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**Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие****Посещение Катара****Доклад Рабочей группы по произвольным задержаниям\* \*\****Резюме*

Рабочая группа по произвольным задержаниям посетила Катар 3–14 ноября 2019 года по приглашению правительства. Рабочая группа высоко оценивает прогресс, достигнутый в Катаре, и отмечает ряд позитивных изменений, в том числе присоединение Катара к Международному пакту о гражданских и политических правах в 2018 году, работу Национального комитета по правам человека и наличие надзорных механизмов, контролирующих места лишения свободы, а также подход к психосоциальной помощи на базе общин. В то же время Рабочая группа отмечает значительные проблемы в системе уголовного правосудия в отношении предупреждения произвольных задержаний, такие как обеспечение незамедлительной доставки задержанных в судебный орган, гарантирование задержанным доступа к правовой помощи и перевода в ходе судебного разбирательства, а также чрезмерная зависимость от содержания под стражей до суда. Журналы учета задержаний в полицейских участках не содержат надлежащих гарантий от произвольного лишения свободы. Большое число лиц содержится под стражей из-за неспособности погасить долг. Законодательство о государственной безопасности и борьбе с терроризмом, а также законы о защите общества допускают ненадлежащее административное задержание, в результате чего лицо на длительные периоды времени лишается судебной защиты. Существующие правовые рамки и практика допускают фактическое лишение свободы частными субъектами. Существует также настоятельная необходимость в значительном укреплении независимости гражданского общества и адвокатуры. В числе своих рекомендаций по решению проблем, выявленных в ходе посещения, Рабочая группа призывает Катар стать участником всех основных договоров по правам человека и принять законодательные поправки и конкретные меры, обеспечивающие более надежную защиту от произвольных задержаний.

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## Annex

### Report of the Working Group on Arbitrary Detention on its visit to Qatar

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## **I. Introduction**

1. The Working Group on Arbitrary Detention, at the invitation of the Government, conducted an official visit to Qatar from 3 to 14 November 2019. The delegation was composed of Leigh Toomey, of Australia, Elina Steinerte, of Latvia, and Sètondji Roland Adjovi, of Benin, accompanied by staff from the Office of the United Nations High Commissioner for Human Rights. Ms. Toomey was with the delegation from 3 to 9 November 2019. The Working Group would like to thank the United Nations Human Rights Training and Documentation Centre for South-West Asia and the Arab Region for its support.
2. The Working Group extends its gratitude and appreciation to the Government of Qatar for inviting it to undertake this visit, which sets an important example for other countries in the region. It appreciates the cooperation that it received during the visit, and thanks the Ministry of Foreign Affairs for its efforts in facilitating it. However, despite repeated efforts, the Working Group was unable to meet with some key authorities and officials, or to visit the State Security detention facility. The Working Group regrets these unwarranted interferences with its freedom of enquiry. The Working Group calls upon the Government to give serious consideration to the possibility of a further visit, and looks forward to an invitation to carry out a follow-up visit in 2022 that would fully respect the terms of reference for country visits.
3. During the visit, the Working Group met with the Prime Minister, the Minister of Justice, the National Security Adviser to the Emir, and the State Minister for Foreign Affairs, as well as representatives from different departments of the Ministry of Interior, the Ministry of Public Health, the Ministry of Administrative Development, Labour and Social Affairs, the State Security Service, the Public Prosecution, the Supreme Judiciary Council and the National Human Rights Committee. The delegation also had meetings with representatives of the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization and the International Labour Organization.
4. The Working Group visited 12 places of deprivation of liberty in and outside the capital (see appendix I), including police stations, pretrial detention facilities, the Doha central prison, the Doha deportation centre, the Doha psychiatric hospital, and a social care centre for children in conflict with the law. It was able to confidentially interview over 200 persons deprived of their liberty.
5. The Working Group also visited the Naufar Center, which provides voluntary residential care and treatment for drug dependency and addiction. The Working Group appreciated being able to visit the facility and to speak both with those in charge and with the residents, which allowed it to conclude that it was not a place of deprivation of liberty.
6. The Working Group also recognizes various stakeholders within the country who shared their perspectives about deprivation of liberty, including representatives of civil society, lawyers, and individuals who were deprived of their liberty. The Working Group thanks all of them for the information provided.
7. The Working Group shared its preliminary findings with the Government of Qatar on 14 November 2019. The Working Group intends to continue its constructive dialogue with the Government on the issues presented in the present report.

## **II. Overview of the institutional and legal framework**

### **A. International human rights obligations**

8. Qatar is a party to the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and its two Optional Protocols, and the Convention on the Rights of Persons with Disabilities.

9. The State is not a party to the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the two Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It is a signatory to the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

10. The Working Group urges the Government to carefully review the State's current international human rights obligations, with a view to becoming a State party to the above-mentioned conventions and optional protocols, as they all contain provisions which, if fully implemented, assist in addressing arbitrary deprivation of liberty and associated human rights challenges.

## **B. National legal framework**

11. The Permanent Constitution of the State of Qatar was promulgated in 2004, establishing the principles of the State's policy: rule of law, separation of powers, independence of the judiciary and the guarantee of fundamental rights and freedoms.

12. Part 3 of the Constitution, entitled "Public rights and duties", includes provisions protecting against arbitrary detention. Article 36 of the Constitution guarantees the right to liberty of the person, and prohibits arrests, searches and detention that are not in conformity with the law; it also prohibits and criminalizes torture and any degrading treatment. Article 39 protects the presumption of innocence and the guarantees necessary for judicial defence. Article 40 prohibits the retroactive application of criminal law and enshrines the principle of individual criminal responsibility.

13. The Penal Code, of 2004, which was amended in 2011, criminalizes illegal arrests, as well as detention without a conviction by public officials, under its article 163. It imposes higher penalties for deprivation of liberty by non-State officials, such as kidnapping and abduction, in its article 318. The Penal Code does not contain provisions defining what may amount to an arbitrary deprivation of liberty, nor any guarantee of compensation for such deprivation of liberty.

14. The Criminal Procedure Code, of 2004, makes provision for important rights relating to the deprivation of liberty. For example, its article 40 prohibits arrests or detention without an order "issued by the competent authorities, and in the cases prescribed by the law", and stipulates that "the arrested person shall be treated in such a way that maintains his human dignity". The suspect must be informed of the right to remain silent and to communicate with any person.

