

# INHUMAN SENTENCING OF CHILDREN IN QATAR

## Summary

Life imprisonment is a lawful penalty in Qatar for offences committed by children aged 16 or older. The death penalty and corporal punishment are prohibited under criminal legislation, but appear to remain lawful under Sharia law for offences committed while under the age of 18.

This report was originally prepared for the Child Rights International Network in September 2010 and updated in February 2016. For more information about CRIN's inhuman sentencing campaign, visit, [www.crin.org/home/campaigns/inhuman-sentencing](http://www.crin.org/home/campaigns/inhuman-sentencing) or contact us at [info@crin.org](mailto:info@crin.org).

## Introduction

The main laws governing juvenile justice are the Juvenile Act 1994, the Criminal Code 2004 and the Criminal Procedure Code 2004. Sharia laws apply to certain criminal cases when the victim or the alleged offender is a Muslim.<sup>1</sup>

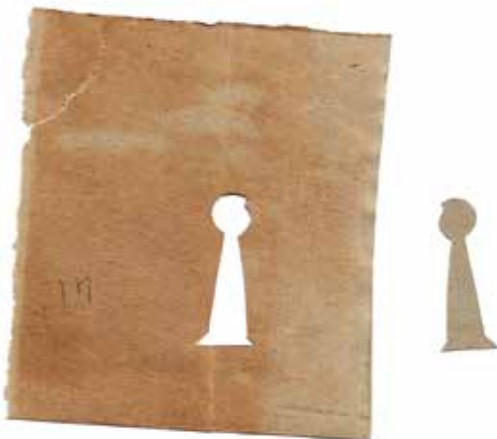
Children can be held criminally responsible from the age of seven.<sup>2</sup> Any person under the age of 16 is subject to the Juveniles Law<sup>3</sup> and "juvenile" is defined as any male or female who is older than seven but under 16 years of age.<sup>4</sup> Under Sharia law people typically become liable for punishments at the onset of puberty.<sup>5</sup>

## Legality of inhuman sentencing

### Death penalty

Under the Juvenile Act, children aged over 14 but under 16 who have committed a serious or major offence cannot be sentenced to death, imprisonment with hard labour or flogging. Where the penalty would otherwise be death or life imprisonment, the child must be sentenced for up to 10 years' imprisonment.<sup>6</sup>

The Penal Code provides for the death penalty for a number of offences<sup>7</sup> but states that a person under the age of 18 at the



1 Law No. 11 of 2004, the Penal Code, Article 1. Available at: <http://portal.www.gov.qa/wps/wcm/connect/8abaea8046be1deaae97ef70b3652ad8/ Penal+Code.pdf?MOD=AJPER ES&useDefaultText=0&useDefaultDesc=0>. Relevant offences include theft, adultery, defamation, drinking alcohol, apostasy, retaliation cases and blood money cases.

2 Law No. 11 of 2004, the Penal Code, Article 53; Law No. 1 of 1994, the Juvenile Law, Article 7.

3 Law No. 11 of 2004, the Penal Code, Article 20.

4 Law No. 1 of 1994, the Juvenile Law, Article 1(1). Available in Arabic at: <http://www.gcc-legal.com/LawAsPDF.aspx?opt&country=3&LawID=2880>.

5 Cipriani, Children's Rights and the Minimum Age of Criminal Responsibility: A Global Perspective, Farnham: Ashgate, 2009.

6 Law No. 1 of 1994, the Juvenile Law, Article 19.

7 See articles 22, 29, 46, 57, 58, 59, 89, 92, 98, 99, 100, 101, 102, 103, 105, 107, 110, 111, 114, 118, 130, 131, 132, 135, 159, 173, 177, 198, 199, 200, 235, 244, 245, 250, 252, 279, 280, 283, 284, 300, 302, 318 and 352. Other laws providing for the death penalty include the Law on Combating Terrorism 2004.

time of the offence cannot be sentenced to death.<sup>8</sup> However, the Penal Code does not apply to retaliation offences when the alleged offender is Muslim.<sup>9</sup> As murder committed by a Muslim is a retaliation offence, it is likely that the death penalty remains a penalty under Sharia law and would be subject to Sharia provisions rather than those of the Penal Code.

