

ACCESS TO JUSTICE FOR CHILDREN: QATAR

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

The CRC, as with other international instruments, must be incorporated into the national legal system via implementing legislation to be given effect. Article 68 of the Constitution of the State of Qatar provides that the Emir shall conclude treaties and agreements by decree and refer them to the Shura Council (the legislative body of Qatar),¹ accompanied by appropriate explanatory notes.² The treaty or agreement shall have the power of law after ratification and publication in the Official Government Gazette.³

The CRC has been ratified by Amiri Decree;⁴ by virtue of this decree, it has become part of national law in Qatar. The CRC has been ratified subject to and on the basis that it does not conflict with any principles of Islamic Sharia.⁵ This is demonstrated by Qatar's initial general reservation to the CRC regarding inconsistencies with Islamic Sharia; although this has been relaxed as of 28 January 2009 and is now only applicable to Articles 2 and 14 of the Convention.⁶

Article 6 of the Constitution of the State of Qatar provides that the State shall respect all international charters and conventions to which it is party and strive to implement them all.⁷

In addition, Qatar has ratified the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography on 14 December 2001, as well as the Optional Protocol on the involvement of children in armed conflict on 25 July 2002.⁸ However, Qatar has not signed or ratified the third

¹ The Legislative Authority of the State of Qatar.

² The Permanent Constitution of 2004, Article 68, available at: <http://www.almeezan.qa/LawArticles.aspx?LawArticleID=25821&LawId=2284&language=en>.

³ Ibid.

⁴ Amiri Decree No. 54 of 1995, as amended by Amiri Decree No 35 of 2010, available at: <http://www.almeezan.qa/LawPage.aspx?id=4202&language=en>.

⁵ Ibid, Preamble.

⁶ United Nations Treaty Collection, Convention on the Rights of the Child, Declarations and Reservations, Qatar, available at: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en=title=UN+TC-publisher=#EndDec.

⁷ The Permanent Constitution of 2004 (n 2), Article 6.

⁸ United Nations Office of the High Commissioner for Human rights, Reporting status for Qatar, available at:

Optional Protocol to the Convention on a communications procedure.

B. Does the CRC take precedence over national law ?

The supremacy of national law is stipulated in Qatar's Constitution.⁹ The CRC and other ratified international treaties can only be enforced on the basis of the decree which 'domesticates' them into national law. Any relevant national law will be interpreted in a manner that is consistent with the CRC or other international treaties.¹⁰

C. Has the CRC been incorporated into national law?

Yes it has, as discussed in part I.A above.

D. Can the CRC be directly enforced in the courts?

Yes, on the basis that the CRC has been incorporated by Amiri Decree, which stipulates as much in its Article 2 regarding enforcement.¹¹

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

Qatari court decisions are not widely published and there is no doctrine of binding precedent in Qatar; although, in practice, lower courts will usually uphold decisions of the courts of appeal regarding the same point of law.¹²

The research has not identified any instances where national courts have discussed the CRC in cases.

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Article 22 of the Constitution of the State of Qatar provides that the State of Qatar shall provide care for the young, and protect the same from corruption, exploitation, physical harm and mental and spiritual neglect. The State of Qatar shall also create conducive circumstances for developing children's capabilities in all fields based on a sound education.¹³

The Civil Code states that no person lacking 'discretion' by reason of their youth shall be competent to exercise their civil rights; discretion is deemed to be attained at the age of seven years old.¹⁴ Additionally, persons that have

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=QAT&Lang=EN.

⁹ The Permanent Constitution of 2004 (n 2), Article 129.

¹⁰ Ibid, Article 6.

¹¹ Amiri Decree No. 54 of 1995 (n 4), Article 2.

¹² Overview of Qatar judiciary system by Al-Muhannadi Advocates and Consultants, available at: <http://www.al-muhannadi.com/English/qatar-judiciary-system/>.

¹³ The Permanent Constitution of 2004 (n 2), Article 22.

