminate their employment and seek alternatives.²⁴ Under Law No. 21 of 2015, an employee who leaves her employment without a "no objection" certificate is required to leave the country, or face detention and deportation. During the visit, the Special Rapporteur noted that a climate of fear affected the ability of migrants, especially domestic workers, to lodge valid and even pressing complaints against employers for labour violations due to reasonable concerns that employers could retaliate by reporting employees to authorities on false claims of "absconding".

B. Domestic workers

29. Among low-income migrant workers, many domestic workers, who are predominantly women, confront distinct and extreme difficulties in Qatar, and face multiple and intersecting forms of discrimination, including extreme human rights violations due to their gender, nationality, temporary worker status and low income.²⁵ The Special Rapporteur received reports that it is not uncommon for domestic workers to be confined by their employers – Qatari and non-Qatari alike – to the private homes in which these women work. Many are subjected to harsh working conditions: excessively long workdays with no rest and no days off; passport and mobile phone confiscation; physical and social isolation; and, in some cases, physical, verbal or sexual assault by employers and their teenage or adult children. The Special Rapporteur heard testimonies from domestic workers who reported being denied food for prolonged periods, being regularly forced to subsist on leftovers or insufficiently nutritious food, and, in some cases, starvation. Two sub-Saharan domestic workers testified regarding their experiences of chilling and horrifying sexual abuse – one reported being regularly raped by her male employer for over a year, before she was able to escape from his home. The Government must take urgent action to ensure that egregious violations such as these are brought to an end.

²² Available at www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=102231.

²³ See Human Rights Watch, "Domestic workers' rights in Qatar" (2018). Available at www.hrw.org/news/2018/06/26/domestic-workers-rights-qatar.

²⁴ See Amnesty International, *All Work, No Pay: The Struggle of Qatar's Migrant Workers for Justice* (London, 2019). Available at www.amnesty.org/download/Documents/MDE2207932019ENGLISH.PDF.

²⁵ See, for example, CEDAW/C/QAT/CO/2, para. 15.

30. The decision to create a separate law (No. 15 of 2017) to govern the rights of domestic workers,²⁶ rather than include them under the Labour Law (No. 14 of 2004),²⁷ which applies to other migrant workers, has further marginalized domestic workers. Law No. 15 of 2017 offers lower levels of protections than the Labour Law. Higher limits on daily work hours, lower requirements to provide breaks and rest days, and no paid sick leave requirements, for example, place domestic workers at a relative disadvantage, continuing global and historical trends of gendered discrimination against migrant domestic workers.

31. The disparate treatment under the law exacerbates the social exclusion of domestic workers. Whereas the Labour Law provides for a maximum 8-hour workday, the domestic workers law stipulates a maximum 10-hour workday. Furthermore, although the law pertaining to domestic workers states that the workday should be interspersed with breaks, it fails to specify the number of breaks or count breaks as part of the 10 working hours. Employers are prohibited from forcing domestic workers to work while on sick leave but the law does not contain provisions for sick leave itself. This is in stark contrast to the Labour Law, which provides for two weeks of sick leave at full pay, four weeks at half pay and unpaid leave thereafter. The absence of labour inspections further magnifies these challenges and traps domestic workers in exploitative and abusive households.

32. Furthermore, because the Labour Law does not apply to domestic workers, this at-risk segment of the population remains subject to the requirement of employer permission in order to leave the country.

33. The Special Rapporteur received reports that contract substitution, in which workers sign contracts in their native language only to later discover that the Arabic versions of their contracts has unfavourable terms, is a common practice affecting all migrant workers. In such cases, there is no recourse for workers since both the Labour Law and the domestic workers law state that the Arabic text is authoritative.

34. As stated by the Committee on the Elimination of Discrimination against Women, domestic workers continue to face significant barriers to bringing complaints against their employers and obtaining redress in cases of abuse, including owing to fear of retaliation, detention or deportation.²⁸ The isolation of domestic workers makes it impossible for many to even access the different labour justice mechanisms that may be available to them in principle. The most vulnerable live in abject terror, reinforced by the threat of “absconding” charges and the reasonable fear that their abusers will use morality laws, which criminalize premarital sex, to accuse them of *zina* (consensual illicit sexual acts).²⁹ According to the information received, while the national committee for combating trafficking in persons is planning to operate shelters for victims of trafficking, there is no government-run shelter for domestic workers in Qatar.

C. Detention and deportation

35. Law No. 21 of 2015 prohibits workers from leaving their employment prior to the fulfilment of their contracts; doing so is punishable by imprisonment (a minimum of 30 days and a maximum of three years) or a fine of no less than 20,000 Qatari riyals. The gravity of these penalties mean that employers can use the threat of detention and deportation to force migrant workers to work in exploitative conditions, enduring a range of abuses, including non-payment or delayed payment of salaries, excessive workloads, unsafe and unhealthy working conditions, and severe psychological, physical and sexual abuse.

²⁶ Available from www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=105099&p_count=8&p_classification=22.

²⁷ Available from www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_125871.pdf.

²⁸ CEDAW/C/QAT/CO/2, para. 45 (b).