Where the death penalty is imposed on a pregnant woman under Sharia law, it is delayed until after delivery in the case of a retaliatory or hadd punishment and in the case of ta'zir (discretionary) punishment, it is commuted for two years or commuted to life imprisonment.<sup>10</sup>

### Life imprisonment

Under the Juvenile Act, people under the age of 16 sentenced for an offence punishable with life imprisonment must be sentenced to imprisonment for up to 10 years.<sup>11</sup> Persons aged 16 or 17 are liable to sentencing under the Criminal Code, which provides for life imprisonment or “perpetual imprisonment” for a number of offences.<sup>12</sup> Any person serving life imprisonment may be released subject to conditions under the Law of Organising Prisons.<sup>13</sup> CRIN has not been able to access this legislation.

### Corporal punishment

The Juveniles Act 1994 explicitly prohibits flogging of children under the age of 16.<sup>14</sup> Persons aged 16 and 17 are subject to penalties under the Penal Code, which do not include corporal punishment. However, certain offences committed by and against Muslims are punishable under Sharia law and relevant penalties include flogging and amputation.<sup>15</sup>

## Inhuman sentencing in practice

Executions in Qatar are rare, though Amnesty estimates that as of 2009, 20 people were under sentences of death.<sup>16</sup> CRIN has found no evidence that any of those sentenced were under the age of 18 at the time of the relevant offence. The most recent reported execution took place on 10 March 2003.<sup>17</sup>

CRIN has not been able to access statistical information on the number of people sentenced to life imprisonment or corporal punishment for an offence committed while under the age of 18.

## Progress towards prohibition and elimination

### Law reform needed

Legislation should be enacted to explicitly prohibit the death penalty, life imprisonment and corporal punishment of anyone who was under the age of 18 at the time of committing an offence. This prohibition should apply in all branches of national law, including Sharia.

### Law reforms underway

In 2009, the State reported to the Committee on the Rights of the Child that the draft Children’s Bill would be adopted in 2010.<sup>18</sup> It is not clear what this draft Bill included and CRIN has been able to find no evidence of it being enacted.

### National campaigns

CRIN is not aware of any national campaigns inhuman sentencing of children in Qatar. However, CRIN has been lobbying internationally to raise the issue of inhuman sentencing on the international agenda. We have systematically made submissions to UN Treaty Body mechanisms, met with UN experts working on judicial sentencing, participated in expert meetings on juvenile justice and worked to influence UN reports and resolutions. Our submissions on the issue are available online at: [www.crin.org/node/392](http://www.crin.org/node/392).

When launching the original reports, CRIN contacted the government of Qatar for their response to the information contained in the report, but received no response.

<sup>8</sup> Law 11 of 2004, the Penal Code, Article 20.

<sup>9</sup> Law No. 11 of 2004, the Penal Code, Article 1.

<sup>10</sup> Code of Criminal Procedure, Article 345.

<sup>11</sup> Juvenile Act, Article 19.

<sup>12</sup> Law No. 11 of 2004, the Penal Code, Articles 22, 29, 46 57, 60, 92, 104, 105, 107, 111, 113, 114, 133, 135, 136, 159, 198, 220, 235, 244, 245, 250, 279, 280, 281, 282, 284, 285, 286, 287, 288, 302, 318, 335 and 352.

<sup>13</sup> Law No. 23 of 2004, Criminal Procedure Code, Article 360.

<sup>14</sup> Law No. 1 of 1994, Juvenile Act, Article 19.

<sup>15</sup> See Global Initiative to End All Corporal Punishment of Children, Country report for Qatar, January 2016. Available at: <http://www.endcorporalpunishment.org/progress/country-reports/qatar.html>.