¹⁴ Law No. 22 of 2004, the Civil Code, Article 50, available at:

reached the age of discretion but not yet attained the age of majority shall be deemed to lack capacity under the law.¹⁵ The age of majority is set at 18 years old.¹⁶ Prior to majority, persons of no legal capacity shall be governed by the provisions of natural or legal guardianship.¹⁷

The guardian of a minor under Qatari law, for the purposes of legal representation and the administration of their funds and property, is the minor's natural father in the first instance and then the father's father.¹⁸ If the father, or father's father, is unwilling or unable to assume the guardianship of the child and bring a civil claim, then the court will appoint a custodian who can bring civil lawsuits on behalf of the child.¹⁹

With regard to substantive matters related to guardianship, wardship and other matters in the arrangement prescribed for the protection of minors, wards and absentees; the law of the nationality of the person who must be protected will apply.²⁰ This is very pertinent in this instance as there is a very high number of foreign nationals residing in Qatar.²¹

Qatari law stipulates that a child can bring a criminal case in the domestic courts for a violation of their rights - in relation to one of a number of crimes in the Penal Code listed in Article 3 of the Criminal Procedure Law - through their guardian (father), or custodian (if appointed by a court) as the case may be, notifying the Public Prosecutor of the claim where the child is under 16 years of age.²² The Public Prosecutor will investigate the claim and initiate criminal proceedings on behalf of the child if there are sufficient grounds.²³ The Public Prosecutor also has exclusive jurisdiction with regard to the initiation of criminal proceedings in Qatar,²⁴ as confirmed in the Constitution;²⁵ although their function may be performed by 'any designated person' in instances stipulated by law.²⁶

Where a crime has been committed against a child under the age of 16, the court will appoint a custodian to protect the child, or the child may be placed in the care of social services until such time as a decision is made by the Public Prosecutor as to the suitable action to take in any given circumstance.

27

<http://www.almeezan.qa/LawArticles.aspx?LawArticleID=36494&LawID=2559&language=en>.

¹⁵ Ibid.

¹⁶ Ibid, Article 49.

¹⁷ Ibid, Article 52.

¹⁸ Law No. 40 of 2004 on the Guardianship Over Minors' Funds, Article 4, available at:

<http://www.almeezan.qa/LawArticles.aspx?LawArticleID=9984&LawID=307&language=en>.

¹⁹ Ibid, Article 20.

²⁰ The Civil Code (n 14), Article 22.

²¹ BQ Magazine, Population of Qatar by nationality, 18 December 2013, available at:

<http://www.bqdoaha.com/2013/12/population-qatar>.

²² Law No. 23 of 2004, the Criminal Procedure Law, Article 5, available at:

<http://www.almeezan.qa/LawArticles.aspx?LawArticleID=52334&LawID=3971&language=en>.

²³ Ibid, Article 1.

²⁴ Ibid.

²⁵ The Permanent Constitution of 2004 (n 2), Article 136.

²⁶ The Criminal Procedure Law (n 22), Article 2.

²⁷ Ibid, Article 213.

The Civil and Commercial Procedure Law states that no claim may be permitted unless the claimant has an existing legal interest recognised by law; although it is possible that a potential interest may be permitted, should the object of the claim be protection from an ascertainable imminent damage or where the disappearance of evidence is feared.²⁸ A lawsuit is filed at the request of the plaintiff in the form of a complaint submitted to the Registry of the court;²⁹ the statement of claim is to contain the following information: the name of the claimant, their title, profession, address; the full name of their representative, title, capacity and residence; the same information for the defendant; the court before which the case is filed and the requested hearing date and time; and, lastly, the subject matter of the claim and the corresponding evidence.³⁰

- B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

With regard to both civil and criminal proceedings, please see part II.A above.

Qatar also has a Directorate of Minor Affairs (DMA).³¹ This body has responsibility for protecting minors, mainly a minor's financial affairs.³² One of the functions granted to the DMA is to act as guardian in cases where the minors do not have a guardian or trustee, and it is conceivable that in certain specific circumstances the DMA could bring a claim on behalf of a minor.³³

- C. In the case of infants and young children, how would cases typically be brought?

The child's father, father's father, or a court-appointed custodian can typically bring a lawsuit, in accordance with the provisions described in part II.A.

There is no uniform law in Qatar on parental rights, duties and responsibilities; although there is a law that deals with the parent's (father's) right to manage their children's property and affairs.³⁴

- D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

The Permanent Constitution of 2004 guarantees access to justice to all

²⁸ Law No. 13 of 1990, the Civil and Commercial Procedure Law, Article 1, available at: <http://www.almeezan.qa/LawArticles.aspx?LawArticleID=33068&LawID=2492&language=en>.

