

## Inhuman sentencing of children in Qatar

Briefing for the 63rd session of the Committee Against Torture in April 2018. Submitted by the Child Rights International Network ([www.crin.org](http://www.crin.org)), 29 January 2018.

### CRIN's campaign on inhuman sentencing of children

CRIN is a global research policy and advocacy organisation working on the human rights of children. With partners, we are campaigning to end the death penalty, life imprisonment and corporal punishment of children. CRIN has developed detailed country reports on States which still authorise the inhuman sentencing of children and is making submissions about these countries to relevant UN human rights mechanisms. We hope the Committee Against Torture will consider the information provided below during its review of Qatar.

### Inhuman sentencing of child offenders in Qatar

1. Life imprisonment remains a lawful sentence for offences committed while under the age of 18. 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.
2. 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>
3. 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*

4. 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> Responding to written questions from the

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<sup>1</sup> 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=AJPERES&useDefaultText=0&useDefaultDesc=0>. Relevant offences include theft, adultery, defamation, drinking alcohol, apostasy, retaliation cases and blood money cases.

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

<sup>3</sup> Law No. 11 of 2004, the Penal Code, Article 20.

<sup>4</sup> 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>.

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

<sup>6</sup> Law No. 1 of 1994, the Juvenile Law, Article 19.

Committee on the Rights of the Child in 2017, the State gave an account of these provisions that suggested that this prohibition of the death penalty may not be absolute for children aged 14 to 16 and there may be exceptions for certain *Sharia* offences.<sup>7</sup>

5. The Penal Code provides for the death penalty for a number of offences<sup>8</sup> but states that a person under the age of 18 at the time of the offence cannot be sentenced to death.<sup>9</sup> However, the Penal Code does not apply to “retaliation offences” when the alleged offender is Muslim.<sup>10</sup> As murder committed by a Muslim is a retaliation offence, it is likely that the death penalty remains a lawful sentence under *Sharia* law and would be subject to *Sharia* provisions rather than those of the Penal Code.

6. 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>11</sup>

### ***Life imprisonment***

7. 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>12</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>13</sup> Any person serving life imprisonment may be released subject to conditions under the Law of Organising Prisons.<sup>14</sup> CRIN has not been able to access this legislation.

### ***Corporal punishment***

8. The Juveniles Act 1994 explicitly prohibits flogging of children under the age of 16.<sup>15</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>16</sup>

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<sup>7</sup> Committee on the Rights of the Child, *List of issues in relation to the combined third and fourth periodic reports of Qatar*, CRC/C/QAT/3-4/Add.1, 22 March 2017, para. 72.

<sup>8</sup> 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.

<sup>9</sup> Law 11 of 2004, the Penal Code, Article 20.

<sup>10</sup> Law No. 11 of 2004, the Penal Code, Article 1.

<sup>11</sup> Code of Criminal Procedure, Article 345.

<sup>12</sup> Juvenile Act, Article 19.

<sup>13</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>14</sup> Law No. 23 of 2004, Criminal Procedure Code, Article 360.

<sup>15</sup> Law No. 1 of 1994, Juvenile Act, Article 19.

<sup>16</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>.

## **Inhuman sentencing in practice**

9. Executions in Qatar are rare, though Amnesty International reports that at least 25 people have been sentenced to death in the country since 2010.<sup>17</sup> CRIN has found no evidence that any of those sentenced were under the age of 18 at the time of the relevant offence, though while the penalty remains lawful, the risk remains that it will be used.

10. 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.

## **The review of Qatar by the Committee Against Torture**

11. In light of the clear international human rights consensus against the imposition of capital punishment and life imprisonment for child offenders, including the recognition by the UN Special Rapporteur on torture that life imprisonment and lengthy sentences for children are grossly disproportionate and amount to a form of cruel and inhuman punishment,<sup>18</sup> and the specific recommendations made to Qatar by the Committee on the Rights of the Child,<sup>19</sup> we urge the Committee to recommend that Qatar:

- Explicitly prohibit sentences of death and life imprisonment for offences committed by children under all systems of justice and without exception;
- Raise the minimum age of criminal responsibility.

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<sup>17</sup> Amnesty International, *Death Sentences and Executions* annual reports between 2010 and 2017.

<sup>18</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 5 March 2015, A/HRC/28/68, para. 74. Available at: [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A\\_HRC\\_28\\_68\\_E.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_68_E.doc).

<sup>19</sup> Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Qatar*, CRC/C/QAT/CO/3-4, 22 June 2017, paras. 36 and 37.