## **III. Good practices and positive developments**

### **Accession to the International Covenant on Civil and Political Rights**

15. The Working Group welcomes the accession by Qatar to the International Covenant on Civil and Political Rights in May 2018. This represents a major step forward in acknowledging civil and political rights, including the right to liberty, under article 9, and the right to fair trial, guaranteed by article 14. However, reservations and statements made at the time of accession limit the scope of its protection. For example, Qatar stated that it would apply its own interpretation of the provisions concerning punishment under article 7, freedom of conscience under article 18 (2), freedom of association under article 22, and the right of religious minorities to practise their religion under article 27. Enforcing these reservations could result in the detention of individuals for peacefully exercising their rights. The Working Group urges the Government to withdraw all reservations and interpretative declarations to

the Covenant and to other international instruments to which Qatar is a party and to fully embrace the international human rights commitments set out in these instruments.

### **National Human Rights Committee**

16. The establishment of the National Human Rights Committee in 2002 has been a significant step in the promotion and protection of human rights. The Working Group commends its work as an important interlocutor between the State and individuals or groups. The Working Group associates itself with many recommendations issued by that Committee and calls upon the Government to engage with it proactively, especially on the implementation of its recommendations. The Committee and the Government should engage on implementing the recommendations made in 2015 by the Subcommittee on Accreditation, of the Global Alliance of National Human Rights Institutions, to strengthen the independence of the institution.

### **Oversight over places of deprivation of liberty**

17. Several State entities have the authority to monitor places of detention in Qatar. Under article 395 of the Criminal Procedure Code, the Public Prosecution has the right to enter places of detention to ensure that there are no illegally imprisoned persons; this includes examining the registers and the arrest and imprisonment orders, and hearing complaints from those deprived of their liberty. In addition, the Human Rights Department of the Ministry of Interior is authorized to conduct unannounced visits to penal and correctional institutions to ascertain the conditions of detention.

18. The National Human Rights Committee is also mandated to visit places of detention and to conduct its activities independently, under articles 3 (10) and 4 of Decree-Law No. 17 of 2010. The Committee has formed a specific visiting committee to carry out such tasks, which reported 94 visits in 2018.

19. However, it is not clear whether and how the visits by all these bodies are having an impact. The Working Group received no further information about the impact of their visiting mandate, or about the follow-up activities they undertake to ensure compliance with their recommendations. According to testimony received during the visit, most detainees have not had an opportunity to meet with the National Human Rights Committee, the Public Prosecutor or the Human Rights Department of the Ministry of Interior, when these bodies carry out their respective monitoring visits, or have received no response or follow-up to requests for assistance.

20. The legal provisions for these bodies to carry out visits are positive in principle, as regular oversight over all places of deprivation of liberty has a significant role in reducing arbitrary detention. However, such visits must serve as an effective tool in protecting the rights of those deprived of their liberty and the oversight mechanisms must devise robust strategies for follow-up to their recommendations.<sup>1</sup> The Working Group calls upon the Government of Qatar to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to establish its own national preventive mechanism. This would provide essential, independent and regular oversight into the circumstances surrounding the deprivation of liberty and would oblige the respective authorities to follow the recommendations issued by the national preventive mechanism.

### **Detention before sentence**

21. Under article 350 of the Criminal Procedure Code, any term of imprisonment commences on the day of arrest, and previous periods of detention for the same offence will be deducted from the sentence to be served. Stakeholders confirmed that this provision was

<sup>1</sup> CAT/C/QAT/CO/3, paras. 21–22.

consistently applied in practice, with the period of arrest and time spent in pretrial detention taken into account in determining the length of criminal sentences. The Working Group commends this approach.

### **Approach to psychosocial care**

22. The approach of the Hamad psychiatric hospital has been, as far as possible, to conduct community-based outreach and to encourage the provision of care in the community. This means that the psychiatric hospital is reserved for those whose care cannot be provided in the community. The Working Group highly commends this approach, as it prioritizes personal liberty, rather than institutional care, and seeks to reduce the stigma surrounding psychosocial disability.

23. The Government should increase its efforts in the provision of appropriate and adequate professional medical care in the community to detained persons affected by psychosocial disabilities. In addition, the Government should ensure that the personnel and resources available at the psychosocial care facility in Doha remain sufficient to meet the needs of the community, consistent with its obligations under the Convention on the Rights of Persons with Disabilities.

24. The Working Group was also informed about the initiative undertaken by the Hamad Medical Corporation to provide the requisite psychosocial care to those who are detained and serving sentences in places of detention in Qatar, through a memorandum of understanding with the Ministry of Interior. While it is not clear that this agreement has been fully implemented in practice, this is an exemplary initiative which the Working Group welcomes. The Working Group urges the Government of Qatar to lend its full support to further strengthening the cooperation between the Hamad Medical Corporation and places of deprivation of liberty.

## **IV. Deprivation of liberty in the context of the criminal justice system**

### **Criminalization of certain non-violent acts**

25. The Working Group is seriously concerned at the criminalization of a wide range of non-violent acts in Qatar. These include adultery, intimate relations outside marriage, debt, absconding from an employer, sorcery, disobedience to parents, begging, consumption of alcohol and substance abuse. The Working Group observed numerous detainees who were being held under provisions of the Penal Code criminalizing these acts.

26. Under article 9 of the International Covenant on Civil and Political Rights, the right to personal liberty must be the norm, and deprivation of liberty shall constitute an exception to it. It is an obligation of Qatar, as a party to the Covenant, to resort to detention on an exceptional basis. The Government should review its Penal Code to significantly reduce the number of offences punishable by deprivation of liberty, bearing in mind the principles of necessity and proportionality. The sentences of those serving periods of imprisonment should be reviewed to determine whether they remain proportionate.

### **Prompt presentation before a judicial authority**

27. According to article 107 of the Criminal Procedure Code, a person who has been arrested must be transferred to the Public Prosecution within 24 hours. Under article 117, if the Public Prosecution decides to detain the accused, it can do so for four days, a period which is renewable for a further four days, after which the person is to be brought before a judge.

28. This process, which may result in the accused being detained for up to nine days before being brought before a judicial authority, is contrary to article 9 (3) of the International

Covenant on Civil and Political Rights, which requires that accused persons be brought promptly before a judge. The accused must be brought before a judicial authority within 48 hours of arrest;<sup>2</sup> any delay must remain absolutely exceptional and be justified by specific circumstances.

29. In addition, while the Public Prosecution has been referred to as a judicial body, the Working Group considers that it is not an independent court, nor a judicial body authorized to exercise judicial power within the meaning of article 9 (3) of the International Covenant on Civil and Political Rights.<sup>3</sup> The Public Prosecution is both the investigating body and the detaining authority, which is a conflict of interest and represents a risk for violation of due process guarantees.