²⁹ Ibid, Article 31.

³⁰ Ibid.

³¹ Law No. 41 of 2014 regulating the Directorate of Minor Affairs, available at (Arabic): <http://www.almeezan.qa/LawArticles.aspx?LawTreeSectionID=16268&lawId=6187&language=ar>.

³² Ibid, Article 4.

³³ Ibid.

³⁴ Law No. 40 of 2004 on the Guardianship over Minors' Funds (n 18), Article 4.

people in Qatar.³⁵

The Qatari Code of Law Practice contains a section on legal aid which addresses the situations during which litigants may be entitled to legal aid and the conditions that they must satisfy in order to qualify for said entitlement. A 'Legal Aid Committee' is to be formed by decision of the Chief Justice of the Court of First Instance, to be presided over by any of the court's chief judges with membership of two of the court's judges.³⁶ There are five stipulated situations for which legal aid may be provided, through the appointment of a lawyer, by this committee:

- the insolvency of the litigant,
- upon issuance of a court order relieving all or part of the expenses,
- following repeated refusal to represent the client by a number of lawyers,
- if the representing lawyer has died or is otherwise incapacitated, and
- in other cases where the law requires legal representation in defending a suspect or minor who has not hired a lawyer.³⁷

The appointed lawyer representing a party shall undertake their duties free of charge, with the court assessing their fees and obligating the losing party to cover them; should the party requiring the legal aid become solvent once more, they will be required to cover the lawyer's fees.³⁸

Victims of crime may file a civil claim in relation to direct personal harm suffered from the crime in the same court that conducts the criminal trial of the accused.³⁹ If the victim does not have legal capacity for litigation and has no appointed representative, the court, of its own accord or upon request from the Public Prosecutor, may appoint an attorney, free of charge, to claim their civil rights.⁴⁰

The Directorate of Minor Affairs may, in certain circumstances, step in and fund a lawsuit on behalf of a child, as stated in part II.B.

Regarding litigation concerning trusteeship over minor funds, the court may appoint a guardian *ad litem* (an independent officer of the court), where the minor has no money, to represent the child in lawsuits to which the child is a party.⁴¹

Research did not identify any provisions under which children may be eligible for legal aid in criminal cases, either as defendant or as a witness or victim.

E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g. would a child's parents or guardian have to agree to a case being brought)?

³⁵ The Permanent Constitution of 2004 (n 2), Article 135.

³⁶ Law No. 23 of 2006 enacting the Code of Legal Practice, Articles 61-63, available at: <http://www.almeezan.qa/LawArticles.aspx?LawTreeSectionID=9148&lawId=2563&language=en>.

³⁷ Ibid, Article 61.

³⁸ Ibid, Article 64.

³⁹ The Criminal Procedure Law (n 22), Article 19.

⁴⁰ Ibid, Article 20.

⁴¹ Law No. 40 of 2004 on the Guardianship of Minors Funds (n 18), Article 20.

The research has not identified any further legislative provisions dealing directly with this question.

III. **How can children's rights violations be challenged before national courts?**

A. If there is a potential violation of the Constitution or other principles established in domestic law, or of the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

If there is a breach of the Constitution, or of the application or implementation of any Qatari laws, proceedings can be brought before Qatar's Constitutional Court.⁴² The Constitutional Court shall settle disputes relating to the constitutionality of laws in the following instances: where in the course of legal proceedings a question arises as to the constitutionality of a legal provision, the court in question shall suspend the proceedings and refer the matter to the Constitutional Court for a pronouncement; or, where the constitutionality of a law is called into question by one of the parties to a hearing, the court in question shall adjourn the hearing for a period not exceeding 60 days, allowing the party to file their claim before the Constitutional Court.⁴³ Qatar's Constitutional Court has exclusive jurisdiction over the constitutionality of laws and regulations; resolving disputes that result from the execution of contradictory final judgments rendered by judicial bodies, or bodies of a competent jurisdiction, and the interpretation of legal texts where there is an inconsistent application of provisions and it is deemed essential for a consistent interpretation of the legal text.⁴⁴ Judgments of the Constitutional Court and its advisory opinions are final, they cannot be challenged and are binding upon all, including executive bodies.⁴⁵