²⁹ Ana P. Santos, “Where pregnancy is a prison sentence”, *BRIGHT Magazine*, 16 January 2018. Available from <https://pulitzercenter.org/reporting/where-pregnancy-prison-sentence>. See also A/HRC/26/35/Add.1, para. 53.

The immense power employers wield is a significant barrier to migrant workers' access to justice, undermines the rule of law, and fosters a culture of impunity.

36. Employers are required by law to apply for and renew employees' residency permits, but the law penalizes employees for violations of that provision. Migrant workers are fined 10 Qatari riyals per day for failure to comply with the country's labour and immigration laws.³⁰ Law enforcement officers also detain or deport migrant workers for changing jobs without their employer's permission and charge them with absconding. Such restrictions make migrant workers vulnerable to exploitation, and prevent them from exercising the right to free choice of employment enshrined in article 5 (e) (i) of the International Convention on the Elimination of All Forms of Racial Discrimination.

37. Articles 281 and 282 of the Penal Code criminalize extramarital relationships.³¹ The Special Rapporteur shares the concerns raised by the Committee on the Elimination of All Forms of Discrimination against Women and the Working Group on Arbitrary Detention in this respect.³² There are reports that domestic workers, including those reporting sexual violence, are particularly affected by such criminalization.³³ Because Islamic legal tradition treats any intimate relations outside of marriage as a crime, the specific circumstances of unmarried women's pregnancies are deemed irrelevant.³⁴ Women, including migrant women, who become pregnant outside of marriage are subject to imprisonment both during and after their pregnancies.³⁵

D. Reforms

38. Qatar has implemented significant reforms to the labour and immigration laws governing migrant workers. Previously, Qatari law required migrant workers to obtain approval from their employers to leave the country or ask authorities if the employer refused. Law No. 13 of 2018³⁶ amended Law No. 21 of 2015, eliminating the authority of employers to prohibit the majority (but not all) of migrant workers from leaving the country. In 2014, Qatar established the Wage Protection Department at the Labour Inspection Department.³⁷ Qatar also introduced three labour dispute resolution committees to adjudicate claims or disputes concerning labour-related matters and expedite review of labour complaints.³⁸ Significantly, Qatar also established a workers' support and insurance fund, whose aims include paying those workers who obtain a favourable judgment from the labour dispute resolution committees but are unable to recover funds from companies.³⁹ Although the fund is not yet fully operational, the Ministry of Administrative, Development and Social Affairs informed the Special Rapporteur that it would be operational imminently.

39. During the visit, the Special Rapporteur met with representatives of the Supreme Committee for Delivery and Legacy, who highlighted the range of mechanisms and procedures they have in place to mitigate labour exploitation and ensure satisfactory

³⁰ Global Detention Project, "Qatar immigration detention profile" (2016).

³¹ Available from www.almeezan.qa/LawPage.aspx?id=26&language=en.

³² CEDAW/C/QAT/CO/1, para. 23; and Working Group on Arbitrary Detention, preliminary findings from its visit to Qatar (3–4 November 2019), available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25296&LangID=E.

³³ See, inter alia, Amnesty International, "*My Sleep is My Break*": *Exploitation of Migrant Domestic Workers in Qatar* (London, 2014). Available at www.amnesty.org/download/Documents/8000/mde220042014en.pdf.

³⁴ Santos, "Where pregnancy is a prison sentence".

³⁵ See Global Detention Project, "Qatar: issues related to immigration detention".

³⁶ Available from [http://ilo.org/dyn/natlex/docs/MONOGRAPH/107340/132079/F620027197/QatarGB-Law%2013%20\(2018\)%20Ar%20Eng.revATfinal30Oct18.pdf](http://ilo.org/dyn/natlex/docs/MONOGRAPH/107340/132079/F620027197/QatarGB-Law%2013%20(2018)%20Ar%20Eng.revATfinal30Oct18.pdf).

³⁷ See National Human Rights Committee, shadow report submitted to the Committee on the Elimination of Racial Discrimination (2018).

³⁸ See <https://portal.www.gov.qa/wps/portal/media-center/news/news-details/labordisputeresolutioncommitteesstartworktoday>.

³⁹ See ILO, "Annual progress report on the technical cooperation programme agreed between the Government of Qatar and the ILO", document GB.337/INS/5.

accommodation and health services for workers involved in World Cup-related construction. Worker representatives she spoke with on one site corroborated the higher quality of labour protections and accommodation relative to the rest of the national low-income workforce. The measures and safeguards instituted by the Supreme Committee, especially as they relate to timely and reliable wage payments and living conditions, are to be commended. Worker representatives nonetheless highlighted the need for non-discriminatory minimum wage protections, and for more liberal immigration and labour regulations that reflect the contributions they are making to the country's national and global prosperity.