### **Arrest procedures and the right to legal assistance**

30. The Working Group was informed that, unless an offence is committed in flagrante delicto, the Public Prosecution is obliged to issue an arrest warrant, providing a legal basis for the detention of an individual. According to article 113 of the Criminal Procedure Code, any arrested person shall be informed immediately of the reasons for the arrest and shall be entitled to communicate with any person and to seek legal assistance.

31. However, it appears that in practice, a person is only able to communicate with his or her lawyer by requesting to do so, which may present significant barriers to due process for people who are not aware of this right. The Working Group also received numerous accounts suggesting that legal assistance was usually not meaningful, as the detained individuals were not able to communicate with their lawyers freely and for sufficient periods of time, or faced language barriers in such communication. In addition, the Working Group found that individuals charged with certain misdemeanours or non-violent crimes, such as drug-related offences, adultery and sexual relationships out of marriage, had been denied the right to legal assistance.

32. Furthermore, the information received indicates that the right to legal assistance does not apply during the initial 24-hour period of police custody, and that a person will only have the right to his or her own lawyer or to a government-appointed lawyer following referral to the Public Prosecution. This runs counter to the right of everyone deprived of their liberty to legal assistance, at any time during their detention, including immediately after apprehension.<sup>4</sup> Moreover, no statement should be given by the detainee, or be recorded by any authority, without prior access to legal assistance.

### **Detainee registers in police stations**

33. While the majority of stakeholders were aware of the requirement that an arrested person must be transferred to the Public Prosecution within 24 hours, it is not clear whether all police authorities are complying with it. Although all places of detention in Qatar share a unified, computerized register system, which is commendable, it does not allow supervisors and officers to readily ascertain the number, status and types of detainees being held in any given institution. It is only upon entering identifying information, such as the case or ID number of the person concerned, that it is possible to locate information concerning a particular individual. During its visits to detention facilities, the Working Group noted with concern a general lack of knowledge by the officers of the current number of detainees held, and it was presented with details of detainees which included individuals who had already been released or transferred.

34. Moreover, at some police stations, the date and time at which individuals were taken into custody and transferred to the Public Prosecution is not clearly stated in the register of

<sup>2</sup> CAT/C/QAT/CO/3, paras. 13–14.

<sup>3</sup> See Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 32.

<sup>4</sup> United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 9.

detainees. This makes it practically impossible to ascertain whether the requirements of article 107 of the Criminal Procedure Code are respected. Detention registers are crucial tools in preventing arbitrary deprivation of liberty, as the obligation to maintain these registers minimizes the risk of the authorities not complying with the legal safeguards. The Working Group invites the Qatari authorities to address, as a matter of priority, the shortcomings of the current detention register system.

35. The Working Group recalls the importance of properly compiled detention registers in minimizing instances of arbitrary deprivation of liberty. These should be managed and updated in such detail as to allow any independent inspection or monitoring body to ascertain whether procedural safeguards have been observed. This would always require not only the recording of the date and time when the detainee arrived in the facility but also the date and time of the arrest, to allow verification of whether the time spent in transit from the place of arrest to the facility was excessive.<sup>5</sup>

### **Pretrial detention**

36. According to article 117 of the Criminal Procedure Code, the maximum period of preventive detention while awaiting trial is six months; the Working Group was informed that this period is respected in practice.

37. However, this article also provides for an exception to the six-month limit when it has been announced before the end of the six-month period that the suspect will be transferred to a competent criminal court. Furthermore, this provision allows for the possibility of an extension of pretrial detention for renewable periods of 45 days, if the charge involves a felony. The accused must be released if he or she spends in pretrial detention a period equal to half of the maximum penalty for the crime for which he or she has been remanded.

38. The Working Group is concerned that these provisions may result, and in some instances are resulting, in periods of prolonged pretrial detention, contrary to article 9 (3) of the International Covenant on Civil and Political Rights. According to the testimony received, although the current pretrial detention periods do not appear excessive, many detainees are being remanded for lengthy periods, in some cases for years. The National Human Rights Committee also drew attention to this issue in its 2018 report, noting that the use of pretrial detention should be limited and alternative measures to detention should be expanded.

### **Lèse-majesté offences**

39. Under article 134 of the Penal Code, a person who “challenges by any public means the exercising by the Emir of his rights or authorities, or criticizes his person” is liable to imprisonment for up to five years. The same penalty applies to offences in relation to the Deputy Emir or the Crown Prince. Article 134 of the Penal Code was considered by the Working Group in its opinion No. 48/2016; the Working Group concluded that detention pursuant to this provision was arbitrary, because it criminalized the right to freedom of expression.

40. The Working Group was informed that article 134 of the Penal Code was rarely applied. However, while this provision remains in the Penal Code, there is a real risk that it will stifle free speech or be used to prosecute persons who peacefully exercise their right to freedom of expression. Under international human rights law, the mere fact that peaceful forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.

41. The Working Group considers that a claim in a civil case, rather than prosecution under the criminal law, is sufficient to remedy any statement deemed defamatory directed at any individual, including members of the royal family of Qatar. The Working Group calls

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<sup>5</sup> A/HRC/42/39, para. 69.



upon the Government to repeal article 134 of the Penal Code and any other provisions that criminalize the peaceful exercise of human rights.

### **Detention based on discriminatory grounds**

42. According to the Qatari authorities, the penalties for committing certain sexual offences, including adultery, are the same for both men and women. For example, under article 281 of the Penal Code, it is a crime for a man to have sexual intercourse with a woman over 16 outside of marriage, the penalty for which is imprisonment for up to seven years. The woman who consents to that act is liable for the same penalty. Moreover, under article 298 of the Penal Code, a sentence of up to 10 years' imprisonment is imposed on "anyone who performs adultery ... as a profession or for a living".

43. While the definitions of adultery are ostensibly gender-neutral, the Working Group received information suggesting that the enforcement of such laws resulted primarily in the detention of women. For example, during its visit to the central prison, the Working Group was informed that the 26 individuals who were being detained for adultery were all women, most of them non-Qatari nationals who were serving lengthy prison sentences, accompanied in detention by very young children, often born while the mother was already detained. Although the Working Group learned that some of the male partners of the women had also been detained, it did not observe as many cases of males being detained for having committed adultery, and also noted that their sentences were less severe.

44. According to article 296 of the Penal Code, sodomy, or same-sex relations between men, is an offence punishable with imprisonment, namely for "leading, instigating or seducing a male in any way to commit sodomy or dissipation" and "inducing or seducing a male or a female in any way to commit illegal or immoral actions" is punishable by up to five years' imprisonment. It is unclear whether this law is intended to prohibit all same-sex acts. According to official records provided by the central prison, five people were being detained for sodomy at the time of the Working Group's visit.