There is no established procedure for judicial review in Qatar and the courts do not function in an environment of judicial activism.⁴⁶

B. What powers would courts have to review these violations, and what remedies could they offer?

Judgments of the Constitutional Court shall be published within 15 days of the date of their issuance in the Official Gazette; a provision or law held to be unconstitutional shall cease to be in effect the day following the publication of the Court's decision.⁴⁷ Where a ruling of unconstitutionality

⁴² Law 12 of 2008 establishing the Supreme Constitutional Court, the Constitutional Court Law, Articles 12 and 27, available at:

<http://www.almeezan.qa/LawArticles.aspx?LawArticleID=32894&LawId=2486&language=en> and <http://www.almeezan.qa/LawArticles.aspx?LawArticleID=32909&LawId=2486&language=en>.

⁴³ Ibid, Article 13.

⁴⁴ Ibid, Article 12.

⁴⁵ Ibid, Article 27.

⁴⁶ Freedom House, Countries at the Crossroads 2004, Qatar, Rule of Law, available at: <https://freedomhouse.org/report/countries-crossroads/2004/qatar#.VeBrgrY35C1>.

⁴⁷ The Constitutional Court Law (n 42), Article 28.

relates to a criminal provision, convictions based thereupon shall be annulled.⁴⁸

Civil lawsuits may seek redress in the form of money damages.⁴⁹ Specific performance is also available as a remedy under Qatari law.⁵⁰

In criminal proceedings, the courts can impose the penalties prescribed in the Criminal Procedure Law, this will usually constitute fines, community service, imprisonment or the death penalty, depending on the nature of the offence.⁵¹ There are certain protections made for children who are adjudged to have committed a crime, these are contained in the Juveniles Law which is discussed below in part V.

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

Please refer to part II.A for information regarding the stipulated requirement when making a legal claim before the Qatari courts.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

In criminal proceedings, where a number of persons have the same interest in a lawsuit, the court may grant permission for one of these persons to act on behalf of all interested parties.⁵²

In civil and commercial proceedings, the court, of its own motion, may order the joinder in the lawsuit of such person(s) it deems fit if it ‘will serve justice and reveal the truth’.⁵³ Additionally, it is possible for a third party with an interest in the action to apply to join any of the parties or claim judgment for a remedy connected with the action.⁵⁴

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

The research has not identified any pertinent information as to the legal capacity of non-governmental organisations to act in the filing of, or intervention in, cases concerning the violation of children’s rights in Qatar.

IV. **Practical considerations.** Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a

⁴⁸ Ibid.

⁴⁹ The Civil Code (n 14), Article 256.

⁵⁰ Ibid, Article 241.

⁵¹ Law No. 11 of 2004 issuing the Penal Code, the Penal Code, Article 57, available at (Arabic): <http://www.almeezan.qa/LawArticles.aspx?LawArticleID=60637&LawID=26&language=en>.

⁵² The Criminal Procedure Law (n 22), Article 4.

⁵³ The Civil and Commercial Procedure (n 28), Article 76.

⁵⁴ Ibid, Article 78.

violation of children's rights, such as:

- A. Venue. In which courts could a case be filed (e.g. civil, criminal, administrative, etc.)? What would the initial filing process entail?

The judicial authority in Qatar is independent and is vested in different grades of courts.⁵⁵ The civil and criminal courts are made up of (i) Courts of First Instance, (ii) the Appeals Court, and (iii) the [Supreme] Constitutional Court (also known as the Court of Cassation).⁵⁶

With regard to the civil judicial system, the Court of First Instance consisting of one judge - referred to as the Partial Circuit Court/Summary Court - has jurisdiction to consider all lawsuits at first instance, civil and commercial disputes and cases relating to administrative contracts where the value of the action does not exceeding QR 100,000 in value.⁵⁷ The Court of First Instance consisting of three judges - referred to as the Plenary Court - has jurisdiction to hear at first instance all lawsuits, civil and commercial disputes and administrative contracts if their value exceeds QR 100,000, as well as actions of unknown value and lawsuits and disputes of personal status and succession.⁵⁸ Its judgments are final in claims concerning inheritance, testament, waqf (an inalienable religious endowment in Islamic law) and dowry if the value of the action does not exceed QR30,000.⁵⁹ It shall also have jurisdiction regarding matters of child custody.⁶⁰ A Summary Judge, which shall be one of the judges of the Plenary Court or Summary Court, shall, on a temporary basis and without prejudice to the right concerned, hear urgent matters that are time-bound.⁶¹