40. Notwithstanding the impressive changes that the Supreme Committee for Delivery and Legacy has implemented for its 30,000 workers, similar reforms are urgently needed for the entire construction sector, which comprises about 800,000 workers.⁴⁰ Human rights reports also suggest that, notwithstanding the sweeping reforms relating to improving workplace health and safety for World Cup construction sites, there is an ongoing need to monitor and ensure contractors' compliance with regulations, especially during the dangerously hot summer months.⁴¹

41. Although there have been impressive reforms in Qatar, serious challenges remain. In 2019, the Committee on the Elimination of Racial Discrimination expressed concern that the existing entry, exit and residence law allowed the *kafala* system to continue operating in practice.⁴² The Special Rapporteur concurs with this assessment. Domestic workers still require exit permits to leave the country. Stringent measures remain in place limiting migrants' ability to change employers. Migrant workers may transfer employers, but must wait a period of five years if their contract does not specify duration of employment. Such provisions continue to foster exploitation.

42. Following her visit, the Special Rapporteur was informed that the legal reforms aimed at establishing a non-discriminatory minimum wage, and eliminating the "no objection" certificate, allowing workers to change employers after an initial probationary period, are still pending. She regrets the delay in their adoption. The Special Rapporteur welcomes the adoption of Decision No. 95 of 2019 of the Minister of the Interior, on regulations and procedures regarding the exit of some categories of workers who are not subject to the Labour Law. The Decision, which went into effect on 16 January 2020, removes the exit permit for domestic workers, government and public institution employees (with the exception of military employees), and employees in the fishing, agriculture and extractive sectors. This is an important legal reform that eliminates a key obstacle that previously prevented domestic workers and others omitted from the 2018 exit permit law from exercising their right to leave the country.

43. Nonetheless, Decision No. 95 of 2019 has significant shortcomings. For example, it requires domestic workers to provide their employers with 72 hours' notice prior to their departure from employment and/or the country. This notice requirement applies only to domestic workers, and the immense power imbalances between them and their employers raise grave concerns that this unique requirement may become yet another avenue for abuse of domestic workers.

44. The Special Rapporteur emphasizes that enforcement, compliance and implementation are critical to addressing labour exploitation and improving the lives of migrant workers. Even where laws have been changed, implementation remains a serious

⁴⁰ Human Rights Watch, "Qatar: take urgent action to protect construction workers" (September 2017). Available from www.hrw.org/news/2017/09/27/qatar-take-urgent-action-protect-construction-workers.

⁴¹ Ibid.

⁴² CERD/C/QAT/CO/17-21, para. 15 (a). See also Human Rights Watch, "Qatar: end all migrant worker exit visas" (September 2018), available at www.hrw.org/news/2018/09/06/qatar-end-all-migrant-worker-exit-visas; and Amnesty International, "Qatar: partial abolition of 'exit permit' lifts travel restrictions for most migrant workers" (September 2018), available at www.amnesty.org/en/latest/news/2018/09/qatar-exit-system-reform-first-step/.

challenge.⁴³ For example, confiscation of migrant workers' passports is now prohibited, but the practice continues for some, including domestic workers. This is in part due to a loophole in Law No. 21 of 2015 that allows employers to retain travel documents if the migrant worker consents in writing. And, although labour dispute resolution committees have made a difference, they remain too few and continue to face practical limitations. Significant delays occur and cases are not settled within the three-week period specified in law. According to data provided by the Ministry of Administrative Development, Labour and Social Affairs during the visit, the committees have received 4,949 complaints, of which 2,781 have resulted in rulings in favour of workers. The committees dismissed 1,250 cases because the worker did not appear in court, yet there is good reason to believe that non-appearance is linked to workers' fear of reprisal or, in other instances, the inability of workers to take time off work for proceedings without risking their employment. Workers who received favourable judgments also reported that they had a hard time reclaiming unpaid wages.⁴⁴ These challenges all require urgent attention and action.

IV. Economic, social and cultural rights

A. Health

45. As the National Human Rights Committee has noted, low-income workers experience serious barriers to accessing health care, which is a human right.⁴⁵ In some cases, private employers fail to secure the health card that employees require to access public health-care facilities.⁴⁶ Some low-income workers reported that even when they are in possession of the requisite health cards, lengthy queues for service are prohibitive, requiring them to arrive at the respective hospital as early as 2 a.m. to join the lines if they expect to receive treatment by 8 or 9 a.m., in advance of work hours. They also reported encountering racially and ethnically discriminatory treatment in the provision of health care, including on account of racial, ethnic and national stereotypes.

46. The workplace health and safety of low-income workers is also a serious issue, in part because of the extreme heat of the Gulf region. Climate conditions in Qatar expose numerous labourers, including those in the construction sector, to heat strain and put them at high risk of heat-related illness or death. The deaths of hundreds of young men between the ages of 25 and 35 years in Qatar is attributed to cardiovascular causes or "natural death" by Qatari authorities.⁴⁷ However, multiple research studies, including research published in *Cardiology* in July 2019, reported a strong correlation between average monthly afternoon heat levels and cardiovascular mortality. The group of climatologists and cardiologists reviewed mortality data of 1,354 Nepali migrant workers for the period 2009 and 2017, retrieved from government institutions in Nepal. They concluded that many deaths that were attributed to vague causes, such as cardiac arrest, were most likely due to severe heat stress.⁴⁸

47. To address health and safety concerns, the Government enacted a work ban in 2007 prohibiting manual labour in unshaded outdoor areas between 11:30 a.m. and 3 p.m. from mid-June to August.⁴⁹ In 2013, the Government also commissioned an international firm to review migrant labour issues.⁵⁰ The firm recommended that the Government reform laws to

⁴³ Human Rights Watch, "Qatar: migrant workers strike over work conditions" (August 2019).