<sup>16</sup> Amnesty International, Qatar: Submission to the UN Universal Periodic Review, p. 3, February 2010. Available at: <https://www.amnesty.org/en/documents/mde22/001/2009/en/>.

<sup>17</sup> Hands Off Cain, Murder, offences against the state, drug offences and terrorism are capital crimes, 1 January 2008. Available at: <http://www.handsoffcain.info/news/index.php?iddocumento=10001822>.

<sup>18</sup> Committee on the Rights of the Child, Summary record of the 1446th meeting, 5 February 2010, CRC/C/SR.1446. para. 37

## National and international law conflicting with inhuman sentencing

### **The Constitution**

A number of provisions of the Constitution<sup>19</sup> protect the physical integrity of all persons, although exemptions are made for cruel punishments prescribed by law. Relevant provisions include:

#### **Article 1:**

Qatar is an Arab State, sovereign and independent. Its religion is Islam, and the Islamic Law is the main source of its legislations. Its system is democratic, and its official language is the Arabic language. The people of Qatar are part of the Arab nation.

#### **Article 6:**

The State respects the international charters and treaties and works on executing all international agreements, charters and treaties to which it is a party.

#### **Article 18:**

The Qatari society is based upon the pillars of justice, charity, freedom, equality, and good morals.

#### **Article 21:**

The family is the nucleus of society. Its pillars are the religion, morals, and love of the Homeland. The law regulates the means capable of its protection, maintaining its structure, strengthening its ties, and safeguarding motherhood, childhood, and old age within its framework.

#### **Article 22:**

The State takes care of the youth, preserves it from the causes of corruption, protects it against exploitation, safeguards it against the evil of physical, mental and spiritual neglect, and provides appropriate conditions for it to develop its talents in different sectors, in the light of sound education.

#### **Article 34:**

Citizens are equal in public rights and duties.

#### **Article 35:**

People are equal before the law. There shall be no discrimination against them because of sex, race, language, or religion.

#### **Article 36:**

Personal freedom is inviolable. No one can be arrested, or jailed, or searched, or having his residence confined, or

having his freedom of residence or mobility restricted, except according to the provisions of the law.

No one shall be subjected to torture or humiliating treatment. Torture is a crime punishable by law.

#### **Article 40:**

No crime and no punishment except according to the law. No punishment except on acts occurring subsequent to its implementation. Punishment is personal.

Laws are not applicable except on what happens subsequent to the date of putting them into force, and they have no impact on what occurs retroactively. However, in non-criminal articles, it may be otherwise specified by the majority of two-thirds of the members of the Advisory Council.

### **International human rights treaties**

Qatar has ratified or acceded to the following international human rights treaties:

- Convention on the Rights of the Child (in 1995)  
*Reservation:* on ratification, the Government entered a general reservation concerning any of the provisions that are inconsistent with Islamic Sharia. The State partially withdrew this reservation in 2009, but it continues to apply to Article 2 (non-discrimination, including on the basis of religious belief)
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (in 2002)
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (in 2001)
- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (in 2000)
- Convention on the Elimination of All Forms of Discrimination Against Women (in 2009)
- International Convention on the Elimination of All Forms of Racial Discrimination (in 1976)
- Convention on the Rights of Persons with Disabilities (in 2008)

Qatar is yet to ratify the International Covenant on Civil and Political Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, or the International Covenant on Economic, Social and Cultural Rights.

<sup>19</sup> Available in English at: [https://www.constituteproject.org/constitution/Qatar\\_2003?lang=en](https://www.constituteproject.org/constitution/Qatar_2003?lang=en).

## International complaints and communication procedures

Qatar is yet to accept any international individual communications or complaints procedures, but it accepted the inquiry procedure under the Convention Against Torture in 2000.