45. The Working Group recalls that the arrest or detention of individuals based on discriminatory grounds, such as gender or sexual orientation, is arbitrary under international law and in violation of articles 2 (1), 3 and 26 of the International Covenant on Civil and Political Rights.<sup>6</sup> The criminalization of consensual sexual relations between adults is an interference with the privacy of the individuals, in violation of article 17 of the Covenant. The Working Group calls upon the Government to comprehensively review the criminal legislation and to repeal all provisions that discriminate against, or have a discriminatory impact on, any individuals or groups, including women and the LGBTI community.

### **Imprisonment for debt**

46. The Working Group found that a large number of individuals were detained due to the inability to repay a debt, which was often not a large sum of money. The delegation was informed that it was common in Qatar, when a person was taking out a loan or renting a property, to request that that person, in addition to agreeing to a schedule of repayments or regular rent payments, provide a cheque for the total amount of money owed as a guarantee. This practice in itself means that the individuals are forced to breach articles 357 and 358 of the Penal Code, which make the writing of a cheque without sufficient funds to cover its value punishable by three months of imprisonment and a large fine.

47. Moreover, once the person had defaulted on a single payment, the guarantee cheque would often be cashed, and as there would not be sufficient funds to cover the entirety of the loan or the yearly rent, the individual could face criminal proceedings under articles 357 and 358 of the Penal Code. The individuals charged and sentenced for these crimes represent a

<sup>6</sup> Working Group on Arbitrary Detention opinion No. 14/2017, paras. 48–49; and see Human Rights Committee, general comment No. 35, para. 17.

large proportion of the current detainee population of Qatar, contributing significantly to overcrowding.

48. International human rights law prohibits deprivation of liberty due to inability to fulfil a contractual obligation, as is stipulated in article 11 of the International Covenant on Civil and Political Rights. This prohibition is non-derogable and is in fact part of customary international law.<sup>7</sup> The Working Group considers that detention due to inability to pay a debt is in itself an arbitrary deprivation of liberty. It is also arbitrary as it discriminates against individuals on the basis of their economic status.

49. The Working Group urges the Government of Qatar to cease this practice immediately and to ensure that individuals are not imprisoned due to inability to repay a debt. Alternative measures of debt recovery should be considered, including the deduction of debt payments from salaries, and flexible repayment schedules.

### **Juvenile justice and the minimum age of criminal responsibility**

50. The Working Group was informed that detention of minors occurs in a very small percentage of cases, and is often for a short period of time, for incidents that are not serious, such as fighting at school, disobedience to parents and substance abuse. Individuals aged between 16 and 18 are considered adults and are sentenced as such.

51. According to the Qatari authorities, the minimum age of criminal responsibility is 16 years of age. A child below the age of 7 is not considered able to discern his or her actions and is therefore exempt from criminal responsibility. The Working Group was informed that under the Juvenile Law (Law No. 1 of 1994), a person between 7 and 16 years of age at the time of the commission of a criminal offence is considered to be a minor. If a minor commits a criminal offence, he or she will be held in the Social Protection Department in Doha. The Working Group therefore considers that, in effect, the minimum age of criminal responsibility is actually 7 years of age, because children between 7 and 16 years of age can be detained for criminal offences. Other international human rights mechanisms, such as the Committee on the Rights of the Child, have reached the same conclusion.<sup>8</sup>

52. The Working Group considers that the current minimum age of criminal responsibility of 7 years of age is too low, and may result in children, who do not have the maturity to understand the consequence of their actions, being deprived of their liberty in the Social Protection Department. It recommends that the Government of Qatar, as a matter of urgency, raise the minimum age of criminal responsibility to at least 14 years of age, consistent with international standards.<sup>9</sup>

53. Moreover, under the Convention on the Rights of the Child, a person is considered to be a child until he or she reaches the age of 18. In order to ensure that its laws are in compliance with the Convention, Qatar must ensure that all persons under 18 are not punished as adults. Finally, diversion rather than deprivation of liberty must be the appropriate response in dealing with all children above the minimum age of criminal responsibility.<sup>10</sup>

## **V. Observance of fair trial rights**

### **Independence of lawyers**

54. The Act of Lawyers (No. 1 of 2018) amending provisions of the Act of Lawyers (No. 23 of 2006) sets out various guarantees to ensure the independence of lawyers. The Working

<sup>7</sup> A/HRC/42/39/Add.1, para. 65; and Working Group on Arbitrary Detention opinions No. 31/2001 and No. 38/2013.

<sup>8</sup> CRC/C/QAT/CO/3-4, para. 36.

<sup>9</sup> See Committee on the Rights of the Child, general comment No. 24 (2019) on children's rights in the child justice system, para. 22.

<sup>10</sup> *Ibid.*, para. 16.

Group received numerous accounts that lawyers in Qatar are independent and able to practise freely. However, there is no bar association in Qatar, as the current associations that unite members of the legal profession are loose unions aimed at awareness-raising and improvement of professional qualifications, rather than professional organizations charged, inter alia, with maintenance of professional standards and regulatory oversight.

55. Regulatory oversight over the legal profession in Qatar is carried out by the Attorney Affairs Department under the Ministry of Justice. This body handles both the registration of lawyers in the country, and any complaints against lawyers, including disciplinary proceedings through a sub-body on which the Public Prosecution is represented.

56. However, as a part of the Ministry of Justice and therefore of the executive power of the State, the Attorney Affairs Department cannot be considered independent, and indeed may exert undue influence on legal professionals. The Working Group is mindful of the recommendations issued in 2018 by the National Human Rights Committee in this regard, which make it clear that the current system poses a serious threat to the independence of the legal profession in Qatar.<sup>11</sup> The Working Group wishes to associate itself with these recommendations, as well as with the recommendations made in the country visit report by the Special Rapporteur on the independence of judges and lawyers.<sup>12</sup> The Working Group calls upon the Government of Qatar to implement these recommendations effectively, without delay.

### **Interpretation during legal proceedings**

57. According to the testimony received, many non-Qatari detainees who did not speak Arabic had not been afforded adequate interpretation, either during their interrogation or during trial. Many defendants were reportedly unable to communicate effectively with court-appointed lawyers, who provided some advice, primarily in Arabic. Equally, defendants were unable to follow the trial proceedings in Arabic, as no effective interpretation was provided.

58. Article 14 (3) (f) of the International Covenant on Civil and Political Rights requires that all defendants charged with a criminal offence have the right to free assistance by an interpreter if they cannot understand or speak the language used in court. A similar guarantee is provided in article 72 of the Criminal Procedure Code, which states that although the investigation is to be conducted in Arabic, the Public Prosecution will hear the statements of parties or witnesses who do not speak the language, through an interpreter.