Available at www.hrw.org/news/2019/08/08/qatar-migrant-workers-strike-over-work-conditions.

⁴⁴ See Amnesty International, *All Work, No Pay*.

⁴⁵ See National Human Rights Committee, *Fourteenth Annual Report: 2018*.

⁴⁶ A/HRC/26/35/Add.1, para. 45.

⁴⁷ Human Rights Watch, "Qatar: urgently investigate migrant worker deaths" (October 2019). Available at www.hrw.org/news/2019/10/10/qatar-urgently-investigate-migrant-worker-deaths.

⁴⁸ Bandana Pradhan and others, "Heat stress impacts on cardiac mortality in Nepali migrant workers in Qatar", *Cardiology*, vol. 142, No. 4 (July 2019).

⁴⁹ See <https://portal.www.gov.qa/wps/portal/media-center/news/news-details/molsapostsannouncementonsummerworkinghours>.

⁵⁰ See DLA Piper, *Migrant Labour in the Construction Sector in the State of Qatar* (April 2014).

require autopsies for “unexpected sudden deaths”, and that it conduct an independent investigation to examine the cause of death and ascertain the reason for the “seemingly high” number of deaths blamed on cardiac arrest.⁵¹ To date, the Government has not implemented these measures. In 2019, a study by the FAME Laboratory for the International Labour Organization (ILO), the Qatar Ministry of Administrative Development, Labour and Social Affairs and the Supreme Committee for Delivery and Legacy highlighted the shortcomings of the work ban, and its failure to fully protect workers from heat-related illness. The authors of the study recommended proactive health checks, monitoring and functional assessments at fixed intervals to prevent, diagnose and manage health-related symptoms and chronic diseases among workers.⁵² The Supreme Committee, which employs about 4 per cent of the construction work force in Qatar, has implemented many of these safety measures. However, the vast majority of the remaining 96 per cent of the construction industry has not. The Government must take urgent actions to address this failure to reform.

48. During the Special Rapporteur’s visit to the Al-Rayyan stadium, being built by the Supreme Committee, the managerial staff informed her that workers wear cooling suits to reduce the risk of heat stress. They also created worker welfare teams who are responsible for regularly communicating with workers and submitting workers’ complaints directly to employers.⁵³

B. Housing

49. National and municipal laws in Doha, including Law No. 15 of 2010 on the prohibition of workers’ camps within family residential areas, and resolution No. 83 of 2011 of the Minister of Municipalities and Urban Planning determining family residential areas,⁵⁴ designate certain zones as “family” zones and prohibit the rental of properties in these zones to migrant workers, which raises serious concerns of racial discrimination in housing.⁵⁵ This designation bars residential rentals by low-income workers, who, due to visa restrictions and other factors, are in the country without their families. Discriminatory housing policies prevent migrant workers from residing in urban areas and hinder them from exercising their right to freedom of movement and residence, enshrined in article 5 (d) (i) of the International Convention on the Elimination of All Forms of Racial Discrimination. Furthermore, because the labour force is stratified according to nationality, this zoning designation essentially relegates many South Asians and sub-Saharan Africans to the outskirts or industrial areas of the city.

50. In one submission the Special Rapporteur received, it was reported that the nature of the zoning policy in practice was that, while single low-income workers of South Asian or sub-Saharan African origin were unable to rent accommodation in those areas, single high-income white males had no trouble finding accommodation in a designated family zone. Reports note that labour accommodations, in practice, tend to be segregated along nationality or national origin lines, in part because co-nationals prefer to live together. Low-income workers reported, however, that the quality of labour accommodations tended to vary significantly according to nationality and national origin, raising serious concerns about racial discrimination in the provision of the right to adequate housing. Differential treatment in housing based on citizenship or immigration status also reinforces discriminatory stereotypes and promotes racial segregation.

⁵¹ Ibid., pp. 15 and 89.

⁵² See Andreas D. Flouris and others, “Assessment of occupational heat strain and mitigation strategies in Qatar” (FAME Laboratory, 2019).

⁵³ See www.qatar2022.qa/en/opportunities/workers-welfare/our-workers/workers-voice.

⁵⁴ Available at www.almeezan.qa/LawArticles.aspx?LawArticleID=34236&LawId=2510&language=en and www.almeezan.qa/LawPage.aspx?id=3902&language=en.

⁵⁵ See Amnesty International, *The Dark Side of Migration: Spotlight on Qatar’s Construction Sector ahead of the World Cup* (London, 2013). See also Pete Pattison, “Qatar’s ‘families only’ zones entrench segregation of migrant workers”, *The Guardian*, 13 April 2016.