With regard to criminal proceedings, the Court of First Instance, composed of three member judges, shall have jurisdiction to hear the crimes referred to it by the Public Prosecutor, 'felonies committed by newspapers' and other crimes as provided by law.⁶² The Court of First Instance, composed of one judge and referred to as the Court of Misdemeanours, shall have jurisdiction to adjudicate all cases of misdemeanours and violations, 'except misdemeanours committed by newspapers'.⁶³ Jurisdiction shall be determined by the location at which the crime was committed, or the place of residence of the suspect, or where they are arrested.⁶⁴

Children under the age of 16 accused of committing any serious criminal offences may be tried in a juvenile court.⁶⁵ Qatar has a Juvenile Prosecution

⁵⁵ Information on Judicial Authorities is available at:

<http://www.almeezan.qa/CustomPage.aspx?id=32&language=en>.

⁵⁶ Information on the Courts of Law of Qatar is available at:

<http://www.almeezan.qa/CustomPage.aspx?id=28&language=en>.

⁵⁷ The Civil and Commercial Procedure Law (n 28), Article 22.

⁵⁸ Ibid, Article 24.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid, Article 26.

⁶² The Criminal Procedure Law (n 22), Article 162.

⁶³ Ibid.

⁶⁴ Ibid, Article 164.

⁶⁵ Law No. 1 of 1994, the Juveniles Law, Article 28, available at (Arabic):

Service that has the jurisdiction to investigate and take action with regard to crimes committed by juveniles.⁶⁶

The Sharia Court limits itself to adjudication of disputes between Muslims in relation to issues of personal status including marriage, inheritance and certain criminal proceedings, although it may include commercial matters if the parties to the action voluntarily submit to its jurisdiction.⁶⁷

- B. Legal aid/Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e. would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

Legal aid is available in Qatar to individuals or groups who are able to demonstrate that they do not have the means to afford legal representation, as discussed in part II.D. If the claimant is means-tested and deemed eligible for legal aid, then Qatar's Legal Aid Committee will appoint a lawyer to represent them.⁶⁸

The Civil and Commercial Procedure Law states that if a party is unable to cover the court fees, they shall be exempted, wholly or partially, from doing so; this shall be conditioned on there being a likelihood of success for the claim.⁶⁹ A request for exemption from payment shall be submitted to the Registry of the competent court; pursuant to a judicial examination of said request, a decision will be made as to whether or not to grant the requested exemption.⁷⁰ When the party in question is no longer unable to cover the fees incurred, the court may cancel the exemption; such a cancellation will stay proceedings until the fees are paid.⁷¹

In matters of juvenile justice, any person arrested and detained in custody has the right to consult and be defended by a lawyer of their choosing, but there is no automatic right to free legal assistance.⁷²

Any person convicted of a crime by a criminal court may be obliged to pay all of the fees incurred or part thereof.⁷³ Additionally, if an appeal upholds the judgment at first instance, the appellant shall be obliged to pay all of the appeals fees or part thereof.⁷⁴ The Court of Cassation may decide to order the payment of all or part of the appeal fees, should the appeal be inadmissible, if it lapses or is dismissed.⁷⁵

<http://www.gcc-legal.com/DisplayArticle.aspx?country=3&LawArticleID=79788>.

⁶⁶ Ibid, Article 1.

⁶⁷ Qatar Lawyer, information regarding the Qatari legal system:

http://qatarlawyer.com/qatar_lawyer_info/#liberalization.

⁶⁸ Law No. 23 of 2006 enacting the Code of Legal Practice (n 28), Articles 61 and 62.

⁶⁹ The Civil and Commercial Procedure Law (n 28), Article 551.

⁷⁰ Ibid, Article 552.

⁷¹ Ibid, Article 553.

⁷² The Juveniles Law (n 65), Article 32.

⁷³ The Criminal Procedure Law (n 22), Article 243.

⁷⁴ Ibid, Article 244.