## Status of treaties

Treaties must be incorporated into the national legal system through implementing legislation to be given effect. Treaties are concluded by decrees referred to the Shura Council (the legislative body of Qatar) and have the force of law upon publication in the official Gazette.

The following provisions of the Constitution govern the application of treaties:

### Article 6:

“The State shall respect the international charters and conventions, and strive to implement all international agreements, charters, and conventions it is party there[to].”

### Article 68:

“The Emir shall conclude treaties and agreements by a decree and refer them to Al-Shoura Council accompanied with appropriate explanatory notes. The treaty or agreement shall have the power of law after ratification and publication in the official Gazette; however, reconciliation treaties and treaties pertaining to the territory of the State or those relating to the right of sovereignty or public or private rights of the citizens, or those that involve an amendment of the laws of the State shall come into force when the same are issued as a law. Under no case may a treaty include secret conditions contradicting its publicized conditions.”

### Article 143:

“All provisions embodied in laws and regulations in force upon the entering of this Constitution into force shall continue to be valid and effective unless they are amended in accordance with it. The enforcement of this Constitution shall not affect the provisions of the treaties and international agreements to which the State of Qatar is a party.”

## Recommendations from human rights treaty monitoring bodies

### Committee on the Rights of the Child

(14 October 2009, CRC/C/QAT/CO/2, Concluding observations on second periodic report of Qatar, paras. 39, 40, 70 and 71)

“While noting that measures are being taken to address corporal punishment in the context of disciplinary measures in schools and in the penal system, the Committee expresses concern that corporal punishment of children is still lawful in the family and alternative care settings.

“The Committee urges the State party:

- a) to critically review its current legislation with a view to prevent and end the use of corporal punishment of children as a method of discipline and to introduce explicit legislation prohibiting all forms of corporal punishment of children in all settings, including in the family, schools, penal system and alternative care settings;
  - b) to introduce public education, awareness-raising and social mobilization campaigns on alternative non-violent forms of discipline with the involvement of children in order to change public attitudes to corporal punishment;
  - c) to take into account while drafting legislation and designing policies the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.
- “While noting the progress achieved in the domain of juvenile justice, the Committee reiterates its previous concern that the minimum age of criminal responsibility, still set at 7 years, remains far too low.... It is further concerned that children between the ages of 16 and 18 may be treated as adults.

“The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 39 and 40 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee recommends that the State party, while taking into account the Committee’s general comment No. 10 (2007) on the administration of juvenile justice:

- a) raise the age of criminal responsibility to a minimum of 12 years, as a matter of urgency, with the view to raising the age further in accordance with the Committee’s general comment No. 10;
- ...
- c) take all necessary measures, including strengthening

the policy of alternative sanctions for juvenile offenders, to ensure that children are held in detention only as a last resort and for as short a time as possible;

d) ensure that children between the ages of 16 and 18 are afforded the same protection as other children....”

*(6 November 2001, CRC/C/15/Add.163, Concluding observations on initial report of Qatar, paras. 37, 38, 43, 44, 59 and 60)*

“The Committee is seriously concerned that under the 1994 Juvenile Act there is a possibility that the death penalty or life imprisonment may be imposed for offences committed by persons when they were under 18 years old, contrary to articles 6 and 37 (a) of the Convention.

“The Committee strongly recommends that the State party take immediate steps to ensure that the law prohibits the imposition of the death penalty or life imprisonment for crimes committed by persons under 18.

“The Committee is seriously concerned that, contrary to article 37 (a) of the Convention, under the 1994 Juvenile Act there is a possibility that persons under 18 may be subject to judicial sanctions such as flogging.

“The Committee recommends that the State party take immediate steps to ensure that the law prohibits the imposition of flogging and other forms of cruel, inhuman or degrading treatment or punishment on persons who may have committed crimes when they were under 18.

“The Committee is concerned that persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures), and be subject to the same penalties as adults. Moreover, the Committee is concerned at the criminalization of status offences.

