



# General Assembly

Distr.: General  
14 September 2021

English only

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## Human Rights Council

### Forty-eighth session

13 September–1 October 2021

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Maat for Peace, Development and Human Rights Association, a non- governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2021]

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\* Issued as received, in the language(s) of submission only.



## **The Continued Arbitrary Detention of Sheikh Talal Al-Thani in Qatar**

### **Introduction**

Maat for Peace is concerned about the ongoing arbitrary practices and human rights violations committed by the Qatari authorities against citizens and members of the ruling family and urges the HRC and Special Procedures, particularly the Working Group on Arbitrary Detention (WGAD) to take immediate action. Such abusive and arbitrary practices include, but are not limited to, extrajudicial detention, deliberate medical negligence in detention centers, solitary confinement, physical violations and psychological distress in prisons, particularly in prisons under the jurisdiction of Qatar State Security. These crimes often amount to torture and are inconsistent with the international obligations under the international conventions ratified by Qatar, which undermines the rule of law and perpetuates impunity in Qatar, which claims to have a clean human rights record. Maat hasn't received any previous information about holding these Qatari officials accountable or even opening independent investigations on this matter. Notably, many of the arbitrary practices inside Qatar are carried out within a legal framework and legislative environment promoting them. The Qatari laws contain several loopholes that allow the Qatari authorities to restrict public freedoms and arrest citizens for prolonged periods.

### **Qatar's legislative frameworks reinforcing the arbitrary deprivation of liberty**

Maat is concerned about the executive authorities' continued invocation of the Qatari legislative as a pretext to deprive individuals of their liberty. Under Article (117) of Law No. 23 of 2004, known as the Qatari Criminal Procedure Code,<sup>1</sup> if the charge attributed to the suspect is a felony, the period of precautionary detention may be extended to forty-five days, renewable for a similar period or periods, which in many cases lead to extended precautionary detention for undue long periods, contrary to Article 9 (3) of the International Covenant on Civil and Political Rights (ICCPR). Such Article requires the defendant to be "brought promptly" before a judicial authority within 48 hours of the time of his arrest and that any further extension of such period shall be exceptional and justified. Besides, the provisions of Article (134) of Law No. 11 of 2004, known as the Qatari Penal Code,<sup>2</sup> permit the arbitrary deprivation of liberty if the charge is "challenging" the "majesty" of the Emir, which also entails criminalization of the right to freedom of expression.<sup>3</sup>

Several national legislations allow detentions outside the scope of the Qatari Criminal Procedure Code. Law No. 17 of 2002, on the Protection of Community,<sup>4</sup> is frequently misused by the executive authorities to detain individuals under the name of "refinement". In some cases individuals are acquitted by the courthouse, but are detained afterwards under articles of the Law on Protection of Community. Besides, under Law No. 1 of 1994 on Juveniles,<sup>5</sup> a person between the ages of 7 and 17 is considered a minor and those between the ages of 17 and 18 are judged as adults. Accordingly, Maat believes that the minimum age of criminal responsibility is extremely low, and deprives children of their liberty and childhood. Article (7) of Law No.5 of 2003, known as Law on the State Security Service,<sup>6</sup> also permits detention for a period not exceeding 30 days and it may be extended to six

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<sup>1</sup> Law No. 23 of 2004 promulgating the Code of Criminal Procedure, Al Mezan, Qatar Legal Portal. <https://cutt.us/qFfAr>.

<sup>2</sup> Law No. (11) of 2004 promulgating the Penal Code, Al Mezan, Qatar Portal. <https://cutt.us/kzLGj>.

<sup>3</sup> Qatar resorts to excessive detention for non-violent crimes (UN experts), swissinfo, November 14, 2019. <https://cutt.us/ed9Sa>.

<sup>4</sup> Law No. (17) of 2002 Concerning Community Protection, Al Mezan, Qatar Legal Portal. <https://cutt.us/ipTlr>.

<sup>5</sup> Law No. 1 of 1994 on Juveniles, Al Mezan, Qatar Legal Portal. <https://cutt.us/sDENB>.

<sup>6</sup> Law No. (5) of 2003 Establishing the State Security Apparatus, Al Mezan, Qatar Portal. <https://cutt.us/rH0Jr>.

months. In addition, such law doesn't provide for any juridical supervision over the detention centers, which is inconsistent with the international human rights norms.