⁷⁵ Ibid, Article 245.

In civil and commercial matters, the payment in full of the court fees is required from the claimant as they submit their statement of claim.⁷⁶ Upon issuing the final judgment, the court shall decide, on its own motion, the expenses which shall be borne by the losing party.⁷⁷

- C. **Pro-bono/Financing.** If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practising lawyers on a pro-bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

Qatar's Institution for the Protection of Women and Children was established in 2007 by HH Shieka Mozah bint Nassert Al Missned (the father Emir's wife and an extremely influential figure in Qatar). This institution is a private institution for public benefit with the objective of protecting women and children that are the target of family violence and abuse and to provide legal aid to those persons who cannot afford legal representation.⁷⁸

Otherwise, beyond the remit of the information contained in parts II.D and IV.B, the research has not identified any pertinent information in this regard.

- D. **Timing.** How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

With regard to criminal proceedings, a complaint to the Public Prosecutor shall not be accepted more than 30 days after the date on which the victim or their representative became aware of the crime or its perpetrator.⁷⁹

Additionally, the right attached to a complaint expires with the death of the victim, this does not affect actions that have already been initiated following the submission of a complaint.⁸⁰ The Criminal Procedure Law goes on to state that the criminal action shall expire, save where otherwise stipulated by law, following the passage of 'ten years in criminal cases, three years in misdemeanour cases, and one year in violation cases'; said periods begin from the date of the occurrence of the crime in question.⁸¹ Interruptions to the period for expiration of the criminal action occur during the investigation, charging, trial and all officially notified ensuing proceedings; the new period is to be applied from the date of the interruption.⁸² Finally, the Civil Procedure Law states that the application of the above-mentioned statute of limitations rendering a criminal action expired cannot be stopped

⁷⁶ The Civil and Commercial Procedure Law (n 28), Article 33.

⁷⁷ Ibid, Article 131.

⁷⁸ Information regarding the Qatar Foundation for Child and Women Protection is available at: <http://www.mozabintnasser.qa/en/Pages/Initiatives/SocialDevelopment.aspx> and <http://www.qatarembassy.be/QatarEmbassy/English/ChildandWomanProtection.html>.

⁷⁹ The Criminal Procedure Law (n 22), Article 7.

⁸⁰ Ibid, Article 8.

⁸¹ Ibid, Article 14.

⁸² Ibid, Article 15.

for any reason.⁸³

The research has not identified any specified statute of limitations regarding civil and commercial proceedings.

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

Court sessions in Qatar are public, except where a court decides, in the interests of public order or morality, to hold them in camera; judgments are always pronounced in an open session, however.⁸⁴ Juvenile court proceedings are closed to members of the general public and may even be conducted outside of the presence of the child, where the court deems this appropriate.⁸⁵

Children that have attained the age of 16 must provide witness testimony under oath.⁸⁶ Unless the crime has been committed against the witness, their spouse, relative or son-in-law up to the second degree, or if they were the reporter of the crime, or if there was no other evidence; the ascendants and descendants, relatives and sons-in-law up to the second degree of the suspect and their wife, including after the end of a marriage, may refrain from testifying against the witness.⁸⁷

The Civil and Commercial Procedure Law states that children under 14 years old are not competent to be witnesses; however, their testimony may be heard, not under oath, as a 'way of evidence'.⁸⁸ Additionally, the testimony of children against their parents shall not be heard.⁸⁹

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

The research has not identified any conclusive information regarding the average duration of legal proceedings in Qatar.

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

The parties to any proceedings in Qatar can appeal decisions and sentences can be reviewed by the Court of Appeal, which shall have jurisdiction to deliver final judgments on appeals submitted against first instance judgments from the Plenary Court and from the Summary Judge at the Plenary Court.⁹⁰ Appeals against judgment shall be permissible only from the party against

⁸³ Ibid, Article 16.

⁸⁴ The Permanent Constitution of 2004 (n 2), Article 133; Criminal Procedure Law, Article 233; and Civil and Commercial Procedure Law, Article 59.

⁸⁵ The Juveniles Law (n 65), Article 31.

⁸⁶ The Criminal Procedure Law (n 22), Article 87.

⁸⁷ Ibid, Article 90.

⁸⁸ The Civil and Commercial Procedure Law (n 28), Article 263.