59. The Working Group considers that all stages of criminal proceedings must be conducted in a language understood by the defendant and that failure to do so renders the proceedings fundamentally unfair. In addition, under article 14 (3) (b) of the International Covenant on Civil and Political Rights, anyone charged with a criminal offence has the right to adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing. This guarantee is not met when a defendant is unable to understand and be understood by his or her lawyer.

60. The Working Group urges Qatar to ensure that article 72 of its Criminal Procedure Code is observed in practice, by providing proper interpretation when needed, and to review all cases thus far in which interpretation was not provided, with a view to releasing persons held without having been afforded due process.

### **Meaningful trial proceedings**

61. Many detainees described their hearings before the court as extraordinarily brief and of a summary nature, lasting only a few minutes. According to the testimony received, defendants were generally not permitted to address the court, even in cases involving serious offences for which the maximum penalty was a lengthy term of imprisonment, and they were

<sup>11</sup> National Human Rights Committee, *The Fourteenth Annual Report: Human Rights Situation in Qatar – 2018* (Doha, 2018), pp. 13–16.

<sup>12</sup> A/HRC/29/26/Add.1.

also not allowed to present evidence. Some detainees described their proceedings as a mere formality, with the conviction and sentence appearing to have been predetermined by the judge.

62. The Working Group recalls that an unduly short trial or appellate proceeding suggests that a criminal defendant was not afforded the right to a fair hearing and to the presumption of innocence, prescribed in article 14 (1) and (2) of the International Covenant on Civil and Political Rights. The Working Group calls upon Qatar to undertake the necessary professional training and supervision of prosecutors and judges, to ensure that they are aware of the highest standards of fair trial guarantees, applicable under national and international law, and to ensure that these are implemented effectively in practice, through meaningful court proceedings that respect the right of the defendant to participate.

### **Trials in absentia**

63. The Working Group was informed of numerous instances where judgments had been handed down without the knowledge of the defendant, as a result of proceedings that had been initiated and carried out without a proper attempt to summon the individual concerned to attend the hearing. While the Working Group appreciates the challenges that the authorities may face when an individual is unwilling to participate in the proceedings, there was a significant number of accounts involving individuals who had been sentenced in absentia to months of imprisonment. The Working Group also received accounts of detained persons who had been not been allowed by the detaining authority to attend hearings.

64. Trials in absentia are only compatible with article 14 (3) (d) of the International Covenant on Civil and Political Rights if the necessary steps are taken to inform the accused person of the charges, to summon such persons in a timely manner, to inform them in advance about the date and place of their trial and to request their attendance.<sup>13</sup> The detaining authority must ensure the presence of the detainee at trial. The Working Group calls upon the Qatari authorities to ensure the right of all accused persons to be present during their trial and to ensure that trials in absentia become a true exception.

### **Consular assistance**

65. The Working Group was informed that while many non-Qatari detainees had been visited at least once by representatives of their embassies, the assistance rendered through that process was generally ineffective in the context of criminal proceedings. Stakeholders noted that the authorities in detention centres did not always notify the relevant embassies that their nationals were being detained in criminal matters, and the embassies were often informed of the detention by the detainee's relatives or co-workers. According to article 36 (1) (b) of the Vienna Convention on Consular Relations, to which Qatar is a party, if the detained person so requests, the authorities of the receiving State shall, without delay, inform the consular post of the sending State.

66. In addition, given the large number of non-Qatari residents in Qatar, most embassies do not have sufficient staff to properly conduct visits in all cases, with several embassies reportedly prioritizing certain types of serious offences in rendering consular assistance.

67. The Working Group considers that consular assistance contributes to a fair trial, by providing detainees with effective access to a lawyer and to any relevant exculpatory evidence. Consular assistance also facilitates the independent monitoring of trials and the provision of evidence by consular officials on the good character of the defendant. The Working Group urges Qatar to ensure that it meets its obligations under the Vienna Convention on Consular Relations.

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<sup>13</sup> See Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 36.

## VI. Other forms of deprivation of liberty

### Administrative detention

68. Several laws in Qatar allow for detention outside the scope of the Criminal Procedure Code. These include the Protection of the Community Law (Law No. 17 of 2002, amended by Law No. 2 of 2018), the State Security Service Law (Law No. 5 of 2003, amended by Law No. 10 of 2008), and Law No. 27 of 2019 Promulgating the Law on Combating Terrorism.

### Protection of the Community Law

69. During its visit, the Working Group observed serious inconsistencies between the provisions of the Protection of the Community Law, how the Working Group was told that the law operated, and how the law actually functioned in practice. The Protection of the Community Law allows the detention of a defendant for vaguely worded crimes involving “State security, honour, decency or public morals”. This sets out a parallel process to that stipulated in the Criminal Procedure Code and it is unclear why that would be required. The Working Group was informed that, in practice, resorting to the provisions of this law is exceptional, as it is used to calm disturbances between families, so as to avoid further escalation of an argument or to save embarrassment, and is not aimed at circumventing the provisions of the Criminal Procedure Code. However, this is not what the Working Group observed in practice.

70. The Working Group came across cases in which an individual would be released from detention by the Public Prosecution, when the criminal proceedings had been discontinued or the defendant had been acquitted by the court, only for him or her to be detained immediately afterwards under the Protection of the Community Law, for the same alleged conduct, in violation of the provisions of article 14 (7) of the International Covenant on Civil and Political Rights prohibiting double jeopardy.

71. The Working Group also noted instances of this law being used by parents who would bring their “unruly” children to be detained, as a form of managing challenging behaviour, in violation of articles 37 and 40 of the Convention on the Rights of the Child.

72. The Working Group was also informed of transgender persons being detained “until they changed their behaviour”. Equally, this law was reportedly used as a tool of those with power or resources to detain others for purely personal reasons of revenge. There were even cases of persons with psychosocial disability being detained under the provisions of this law, as the person’s health condition deteriorated and the family struggled to manage the person.

73. The Working Group spoke with numerous detainees held under the provisions of this law, none of whom knew how long they would be detained and none of whom were able to challenge their detention. The Working Group came across instances where such detention had lasted for over a year, clearly longer than the authorities had explained and than the law permitted. The Working Group was informed that the time frame could even be unlimited, as it was possible that such detention would be prescribed “until further notice”. The individuals detained under the provisions of this law did not, for example, have the right to legal assistance, and did not appear before a court or other judicial authority that would independently review the legality or the duration of their detention. They also did not benefit from monitoring visits conducted by the Public Prosecution under article 395 of the Criminal Procedure Code.