C. Access to leisure and culture

51. Social segregation in public spaces and access to leisure and cultural facilities of low-income migrants is a serious concern. The Special Rapporteur learned that low-income workers, mainly South Asian or sub-Saharan African males, were prevented from accessing certain public spaces, including malls and beaches, by police officers or private security officers recruited by the municipality. During the visit, the Central Municipal Council confirmed that specific days were designated for access by families or singles to certain public spaces, including public parks. The Special Rapporteur is concerned that the implementation of such restrictions affects low-income migrants' non-discriminatory access to leisure and cultural activities as guaranteed under article 5 (e) (vi) of the International Convention on the Elimination of All Forms of Racial Discrimination.

V. Citizenship, refugees and stateless and undocumented populations

A. Access to citizenship

52. Law No. 38 of 2005, on the acquisition of Qatari nationality,⁵⁶ regulates access to citizenship. The Special Rapporteur commends the adoption of Law No. 10 of 2018, which permits children of Qatari women with foreign spouses as well as their foreign spouses to obtain permanent residence.⁵⁷ However, she notes with concern that citizenship through birth is still conferred in a manner that discriminates on the basis of gender. The Special Rapporteur joins the Committee on the Elimination of Discrimination Against Women in expressing grave concern that, unlike Qatari men, Qatari women remain prohibited from conferring nationality upon their foreign spouses and children, and that children of Qatari women married to foreign spouses do not enjoy the same rights as children of Qatari men married to foreign spouses.⁵⁸

53. The Special Rapporteur learned that under Law No. 38 of 2005, citizenship through naturalization is available only through Emiri decree. She is deeply concerned that by law naturalized Qatari do not enjoy the same rights as Qatari citizens born in the country, especially when it comes to the rights to work, housing, and public and political life. Similar concerns were raised by the Committee on the Elimination of Racial Discrimination and the Qatar National Human Rights Commission.⁵⁹ Article 16 of Law No. 38 of 2005 stresses that naturalized Qataris are not equated with Qatari nationals in terms of the right to work in public positions or work in general until five years after the date of naturalization. Naturalized Qataris are not entitled to participate in elections or nominations or be appointed in any legislative body. Regarding housing, by a decision of the Council of Ministers (No. 16 of 2007), naturalized Qatari can be granted a housing loan in accordance with article 2, paragraph 2, of Law No. 2 of 2007, or an appropriate housing unit by resolution of the Council of Ministers, only after the expiration of a period of 15 years from the date of obtaining Qatari nationality.⁶⁰

54. One narrative that seems salient in Qatar, and that seems to structure relevant legal and policy frameworks, is that non-nationals – especially low-income workers – are there as temporary, short-term guests who come to earn wages that far exceed what they would earn in their countries of origin. Testimonies the Special Rapporteur received confirmed the many economic advantages that drew non-nationals to seek their fortune in Qatar, and the positive, transformative impact of recent reforms, especially for the 30,000 workers

⁵⁶ Available at www.refworld.org/pdfid/542975124.pdf.

⁵⁷ See, inter alia, CEDAW/C/QAT/CO/2, para. 33.

⁵⁸ Ibid., para. 33.

⁵⁹ CERD/C/QAT/CO/17-21, paras. 21–22 and National Human Rights Committee, *Fourteenth Annual Report: 2018*.

⁶⁰ See National Human Rights Committee, shadow report submitted to the Committee on the Elimination of Racial Discrimination (2018).

employed by the Supreme Committee for Delivery and Legacy.⁶¹ At the same time, the Special Rapporteur encountered compelling evidence that the narrative of temporary, short-term guest workers is more myth than reality. Reports indicated that many low-income migrant workers spent years, sometimes decades, in Qatar, either continuously or with breaks in their countries of origin. Some workers are the second generation in their families to return to Qatar to work in the very same industries. In other words, far from being mostly short-term guest workers, many low-income workers spend the better part of their working lives in Qatar and do so facing serious barriers to full enjoyment of their fundamental human rights, including the right to family reunification.⁶²

55. Although non-nationals may apply for nationality or permanent residence, the very restrictive legal requirements make it difficult for low-income migrant workers to obtain citizenship or a permanent resident permit. The residence requirement is 25 years of continuous residence for access to citizenship (Law No. 38 of 2005) and between 10 and 20 years of residence for the permanent residency permit (Law No. 10 of 2018), which negatively affects many low-income workers. The Special Rapporteur learned from government officials that the annual cap on grants of permanent residence, not including those who received it through birth and marriage, was 100. The number stipulated may be increased year by year, in accordance with the rules and requirements. In accordance with Law No. 38 of 2005 (art. 17), citizenship through naturalization is not to be granted to more than 50 foreigners each year. This means that even for those who meet the extraordinary continuous residence and financial requirements for naturalization and permanent residence, the relative number of people who will receive Qatari nationality or permanent residence is very low.