⁸⁹ Ibid, Article 267.

⁹⁰ The Civil and Commercial Procedure Law (n 28), Article 25.

whom the judgment is issued.⁹¹ The time limit for the appeal of a judgment shall commence the day after its issuance, or the date of notification of the losing party where they fail to attend proceedings.⁹² The right of appeal shall lapse due to non-compliance with the stipulated time-limits.⁹³ Unless otherwise provided for by law, an appeal is to be submitted within 30 days; an appeal in urgent cases shall be submitted in 20 days.⁹⁴

The Prosecution and the convicted person may appeal judgments of the Misdemeanour Courts and Criminal Courts;⁹⁵ appeal of the judgments of the Misdemeanour Courts shall be before one of the Court of First Instance circuits in the capacity of an appealing authority.⁹⁶ Appealing the judgments of the Criminal Courts shall be before the Court of Appeal.⁹⁷ Appeal of the judgment shall not result in the suspension of its execution, unless the issuing court decides otherwise, in accordance with the terms prescribed by it.⁹⁸ The Public Prosecutor and the convicted person may appeal by way of cassation the judgments issued by the Court of Appeal on a crime or misdemeanour in the following instances: if the appealed judgment is founded upon a violation of law, or a mistake in its application or interpretation; if a nullity is found in the ruling or in the procedures which affected the judgment; or if two contradicting judgments are issued regarding the same crime.⁹⁹

- H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

The research has not ascertained any conclusive information in this regard.

- I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

The Public Prosecutor shall undertake the execution of enforceable judgments issued following the conclusion of criminal proceedings; they may, where necessary, seek the assistance of the Public Authority.¹⁰⁰ A sentence of the death penalty is not to be executed summarily.¹⁰¹ Judgments attributing fines and expenses shall be enforceable without delay, even if appealed.¹⁰² Prison sentences are to be executed, unless the court decides to suspend the execution of the sentence, in which case the bail amount shall be specified in the judgment.¹⁰³ Judgments in absentia shall be executed if not

⁹¹ Ibid, Article 155.

⁹² Ibid, Article 157.

⁹³ Ibid, Article 159.

⁹⁴ Ibid, Article 164.

⁹⁵ The Criminal Procedure Law (n 22), Article 272.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid, Article 288.

¹⁰⁰ Ibid, Article 324.

¹⁰¹ Ibid, Article 325.

¹⁰² Ibid, Article 326.

¹⁰³ Ibid.

objected to by the convicted person(s) within the time stipulated in Article 264 of the Criminal Procedure Law.¹⁰⁴ Execution documents and related matters are addressed in Articles 362 to 373 of the Civil and Commercial Procedure Law, these revolve primarily around deeds of execution.

Beyond this limited information, it remains unclear how prompt and effective enforcement is in practice, as well as any corresponding challenges and obstacles that may be encountered.

V. Additional factors. Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

There is a juvenile justice system in Qatar, as referred to previously in this report, addressing instances where children find themselves accused of crimes or misdemeanours, with varying degrees of protection dependent on the age of the child in question. The Juveniles Law states that there can be no criminal responsibility for any child that has not yet attained seven years of age.¹⁰⁵ If a juvenile that has not yet attained 14 years of age commits a crime or misdemeanour, they cannot be punished by means of the sanctions corresponding to those crimes [for adults], instead they may be sentenced to the following: a reprimand; 'delivery' [to their parents or guardian(s) in the first place];¹⁰⁶ placement in vocational training; obligating them to undertake certain duties; judicial examination [by placing the child in their 'natural environment', under the supervision of the Ministry of the Interior - probation essentially];¹⁰⁷ placement in an institution for 'social preparation' [welfare]; or, placement in a health institution.¹⁰⁸ It cannot be ordered to halt the implementation of any of the measures stipulated for in Article 8 of the Juveniles Law.¹⁰⁹ If a child of 14 years of age or above but who has not yet attained 16 years of age commits a crime or misdemeanour, they cannot be sentenced to the death penalty, 'imprisonment with hard labour', or lashing, instead they may be sentenced to the following: if they commit a crime punishable by death or life in prison, they are to receive a prison sentence not exceeding 10 years in duration; if they are sentenced for a crime the punishment for which is imprisonment and a fine, or one of these, they are to receive half of the legally fixed maximum penalty in this regard.¹¹⁰ Save for instances of crimes punishable by death or life in prison, it is also possible for the Juvenile Court judge to accord any of the measures cited in Article 8 of the Juveniles Law, except for reprimand and 'delivery'.¹¹¹ It is unclear what, if any, protections are accorded to children of 16 years old and above but who have not yet attained the age of majority.