74. Furthermore, although the law provides for the possibility to appeal to the Prime Minister the decision to detain taken by the Minister of Interior, the law does not set out any procedure as to how this might take place in practice. Moreover, such appeal does not satisfy the criteria for an independent review of the legality and proportionality of the decision to detain, enshrined in articles 9 and 14 of the International Covenant on Civil and Political Rights, as both the Minister of Interior and the Prime Minister are part of the executive power of the State. At the time of the Working Group’s visit, the same person held both posts.

75. The Working Group therefore concludes that the provisions of this law are, in practice, being used to circumvent the requirements of the Criminal Procedure Code, to avoid the safeguards that the Criminal Procedure Code puts in place to prevent the arbitrary deprivation of liberty.

### **State Security Service Law and Law on Combating Terrorism**

76. Article 7 of the State Security Service Law (Law No. 5 of 2003, amended by Law No. 10 of 2008) allows detention for a maximum period of 30 days for vague offences, such as those stipulated under article 2 as “activities which are harmful to the security and stability of the State and its relationships with other countries”, before the person is to be brought before the Public Prosecutor. This period can be extended up to six months. A travel ban on individuals can be imposed as an exception to the process provided for in the Criminal Procedure Code. The law does not provide for any judicial oversight over such detention, and the Working Group was informed that in practice, such detention leads to very long periods of deprivation of liberty, in violation of international human rights norms.

77. The Working Group was informed during its visit that a new law against terrorism was in the process of being adopted. Subsequently, in December 2019, Law No. 3 of 2004 was repealed and was replaced by Law No. 27 of 2019. Under article 23 of the new law, the Public Prosecutor may keep a suspect in detention following interrogation for terrorism offences for 15 days without bringing the suspect before a judicial authority. Under article 23, such detention may be extended by order of a competent court for up to 180 days.

78. The existing practices in Qatar of administrative detention under these two laws and the Protection of the Community Law are a serious affront to articles 9 and 14 of the International Covenant on Civil and Political Rights, as the safeguards that would prevent arbitrary deprivation of liberty are removed and such detention is effectively placed outside the independent oversight of the judiciary. Without effective and independent oversight by the judiciary, detention is always arbitrary. The Working Group recalls the 2018 recommendation of the National Human Rights Committee to abolish these laws, and calls upon the Government to do so with utmost urgency.

### **De facto deprivation of liberty by private actors**

79. The Working Group received a number of reports of de facto deprivation of liberty by private actors in Qatar.

80. While article 189 of Law No. 22 of 2006 Promulgating “The Family Law” provides that everyone who has reached the age of 18 has full legal capacity unless placed under guardianship, the Working Group was informed that, in practice, women under the age of 25 must obtain the permission of their legal guardians, not only to engage in many regular daily activities, including the signing of contracts, but also to leave the country. The Working Group was informed that this prohibition on leaving extended to private residences, meaning that women were prevented from leaving their family homes without the permission of their legal guardians, resulting in de facto deprivation of liberty by their families. This is a breach of both article 12 and article 26 of the International Covenant on Civil and Political Rights, and amounts to discrimination on the basis of gender.

81. Similar reports were received from the migrant worker community. Migrants were reportedly prevented from leaving the residences where they were employed as domestic workers, or had curfews imposed by their employers, which prohibited them from leaving their residences after a certain time in the evening. The Working Group received credible reports of employers withholding employees’ documents and salaries, as leverage to ensure that they would not leave. Reports were also received of employers resorting to false accusations of absconding, as a way of exerting control over their workers.<sup>14</sup> Such complaints

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<sup>14</sup> CAT/C/QAT/CO/3, paras. 39–40; and CERD/C/QAT/CO/17-21, paras. 15–16.

would automatically trigger arrest by the police, which in turn would result in the worker being detained for the time of the investigation.

82. These situations lead to de facto deprivation of liberty by private actors, which is neither stipulated in the national legislation nor permissible under international law. Article 9 of the International Covenant on Civil and Political Rights bestows the right to personal liberty upon everyone and protects everyone against arbitrary deprivation of liberty. Every State that is a party to the Covenant, including Qatar, not only has a duty to ensure that anyone acting on its behalf, such as State authorities and its agents, do not infringe this right; it also has a positive obligation to protect everyone in its territory or under its jurisdiction from violations of this right by private parties.

83. The Working Group welcomes the steps taken by the Government to abolish the system of sponsorship of migrant workers, as a significant step in this direction, and acknowledges the central work done in this area by the Ministry of Administrative Development, Labour and Social Affairs. The Working Group invites the Government to double its efforts to equalize the relationship between employers and employees by, for example, enabling employees to renew ID cards themselves, and actively pursuing those employers who withhold the documents and salaries of their employees. The practice of imposing curfews in the domestic residences of workers should be abolished and all workers should be free to utilize their time off work as they choose. Workers must be allowed to leave their employers without the fear of being arrested for the so-called crime of absconding, and the police must ensure that their investigations into these allegations against workers are objective, respect the presumption of innocence and do not lead to automatic detention for the time of the investigation.

84. The Working Group urges the Government to ensure that the right to personal liberty of all individuals in Qatar is respected, in both the public and private sectors. The positive legal duty of Qatar to protect everyone in its territory or under its jurisdiction against any human rights violation extends to an obligation to provide effective remedies whenever a violation occurs. The Working Group calls upon the Government of Qatar to abolish the system of guardianship immediately, and to ensure that all women and migrants are free to leave the homes of their families and employees if they choose to do so.

## VII. Civil society in Qatar

85. The Working Group was informed that both private and government-established civil society organizations operated in Qatar. However, stakeholders considered that there was a need for a significant strengthening of the independence of civil society. At present, approval to register and establish a civil society organization must be obtained from the Ministry of Administrative Development, Labour and Social Affairs under article 6 of Law No. 12 of 2004 on Private Associations and Foundations. According to Law No. 10 of 2010, which amends some provisions of Law No. 12 of 2004, under article 7, the Ministry may reject an application to establish a civil society organization by a reasoned decision in accordance with the requirements of the public interest.

86. Additionally, pursuant to article 35 (3), the Ministry may dissolve an association if it engages in “political matters”. Under article 43 (2), engaging in the activities of an unregistered organization is a criminal offence punishable by between one month and one year of imprisonment and a fine of between QR 15,000 and 50,000.