B. Statelessness

56. According to the Office of the United Nations High Commissioner for Human Rights, there were 1,200 stateless persons in Qatar at the end of 2017.⁶³ Among this population are some members of the Al-Ghufran clan whose citizenship was revoked in the aftermath of the failed coup in 1996 and has yet to be reinstated.⁶⁴ Under article 7 of Law No. 38 of 2005, Qatari nationality may be reinstated, by an Emiri decision, to a person who proves to be of Qatari origin provided that the person has resided in Qatar for at least three consecutive years, has a lawful means of income sufficient to meet his or her needs and is of good reputation. Although the Government has taken measures to restore the citizenship of many who were affected in that period, the process and extent of citizenship restoration remains opaque, making it difficult to determine how many remain stateless, and how many have had their nationality reinstated. Many have expressed concern that the restoration process has operated arbitrarily, denying citizenship to individuals who are entitled to it. Reports indicate that members of the Al-Ghufran clan who remain stateless lack the identity documentation necessary to enjoy vital human rights, including the rights to education, employment, housing, health care, property and marriage.⁶⁵ Their lack of documentation also deprives them of the panoply of government benefits afforded to other Qatari citizens, including government jobs and social benefits.

57. The Special Rapporteur also received reports from human rights organizations raising concerns that, while comprising a small proportion of the national population, Bidoon remain stateless and have difficulties accessing citizenship. During the visit, Government officials stated that 250 Bidoon had been recognized through law as Qatari citizens between 2017 and 2019, but that there were approximately 2,400 pending

⁶¹ See www.fifa.com/worldcup/news/supreme-committee-for-delivery-legacy-and-bwi-sign-mou-for-joint-inspe-2850955.

⁶² CERD/C/QAT/CO/17-21, para. 15.

⁶³ Institute on Statelessness and Inclusion Rights Realization Centre and Global Campaign for Equal Nationality Rights, joint submission to the Human Rights Council at the thirty-third session of the universal periodic review, on Qatar.

⁶⁴ Human Rights Watch, "Qatar: families arbitrarily stripped of citizenship" (May 2019). Available from www.hrw.org/news/2019/05/12/qatar-families-arbitrarily-stripped-citizenship.

⁶⁵ Human Rights Watch, "Qatar: families arbitrarily stripped of citizenship".

statelessness cases. These cases should be resolved as a matter of urgency, in a transparent and human rights-compliant manner.

C. Refugees and asylum seekers

58. In 2018, Qatar became the first country in the Gulf and Middle East region to pass a law on political asylum. Law No. 11 of 2018 guarantees refugees and their families access to a range of free services provided by the Government, including travel documents, monthly allowances, and medical and educational services.⁶⁶ However, some reports express concern at the limited scope of the definition of refugee and the immense discretion granted in the Law to the Ministry of the Interior and the Prime Minister. The Minister of the Interior is not required to issue a denial on the asylum petition; no response constitutes a rejection of the asylum seeker's application. Article 8 of the Law stipulates that rejected asylum seekers cannot appeal to the courts or other judicial bodies but must lodge their appeal with the Prime Minister.⁶⁷ Under article 11, the Minister of the Interior is authorized to deport asylum seekers and refugees who engage in political activity to a country of the minister's choosing.⁶⁸ In possible contravention to the guarantee to the right to liberty of movement and residence enshrined in article 12 of the International Covenant on Civil and Political Rights and article 5 (d) (i) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 10 of the political asylum law restricts refugee movement by requiring asylum seekers and refugees to seek approval prior to moving from their government-assigned place of residence. By prohibiting asylum seekers and refugees from engaging in political activity, the law also impinges on the right to freedom of expression,⁶⁹ and freedom of peaceful assembly and association.⁷⁰

59. During the visit, officials from the Ministry of Foreign Affairs informed the Special Rapporteur of the Government's plan to ratify the Convention relating to the Status of Refugees and its 1967 Protocol. The Special Rapporteur urges the Government to expedite these ratifications, and to amend the law on political asylum to ensure its conformity with the country's international obligations, including the principle of non-refoulement.

D. Undocumented foreign nationals

60. The Special Rapporteur received reports that there is a population of undocumented foreign nationals in Qatar as a result of violations of the entry, exit and residence regulations. This population includes children who were born to undocumented parents or to migrant parents whose visas prevent them from conferring legal status on children in the country. Reports received indicate that migrant workers become undocumented due to various factors that are out of their control, such as: their company went bankrupt; their employer failed to renew their residency permit; or they were forced to flee an abusive work situation and subsequently became undocumented. The lack of documentation poses a severe barrier to the enjoyment of fundamental human rights, and Qatar must create pathways for legalization for affected persons.

VI. Recommendations

61. **In the light of the findings above, and with the aim of further future cooperation with the Government of Qatar, the Special Rapporteur makes the following recommendations.**

⁶⁶ See https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=107347&p_count=3&p_classification=17.

⁶⁷ See also CERD/C/QAT/CO/17-21, para. 29.

⁶⁸ Ibid.

⁶⁹ International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (d) (viii).

⁷⁰ Ibid., art. 5 (d) (ix).

A. Legal framework

62. The Special Rapporteur urges the Government to adopt without delay a legal definition of racial discrimination that fully implements article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, and to withdraw the reservations made to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

63. The Special Rapporteur urges the Government, in close cooperation with the relevant human rights mechanisms and United Nations entities, including the Office of the United Nations High Commissioner for Human Rights, to:

(a) Adopt a national action plan to combat racism, racial discrimination, xenophobia and related intolerance in accordance with the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference of 24 April 2009;

(b) Establish, in accordance with the Paris Principles, an independent specialized equality body to prevent and eliminate racism, racial discrimination, xenophobia and related intolerance, and provide it with sufficient financial, human and technical resources to carry out its functions.