Additionally, in the best interests of the child, the Juvenile Court may suspend all or some guardianship rights, including those of any person that has had a

¹⁰⁴ Ibid, Article 329.

¹⁰⁵ The Juveniles Law (n 65), Article 7.

¹⁰⁶ Ibid, Article 10.

¹⁰⁷ Ibid, Article 13.

¹⁰⁸ Ibid, Article 8.

¹⁰⁹ Ibid, Article 17.

¹¹⁰ Ibid, Article 19.

¹¹¹ Ibid.

juvenile placed under their guardianship by a decision from a competent authority, in the following instances: if the guardian, during their guardianship, is sentenced for a sexual offence or for a crime punishable by 10 years or more in prison; if the guardian endangers the juvenile's health, safety or morals through ill-treatment or misconduct; or, if it is ordered to place the juvenile in a social rehabilitation/welfare institution in accordance with the provisions of the Juveniles Law.¹¹²

Decisions of the Juvenile Court are subject to immediate implementation, even if an appeal of the decision is possible/probable.¹¹³ Appeal is possible from the juvenile, their legal representative, or the Public Prosecutor before the High Criminal Court, unless the crime for which they have been sentenced is a felony, in which case appeals are brought before the Court of Appeal.¹¹⁴ Juveniles are exempted from the payment of any court fees or other expenses incurred during juvenile proceedings.¹¹⁵

Qatar's Family Law also contains some detailed provisions concerning the custodianship of children whose parents are divorced. To be eligible for child custody, a person must satisfy the following criteria: they must have reached the age of puberty; be of sound mind; be honest and trustworthy; possess the ability to "nurture, raise, maintain and care" for a child; be free from dangerous and contagious disease; and be a *mahram* (an unmarriageable kin with whom sexual intercourse would be considered incestuous and a punishable taboo) of the child in case of difference in sex.¹¹⁶ Subject to these conditions, a custodian must also satisfy the following: if she is female, she must not be married to a man that is a stranger to the child, if such marriage is consummated, unless the court decides otherwise in the child's interests; if he is male, he must have the same religious faith as the child and must have with him a female of his relatives fit to perform the duties of custodian.¹¹⁷ In allocating custodianship, a judge is to take into consideration a number of factors in the best interests of the child, amongst which are: their being "the most able" to raise the child; their capacity to provide a "good, safe and nurturing" environment and protection from wrongdoing; their ability to provide the best medical care and education; their ability to "inculcate good mannerisms"; and any other beneficial criteria in this regard.¹¹⁸ Judges reserve the right to appoint a suitable custodian should the "qualified custodian" refuse to accept custody of the child.¹¹⁹ Custody that is granted to a woman terminates when a male child attains the age of 13 and when a female child attains the age of 15; if the court rules otherwise - a decision that must be reasoned - upon investigating the best interests of the child, custody may be extended to the age of 15 for a male child and up to the consummation of a marriage for a female.¹²⁰ In custody proceedings, matters of visitation and travel

¹¹² Ibid, Article 27.

¹¹³ Ibid, Article 34.

¹¹⁴ Ibid, Article 39.

¹¹⁵ Ibid, Article 43.

¹¹⁶ Law No. 22 of 2006, the Family Law, Article 167, available at:

<http://www.almeezan.qa/LawArticles.aspx?LawArticleID=36311&LawID=2558&language=en>.

¹¹⁷ Ibid, Article 168.

¹¹⁸ Ibid, Article 170.

¹¹⁹ Ibid, Article 172.

¹²⁰ Ibid, Article 173.

rights shall be regarded as an urgent matter and decided promptly both at first instance and appellate stages.¹²¹ Execution of judicial decrees transferring child custody shall be gradual in the child's best interests.¹²²

This report is provided for educational and informational purposes only and should not be construed as legal advice

¹²¹ Ibid, Article 188.

¹²² Ibid, Article 189.