87. Several United Nations human rights mechanisms have expressed concern at the lack of independent civil society organizations and the absence of government consultation with civil society organizations in the implementation of human rights treaties, and have recommended that Law No. 12 of 2004 be amended to create a more enabling environment. The National Human Rights Committee has also called for the need to “allow more space” for civil society, in its most recent annual report, of 2018. Civil society organizations play a vital role in reducing the incidence of arbitrary deprivation of liberty, through their monitoring of places of detention, advocacy for change in relevant laws and practices, provision of advice on the implementation of human rights standards, and awareness-raising on the right to liberty.

88. The Working Group considers that these provisions severely restrict the establishment and operation of independent human rights organizations in Qatar and urges the Government to amend all laws that restrict the ability of civil society organizations to carry out these functions, including Law No. 12 of 2004.

## VIII. Implementation of opinions adopted by the Working Group

89. Since its establishment, the Working Group has adopted 10 opinions<sup>15</sup> involving Qatar (see appendix II). The Working Group invites the Government to submit updated information, including on whether the subjects of those opinions, whose deprivation of liberty has been found to be arbitrary, have been released, whether reparations have been made to them and whether any other action has been taken to implement the recommendations.

## IX. Conclusions

90. **The Working Group appreciates and commends the willingness of the Government to submit itself to scrutiny through the visit and considers that the findings in the present report offer an opportunity to support the Government in addressing situations of arbitrary deprivation of liberty.**

91. **The Working Group observed many positive changes across Qatar in relation to deprivation of liberty, including accession to the International Covenant on Civil and Political Rights, the establishment of the National Human Rights Committee, the regular oversight of places of deprivation of liberty, the period of arrest and time spent in pretrial detention being taken into account in determining the length of criminal sentences, and the prioritization of community-based psychosocial care.**

92. **The Working Group identified systemic problems within the criminal justice system that placed defendants at a high risk of arbitrary detention or in conditions of detention that might affect their ability to exercise their fair trial rights or to seek release, including the following:**

(a) **A wide range of non-violent acts is criminalized in Qatar, including adultery, intimate relations outside marriage, debt, absconding from an employer, sorcery, disobedience to parents, begging, consumption of alcohol and substance abuse, contrary to the requirement of article 9 of the International Covenant on Civil and Political Rights that detention be an exceptional measure.**

(b) **Detention by the Public Prosecution potentially results in persons being detained for up to nine days before being brought before a judicial authority, contrary to the requirement under article 9 (3) of the International Covenant on Civil and Political Rights that accused persons be brought promptly before a judicial authority.**

(c) **In practice, a person is only able to communicate with a lawyer by requesting to do so, which presents significant barriers to due process when arrested persons are not aware of this right. Moreover, the right to legal assistance does not apply during the initial 24-hour period in police custody, and arrested persons only have the right to a lawyer following referral to the Public Prosecution.**

(d) **Detainee registers within police stations do not facilitate compliance with legal requirements, and it is difficult to readily ascertain the details of each detainee present in police detention, including with regard to when the detainee was taken into custody and transferred to the Public Prosecution.**

(e) **Provisions of the Criminal Procedure Code, particularly article 117, allow for the possibility of prolonged pretrial detention by providing for an initial maximum period of preventive detention of six months, followed by the possibility of extension for**

<sup>15</sup> Opinion No. 58/2019 was adopted after the visit of the Working Group to Qatar but before the finalization of the present report, and is therefore included.



renewable periods of 45 days if the charge involves a felony, contrary to article 9 (3) of the International Covenant on Civil and Political Rights which requires pretrial detention to be as short as possible.

(f) The provision in article 134 of the Penal Code allowing for the imprisonment of anyone who commits *lèse-majesté* offences by challenging or criticizing members of the royal family of Qatar risks stifling the peaceful exercise of freedom of expression.

(g) The definition and enforcement of certain sexual offences, including adultery and sodomy, may result in the arbitrary detention of individuals based on discriminatory grounds, such as gender or sexual orientation.

(h) A large number of individuals are detained due to inability to repay a debt, contrary to article 11 of the International Covenant on Civil and Political Rights.

(i) Children between 7 and 16 years of age can be detained for criminal offences, rather than being placed in a diversion programme, the minimum age of criminal responsibility, at 7 years of age, is too low, and diversion is not the prime avenue for child justice.

93. The Working Group identified several issues of concern in relation to the observance of fair trial rights, including the lack of a bar association and of an independent regulatory mechanism to oversee the legal profession; the failure to ensure that all detainees are afforded adequate interpretation, if needed, during legal proceedings; summary trial proceedings in which defendants are not permitted to address the court or to present evidence; trials in absentia; and failure to afford non-Qatari detainees access to consular assistance.

94. The Working Group also expressed concern in relation to other forms of deprivation of liberty, such as administrative detention under security and terrorism legislation, in particular Law No. 17 of 2002 and Law No. 27 of 2019. These permit detention for vaguely worded offences and place the individuals concerned outside the protection of the guarantees against arbitrary deprivation of liberty stipulated in the Penal Code, thus creating a parallel system contrary to articles 9 and 14 of the International Covenant on Civil and Political Rights.

95. The Working Group is also mindful of the de facto deprivation of liberty by private actors, and calls upon the Qatari authorities to adopt urgent measures to rectify this in order for Qatar to comply with its obligations under article 9 of the International Covenant on Civil and Political Rights.

96. Finally, the Working Group noted the need for significant strengthening of the independence of civil society organizations, including human rights groups, which at present are subject to significant restrictions on their establishment and operation that may limit their ability to monitor places of detention, advocate for change in laws and practices, provide advice and engage in awareness-raising.

## **X. Recommendations**

97. The Working Group recommends that the Government take the following measures in relation to its international human rights obligations:

(a) Become a State party to the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the two Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

(b) **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish its own national preventive mechanism strictly in accordance with the provisions of the Optional Protocol.**

98. **The Working Group recommends that the Government take the following measures in relation to its national legal framework:**

**Amend the Penal Code to include a definition or clarification of the circumstances in which deprivation of liberty may be considered to be arbitrary in accordance with article 9 of the International Covenant on Civil and Political Rights, and to guarantee compensation and other reparations for such deprivation of liberty.**

99. **The Working Group recommends that the Government build upon its positive initiatives to address arbitrary deprivation of liberty by taking the following measures:**

(a) **Withdraw all reservations and interpretative declarations to the International Covenant on Civil and Political Rights and other international instruments to which Qatar is a party.**

(b) **Engage with the National Human Rights Committee proactively, especially on the implementation of its recommendations concerning reduced resorting to pretrial detention, regulation of the legal profession in Qatar, administrative detention under the State Security Service Law and the Protection of the Community Law, and the legal framework concerning civil society in Qatar.**