“The Committee recommends that the State party:

- a) establish a minimum age of criminal responsibility that is in accordance with the principles and provisions of the Convention;
- b) ensure that its legislation and practice concerning juvenile justice fully reflect the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System;
- c) expedite the promulgation of the draft juvenile justice law, ensuring that it is applicable to all persons under 18 and that adequate resources are allocated for its effective

implementation;

d) ensure that the deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by a court, and that persons under 18 are not detained with adults....”

### **Committee Against Torture**

*(25 January 2013, CAT/C/QAT/CO/2, Concluding Observations on the second periodic report of Qatar, paras. 12 and 22)*

“While noting that the new Act regulating penitentiaries and correctional institutions (Act No. 3 of 2009) makes no provision for the use of flogging as a disciplinary sanction unlike the previous law (Act No. 3 of 1995), the Committee remains concerned that flogging and stoning continue to be punishments under article 1 of the Criminal Code. According to information before the Committee, and which the State party did not dispute, at least 45 people were given flogging sentences between 2009 and 2011 (art. 2).

“The State party should put an end to its imposition of corporal punishment, which constitutes a breach of the Convention, and modify its legislation accordingly. The State party should ensure that criminal sanctions are in full conformity with the Convention.”

“The Committee reiterates its serious concerns that the minimum age of criminal responsibility is 7 years in Qatar (arts. 2 and 16).

“The State party should accelerate the process of its legislative measures, including the draft law on the children’s rights, to raise the minimum age of criminal responsibility to an internationally acceptable level. The State party should ensure the full implementation of juvenile justice standards as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines).”

*(25 July 2006, CAT/C/QAT/CO/1, Concluding observations on initial report of Qatar, para. 12)*

“Certain provisions of the Criminal Code allow punishments such as flogging and stoning to be imposed as criminal sanctions by judicial and administrative authorities. These practices constitute a breach of the obligations imposed by the Convention. The Committee notes with interest that authorities are presently considering amendments to the Prison Act that would abolish flogging.

The State Party should review the legal provisions of the Criminal Code which authorize the use of such prohibited

practices as criminal sanctions by judicial and administrative officers, with a view to abolishing them immediately.”

## **Universal Periodic Review**

### *Second cycle*

During the second cycle of the Universal Periodic Review, Qatar accepted a recommendation from Rwanda to consider ratifying the ICCPR, including the Optional Protocol aiming at the abolition of the death penalty.<sup>20</sup>

### *First cycle*

During the first cycle of the Universal Periodic Review in 2010, the government accepted recommendations “to enact legislation to abolish all types of corporal punishment and other forms of cruel, inhumane or degrading treatment” and to prohibit all forms of corporal punishment against children” from Mexico and Chile. The government rejected a recommendation from Brazil “[t]o consider abolishing the death penalty and corporal punishment, in particular against children”.<sup>21</sup>

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<sup>20</sup> See Report of the Working Group on the Universal Periodic Review: Qatar, A/HRC/27/15, 27 June 2014 and Report of the Working Group on the Universal Periodic Review: Qatar (Addendum), A/HRC/25/15/Add.1, 15 August 2014.

<sup>21</sup> See Report of the working group on the Universal Periodic Review: Qatar, A/HRC/14/2, 15 March 2010 and Report of the Working Group on the Universal Periodic Review: Qatar (Addendum), 1 June 2010, A/HRC/14/2/Add.1.

**About CRIN ([www.crin.org](http://www.crin.org))**

Our goal: A world where children's rights are recognised, respected and enforced, and where every rights violation has a remedy.

Our organisation: CRIN is a global research, policy and advocacy organisation. Our work is grounded in the United Nations Convention on the Rights of the Child.

Our work is based on five core values:

- We believe in rights, not charity
- We are stronger when we work together
- Information is power and it should be free and accessible
- Societies, organisations and institutions should be open, transparent and accountable
- We believe in promoting children's rights, not ourselves.

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