Article (18) of Law No.3 of 2004, known as the Law on Combating Terrorism,<sup>7</sup> permits the Public Prosecution to detain a suspect for a period of 15 days without bringing him to any judicial authority and such period may be extended to six months, in addition to some amendments to certain provisions of the Penal Code in January 2020. According to such new amendments to Article 136 bis, any person publishes or re-publishes or broadcasts false news or rumors inside or outside of the State shall be punished by imprisonment for a period of a maximum of five years and a fine of a maximum of QAR 100,000 or one of them. These amendments clarify that such penalty shall be applied as long as the intention of such offence is "to damage the national interest or incitement of public opinion or affecting the social regulations or public order in the State." These terms are broadly-worded and can be interpreted in various ways to restrict human freedoms and fundamental rights and increase the executive branches in order to arbitrarily arrest and detain citizens for exercising their right to freedom of opinion and expression.<sup>8</sup>

### **The Continued Arbitrary Detention of Sheikh Talal Al-Thani**

The Qatari authorities continue to arbitrarily detain Sheikh Talal bin Abdulaziz Al-Thani, a member of the ruling family, who has been detained by Qatar since 2013 without a fair trial or an attorney of his choice. He is still held incommunicado, and despite having chronic illnesses, he is denied access to medical care. Moreover, Asma Arian, Sheikh Talal's wife, who went to live in Germany with their four children, has expressed the great deal of suffering that her husband had experienced in Qatari prisons and her children in foreign land. She explained the suffering of her husband and provided several photographs and documents verifying her claims, adding that her husband was subjected to torture and starvation inside the Qatari prisons and that her children haven't obtained their rights even as citizens, not as sheikhs. Sheikh Talal is imprisoned allegedly due to his inability to pay a number of debts. The WGAD mentioned in the Preliminary Findings after its latest visit to Qatar in 2019 that "detention is currently the general rule in cases such a debt",<sup>9</sup> noting in this respect that "international human rights law prohibits the deprivation of liberty due to debt as stipulated in article 11 of the ICCPR", and that detention due to inability to pay debt is in itself an arbitrary deprivation of liberty.<sup>10</sup>

Arian added that the UN has accepted 4 complaints, the first of which is regarding children and is of critical importance, while the 3 others are presented to specialized bodies about the "torture and arbitrary arrest of Sheikh Talal and the corruption of judges". She indicated that the complaint on children confirms that the Qatari government claims about children empowerment through education is untrue, as her children were denied their rights and couldn't go to school while their father is being tortured in prison for political reasons.<sup>11</sup> Moreover, on 19 October 2020, the WGAD and two other Special Mandate Holders sent a Joint Letter of Allegations to Qatar concerning this case (QAT 2/2020). They requested information about Sheikh Talal's fate and whereabouts, as well as about his health condition and the arbitrary increase of his sentence without informing him or his family. Qatar replied to this Joint Allegations Letter one month after the deadline, failing to provide an answer to

<sup>7</sup> Law No. (3) of 2004 Concerning Combating Terrorism, Al Mezan, Qatar Portal. <https://cutt.us/DHq6w>.

<sup>8</sup> Qatar.. The report on "Amendments to the Law of Stirring Up Public Opinion" provokes interaction and calls for clarification, CNN Arabic, January 18, 2020. <https://cutt.us/Y0DW1>.

<sup>9</sup> Qatar needs urgent paradigm shift to protect people from arbitrary detention, UN experts conclude", WGAD official website, 14 November 2019, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25297&LangID=E..>

<sup>10</sup> WGAD: Preliminary Findings from its visit to Qatar (3 – 14 November 2019), WGAD official website, 14 November 2019, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25296>.

<sup>11</sup> The UN accepts 4 complaints in the case of Sheikh Talal Al Thani, Asharq Al-Awsat, August 20, 2020. <https://cutt.us/c4gyT>.

any of these questions and even increasing the sentence for another 15 years without any explanation.

Notably, communication has been cut off between Sheikh Talal and his wife after her refusal to discontinue the complaints procedures. Mrs. Arian said that she received a message from Sheikh Talal urging her to discontinue and renounce the complaints procedures, but she refused and didn't trust the Qatari authorities. After refusal, the house of Sheikh Talal was raided and he was moved to an unknown prison for the second time. Since then, the communication between them has been cut off.

### **Recommendations**

- The Qatari Legislature should review all arbitrary laws permitting the restriction of freedom of opinion and expression and the prolonged detention of individuals in a manner that hinders the right to a fair trial and the right of those arrested to communicate with an attorney and families.
  - The immediate release of Sheikh Talal and to allow him to communicate with his family.
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