(c) **In order to further advance the National Human Rights Committee, implement the recommendations issued by the Subcommittee on Accreditation, of the Global Alliance of National Human Rights Institutions, on ways to strengthen the independence of the institution.**

(d) **Continue to ensure that relevant actors, such as the Public Prosecution as the body responsible for the enforcement of sentences, take time previously served in detention into account in determining the length of criminal sentences.**

(e) **Increase efforts to provide appropriate and adequate professional medical care in the community, including through the provision of adequate personnel and resources, to persons affected by psychosocial disabilities, as well as to people in detention who require psychosocial care.**

(f) **Increase its efforts to fully implement the memorandum of understanding between the Hamad Medical Corporation and the Ministry of Interior for the provision of psychosocial care to those who are detained and serving sentences in places of detention.**

100. **The Working Group recommends that the Government take the following measures in relation to the criminal justice system:**

(a) **Decriminalize non-violent acts such as adultery, intimate relations outside marriage, debt, absconding from an employer, sorcery, disobedience to parents, begging, consumption of alcohol and substance abuse, that may be leading to an unnecessarily high incidence of arbitrary detention.**

(b) **Amend the Criminal Procedure Code and any other applicable legislation so that persons arrested are brought before a judge, not the Public Prosecution, within 48 hours of arrest.**

(c) **Introduce standard operating procedures in all places where persons are kept in police custody, requiring that detainees be notified of their right to communicate with their lawyer, and amend the Criminal Procedure Code to ensure that all arrested persons have the right to a lawyer from the moment of arrest so that no statements are given without prior access to legal assistance.**

(d) **Prioritize changes to the computerized detainee register system to allow officers to readily ascertain the number and status of detainees held in, or released or**

transferred from, any police station or other place of deprivation of liberty, and to ascertain the date and time at which individuals were taken into police custody.

(e) Introduce changes to the maximum length of time during which any person may be held in pretrial detention so that it does not become prolonged, and expand the use of alternative measures to pretrial detention.

(f) Repeal article 134 of the Penal Code and any other provisions that criminalize the peaceful exercise of human rights.

(g) Comprehensively review the Penal Code to repeal all provisions that may discriminate against or have a discriminatory impact on any individuals or groups, including women and the LGBTI community.

(h) Urgently review the current system to ensure that individuals are not imprisoned due to inability to repay a debt, and immediately cease the practice of detaining persons because they owe a debt, implementing alternative measures of recovery, such as the deduction of payments from salaries, and flexible repayment schedules.

(i) As a matter of urgency, raise the minimum age of criminal responsibility to at least 14 years of age, and ensure that all persons under 18 are not punished as adults.

(j) As a matter of urgency, review its current approach to detaining children who are over the age of criminal responsibility by ensuring that diversion from the criminal justice system becomes the preferred manner of dealing with children in the majority of cases.

101. The Working Group recommends that the Government take the following measures in relation to the observance of fair trial rights:

(a) Implement without delay the recommendations issued in 2018 by the National Human Rights Committee in relation to the independence of the legal profession in Qatar, as well as the recommendations made in 2015 by the Special Rapporteur on the independence of judges and lawyers.

(b) Ensure that interpretation is provided during all stages of criminal proceedings in a language understood by the defendant and review all cases in which interpretation was not provided with a view to releasing persons held without having been afforded due process.

(c) Provide the necessary training and supervision of prosecutors and judges to ensure that they are aware of the applicable fair trial guarantees under international and national law, and to ensure that these are applied in practice through meaningful court proceedings.

(d) Ensure the right of all accused persons to be present during their trial, and ensure that trials in absentia only take place after the necessary steps are taken to inform the accused person of the charges, to summon such persons in a timely manner, to inform them in advance about the date and place of their trial and to request their attendance.

(e) Ensure that authorities working in places of detention are aware of and meet the State's obligations under the Vienna Convention on Consular Relations to provide detainees with access to consular assistance.

102. The Working Group recommends that the Government take the following measures in relation to administrative detention:

(a) Repeal or substantially review the Protection of the Community Law and the State Security Service Law, as well as the Law on Combating Terrorism (as amended), which allow for indefinite detention of individuals under circumstances which are vaguely defined in the law. All instances where individuals may be deprived of liberty must be clearly stipulated in order to comply with the requirement of legal certainty, and no detention can be indefinite.

(b) Ensure that all instances of deprivation of liberty, including such as may be authorized by these laws, are subjected to effective and prompt oversight by an independent judicial authority, and that all those detained have the right to challenge the legality of detention and the right to free legal assistance.

(c) Stipulate clearly the prohibition of double jeopardy, in accordance with article 14 (7) of the International Covenant on Civil and Political Rights, in both the administrative and the criminal law of Qatar.

103. The Working Group recommends that the Government take the following measures in relation to other forms of deprivation of liberty, including de facto deprivation of liberty by private actors:

(a) Abolish the system of guardianship immediately, and ensure that all women are free to leave the homes of their families if they choose.

(b) Ensure that the right to personal liberty is respected in both the public and the private sectors, including through a redoubling of efforts to equalize the relationship between employers and employees by, for example, enabling employees to renew their identity documents themselves, and actively pursuing those employers who withhold the documents and salaries of their employees.

(c) Abolish the practice of imposing curfews in the domestic residences of workers.

104. The Working Group recommends that the Government amend all laws, particularly Law No. 12 of 2004, that restrict the ability of civil society organizations to carry out their functions – including monitoring of places of detention, advocacy for change in relevant laws and practices, the provision of advice on the implementation of human rights standards, and awareness-raising on the right to liberty.

## Appendix I

### Detention facilities visited

- Central Prison, Doha
- Pre-trial Detention Prison Division, Doha
- Capital Security Department, Doha
- Al Rayyan Security Department
- Umm Salal Police Section, North Security Department
- Al Shamal Police Section, North Security Department
- Al-Khor Police Section, North Security Department
- Al-Khor Police Section for Police Officers, North Security Department
- Khalifa police station, Doha
- Center for Juveniles, Juvenile Police Department, Doha
- Deportation Detention Center, Doha
- Hamad Psychiatric Hospital, Doha

## Appendix II

### Opinions concerning Qatar

- Opinion No. 58/2019<sup>1</sup>
  - Opinion No. 29/2018
  - Opinion No. 48/2016
  - Opinion No. 68/2011
  - Opinion No. 25/1010
  - Opinion No. 5/2007
  - Opinion No. 32/2006
  - Opinion No. 34/2006
  - Opinion No. 3/2005
  - Opinion No. 9/2001
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<sup>1</sup> Adopted after the visit of the Working Group.