B. Direct, indirect and structural racial discrimination, including based on nationality and national origin

64. The Special Rapporteur recommends that Qatar:

(a) Adopt measures to promote substantive equality with a view to addressing discrimination based on race, colour, descent, or national or ethnic origin;

(b) Collect data and compile statistics, disaggregated by ethnic group and nationality, and establish socioeconomic indicators, on the enjoyment of economic, social and cultural rights in conformity with international human rights standards. Such data are needed not only to adequately assess the situation of all groups and to make inequalities visible, but also to design, monitor and evaluate evidence-based measures that specifically target disadvantaged groups.

65. The Special Rapporteur further recommends that the National Human Rights Commission carry out a global study on discrimination based on nationality in Qatar in consultation and cooperation with the relevant United Nations entities and civil society actors, academics and migrant workers.

C. Racial stereotypes and racial profiling

66. The Special Rapporteur urges Qatar to:

(a) Promote equality and non-discrimination, tolerance and respect for cultural diversity, including through public culture and through the religious and other institutions that are at the centre of people's day-to-day lives, to combat racial stereotypes;

(b) Deepen governmental engagement across all sectors, with leadership by human rights officials and in collaboration with the Ministry of Culture and Sports, to tackle racial, ethnic and religious stereotypes that seem rarely acknowledged publicly, but that play a serious role in undercutting equality in unquestionable ways;

(c) Implement further human rights education measures in line with article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, as education is central to transforming values, beliefs and perceptions that promote tolerance and equity;

(d) Adopt a clear and unequivocal prohibition of the use of racial and ethnic profiling under the law, and implement training on racial and ethnic profiling and human rights for law enforcement officers, combined with supervisory measures for those officers, as well as cultural diversity trainings.

D. Migrant workers' labour conditions

1. Labour exploitation and access to justice

67. The Special Rapporteur recommends that Qatar:

(a) Effectively address wage discrimination based on nationality by ensuring that migrant workers are paid equal pay for equal work, irrespective of their nationality, in conformity with international standards;

(b) Improve the Wage Protection System, including its monitoring and enforcement and remedial mechanisms to ensure that employers make timely payments to workers; adopt additional implementation measures to facilitate timely payment of workers' wages; and impose sanctions on employers who do not pay workers their full salary on time;

(c) Amend the Labour Law (No. 14 of 2014) and Law No. 15 of 2017 on domestic workers to ensure that migrant workers are able to sign employment contracts in their native languages, notarized as identical to the Arabic version, prior to departure from their countries;

(d) Take targeted steps to strengthen the capacity of labour inspectors, tribunals and other enforcement authorities to address and prevent racial discrimination;

(e) Ensure that the workers' welfare initiative of the Supreme Committee for Delivery and Legacy is adopted by the entire construction sector to ensure the human rights of all working within this sector;

(f) Continue its efforts to improve the labour court committees by reducing delays, strengthening enforcement mechanisms and providing committees with adequate human and financial resources;

(g) Improve complaint mechanisms, ensure appropriate remedies for redress and enforce measures to protect migrant workers and punish violators;

(h) Provide migrant workers access to legal aid, shelters and health and rehabilitation services.

2. Domestic workers

68. The Special Rapporteur urges the Government to:

(a) Amend Law No. 15 of 2017 to guarantee domestic workers the same legal protections as the majority of migrant workers covered under the Labour Law;

(b) Address the confinement of domestic workers and monitor their working conditions effectively, including by facilitating labour inspections that take into account the specific challenges and needs of domestic workers; and remove any legal and administrative restrictions that prevent such monitoring, especially in private homes;

(c) Systematically investigate all allegations of exploitation, abuse and violence against domestic workers, including rape and sexual abuse, and prosecute alleged abusive employers, and, if they are convicted, punish them with sanctions commensurate with the gravity of the offence;

(d) Adopt concrete measures to ensure effective access to justice for domestic workers, including access to complaint mechanisms, legal aid and adequate redress and reparation, including compensation;

(e) **Build State-led shelters for migrant workers, in particular domestic workers, and ensure that domestic workers who are victims of abuse, including those who file complaints against employers, have effective access to more shelters and to appropriate support services, rehabilitation and psychosocial assistance;**

(f) **Implement the relevant recommendations made by the Committee on the Elimination of Discrimination against Women regarding women domestic workers and ratify the ILO Domestic Workers Convention, 2011 (No. 189).**

3. Detention and deportation

69. **The Special Rapporteur recommends that Qatar:**

(a) **Decriminalize both the offence of leaving work without the employer's permission ("absconding"), and consensual sexual relations outside marriage (*zina* crime), and prohibit the detention and deportation of migrants, especially migrant women, as punishment for those offences;**

(b) **End the detention and deportation of migrant workers for financial reasons, including bounced checks and debt such as unpaid loans;**

(c) **Ensure that the rights of detained migrants are fully respected, including their right to contact their embassy or consular services.**

4. Reforms

70. **The Special Rapporteur recommends that Qatar:**

(a) **Urgently remove the 72-hour notification requirement from Decision No. 95 of 2019, and ensure that domestic workers will not be penalized for failing to notify their employer and that adequate safeguard arrangements will be implemented in this respect;**

(b) **Expedite the adoption and entry into force of the law aimed at establishing a non-discriminatory minimum wage for all migrant workers, including domestic workers, in line with the country's international human rights obligations;**

(c) **Accelerate the adoption of the legislation aimed at eliminating the "no objection" certificate, allowing migrant workers to change employers after an initial probationary period; specify a probationary period relating to "no objection" certificates that is in line with international standards; and ensure that migrant workers who wish to transfer employment during the probationary period will not be required to have their new employer reimburse recruitment costs to the original employer.**

E. Economic, social and cultural rights

71. **The Special Rapporteur recommends that Qatar:**

(a) **Ensure adequate access to health-care services for migrant workers without discrimination; strengthen mechanisms to hold employers accountable vis-à-vis migrant workers, especially with regard to facilitating the issuance by the employers of workers' identity documents and health cards; and ensure that health-care professionals receive regular human rights training, including on racial bias and stereotypes and non-discrimination;**

(b) **Urgently address health and safety concerns related to heat illness and deaths by implementing more effective safety measures, including: reviewing and improving the 2007 work ban; implementing proactive health checks; carrying out monitoring and functional assessments at fixed intervals to prevent, diagnose and manage health-related symptoms and chronic diseases among workers; conducting an**

independent investigation to examine the cause of such deaths; and establishing health and safety committees with worker representation on all worksites;⁷¹

(c) Guarantee the right to education without discrimination to all non-citizens, including children of low-income migrants and undocumented migrants, in accordance with the Committee on the Elimination of Racial Discrimination's general recommendation No. 30 (2004) on discrimination against non-citizens (paras. 29–31);

(d) Ensure low-income migrant workers access to adequate housing, and review discriminatory housing laws, regulations and policies that restrict their freedom of movement and prohibit them from residing in certain areas;

(e) Provide low-income migrants non-discriminatory access to leisure and cultural activities, and refrain from implementing policy measures aimed at restricting their access to certain public spaces, as it leads to their social exclusion and marginalization.

F. Citizenship, refugees and stateless and undocumented populations

1. Access to citizenship

72. The Special Rapporteur recommends that Qatar:

(a) Amend Law No. 38 of 2005 to allow Qatari women married to non-citizens to transmit without discrimination their nationality to their foreign spouses, and to their children from birth, in particular for those children who would otherwise be stateless;

(b) Remove from Law No. 38 of 2005 and its implementation regulations all the provisions that are discriminatory towards naturalized Qatari, and ensure that naturalized Qatari enjoy all human rights without discrimination and on an equal basis with Qatari nationals born in Qatar, in line with the country's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination;

(c) Adopt immigration reforms that reflect the long-term stays of many of its low-income workers, whose lives are currently structured according to a guest-worker logic that prevents the full enjoyment of human rights and fundamental freedoms warranted by their inherent dignity as human beings.

2. Statelessness

73. The Special Rapporteur recommends that Qatar:

(a) Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness;

(b) Reinstatement the nationality of all persons who have been arbitrarily deprived of it, including among the Bidoon and the Al-Ghufran clan;

(c) Amend Law No. 38 of 2005 to prevent arbitrary deprivation of nationality and to ensure redress and the right of appeal before courts for all persons who have been deprived of their nationality;

(d) Prohibit the deprivation of nationality that results in statelessness and remove provisions limiting the right to public and political life of individuals whose nationality has been reinstated;

(e) Establish independent and transparent procedures to identify and determine the number and profiles of all stateless individuals in Qatar, particularly among the Bidoon and the Al-Ghufran clan;

⁷¹ As also recommended by the Special Rapporteur on the human rights of migrants (A/HRC/26/35/Add.1, para. 108).

(f) Publish any decisions pertaining to maintaining or withdrawing nationality from members of the Al-Ghufran clan, even if they have since been repealed.

3. Refugees and asylum seekers

74. The Special Rapporteur recommends that Qatar:

(a) Amend Law No. 11 of 2018 on political asylum in order to ensure that it is aligned with the refugee definition under international law, that refugees and asylum seekers are guaranteed civil, political, economic, social and cultural rights without discrimination in conformity with the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and that asylum seekers are provided with redress and effective legal remedies in relation to their requests for refugee status;

(b) Remove any provisions from Law No. 11 of 2018 that may infringe the principle of non-refoulement;

(c) Ratify the Convention relating to the Status of Refugees and its 1967 Protocol.

4. Undocumented populations

75. The Special Rapporteur recommends that Qatar fully respect the rights of undocumented migrants in accordance with its international obligations, and refrain from holding children and families with children in immigration detention facilities, in accordance with the principles of the best interests of the child and of family unity; and establish shelters for those categories of migrants.⁷²

⁷² As also recommended by the Special Rapporteur on the human rights of migrants (A/HRC/26/35/Add.1, para. 125).