



## **Qatar's Compliance with the Convention on the Rights of the Child: The Death Penalty**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**Ensemble contre la peine de mort**

and

**The World Coalition Against the Death Penalty**

for the 99th Session of the Committee on the Rights of the Child

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**ECPM** (Ensemble contre la peine de mort/Together Against the Death Penalty) is a French nongovernmental organisation that fights against the death penalty worldwide and in all circumstances by uniting and rallying abolitionist forces across the world. The organisation advocates with international bodies and encourages universal abolition through education, information, local partnerships and public awareness campaigns. ECPM is the organiser of the World Congresses against the death penalty and a founding member of the World Coalition Against the Death Penalty. In 2016, ECPM was granted consultative status with ECOSOC.

**The World Coalition Against the Death Penalty** is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## EXECUTIVE SUMMARY

1. Qatar's Penal Code appears to contain a loophole by which courts may sentence a person to death for homicide committed when the person was under the age of 18. While the Penal Code prohibits the death penalty for juvenile offenders, the relevant prohibition does not appear to apply to retribution, or *qisas*, offenses, including murder, if either the offender or the victim is Muslim. As an urgent matter, Qatar must close this loophole and uniformly prohibit death sentences for any crimes committed when the offender was believed to be under the age of 18 years.

### **Qatar fails to uphold its obligations under the Convention on the Rights of the Child**

#### **I. Qatar fails to ensure that the child justice system protects against imposition of the death penalty for juvenile offenders (LOIPR para. 35(a)-(b)).**

2. The Committee asked for information about “[t]he adoption of the bill on the rights of the child raising the minimum age of criminal responsibility in accordance with internationally accepted standards” as well as “[m]easures to repeal all domestic legal provisions providing for life imprisonment, hard labour and flogging for offences committed by persons under the age of 18 years.”<sup>1</sup>
3. In reply, Qatar states that it is “working toward the adoption of” the draft law on the rights of the child, which would raise the minimum age of criminal responsibility from 7 to 12 and establish special procedures for any case involving a child accused of an offense.<sup>2</sup> Qatar adds that it has set up a special court to try offenses committed by minors, and that the State must appoint a lawyer to defend the minor accused of having committed a criminal offense.<sup>3</sup>
4. In 2021, Qatar asserted to the Human Rights Committee that “Legislators have set tight controls on the application of the death penalty whereby its use is restricted within strict limits. This is consistent with article 6 of the Covenant and with the Committee’s general comment No. 36 on the right to life.”<sup>4</sup>
5. Despite this assertion, Qatar does not limit the death penalty to intentional killings. Qatar is a constitutional monarchy in which Emir Sheikh Hamad bin Khalifa al-Thani exercises full executive power. Sharia or Islamic law is a primary source of legislation. The Penal Code, contained in Law No. 11 of 2004, as amended, stipulates that crimes punishable by the death penalty include murder,<sup>5</sup> abduction leading to death,<sup>6</sup> 11 terrorism-related offenses,<sup>7</sup> rape,<sup>8</sup>

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<sup>1</sup> Committee on the Rights of the Child, *List of issues prior to the submission of the combined fifth and sixth reports of Qatar*, (14 July 2023), U.N. Doc. CRC/C/QAT/QPR/5-6, ¶ 35(a)-(b).

<sup>2</sup> Committee on the Rights of the Child, *Fifth and sixth periodic reports submitted by Qatar under article 44 of the Convention, due in 2024*, (16 July 2024), U.N. Doc. CRC/C/QAT/5-6, ¶ 194.

<sup>3</sup> *Id.* ¶ 195.

<sup>4</sup> Human Rights Committee, *Replies of Qatar to the list of issues in relation to its initial report*, U.N. Doc. CCPR/C/QAT/RQ/1, (Apr. 8, 2021), ¶ 41.

<sup>5</sup> Law No. 11 of 2004, Articles 300, 301, 302.

<sup>6</sup> Law No. 11 of 2004, Article 318.

<sup>7</sup> Law No. 11 of 2004, Articles 250, 252.

<sup>8</sup> Law No. 11 of 2004, Article 279.

incest,<sup>9</sup> repeat drug trafficking offenses, treason,<sup>10</sup> espionage,<sup>11</sup> extortion by threat of accusation of a crime of honor, such as adultery or fornication, and giving false witness with the consequence of inflicting capital punishment on the accused.<sup>12</sup>

6. For an execution to go forward, the Emir must first ratify the death sentence<sup>13</sup>; the Emir may commute a death sentence to life imprisonment if the victim’s family agrees.<sup>14</sup>
7. It appears that in applying Sharia laws, Qatari courts can sentence juvenile offenders to death for murder under the “retribution” or *qisas* scheme, even though Article 20 of the Penal Code of 2004 specifies that “[t]he death sentence may not be imposed on a juvenile who is under eighteen years of age at the time of committing the offence.”<sup>15</sup> Article 1 of the Penal Code specifies that “[t]he provisions of the Islamic Shari’a shall be applicable” for “[o]ffences of retribution (*qisas*) and blood money (*diya*)” “when the defendant or the plaintiff is a Muslim,” and that in all other cases the Penal Code’s penalties apply.<sup>16</sup> Therefore, if either the offender or the victim is Muslim, Article 20 does not seem to apply to cases of murder, which call for “retribution” penalties. Qatar’s reply seems to concede as much, stating that Article 19 of the Law on Minors of 1994 prohibits death sentences for minors over the age of 14 and under the age of 16<sup>17</sup>—suggesting that minors aged 16 and 17 may in fact be sentenced to death, at least for *qisas* homicide offenses.<sup>18</sup>
8. Due to lack of transparency, the coauthors do not have information regarding whether any persons have been sentenced to death for murder or other crimes committed when under the age of 18 years.

## II. Suggested questions and recommendations for the Government of Qatar

9. The coauthors suggest that the Committee pose the following questions to the Government of Qatar:
  - Does Article 20 of the Penal Code apply to *qisas* homicide offenses, as specified in Article 1 of the Penal Code?
  - Over the reporting period, how many people have been sentenced to death for crimes committed when under the age of 18? Please provide disaggregated data for such death sentences, broken down by age at the time of offense, age at the date of sentencing, nature of the offense, sex or gender, relationship to any codefendants or victims, current location, and status of any appeals or petitions for mercy. Please also provide information regarding any demands for or payments of *diya*, or blood

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<sup>9</sup> Law No. 11 of 2004, Articles 279, 280, 284.

<sup>10</sup> Law No. 11 of 2004, Articles 98, 99, 100, 101, 103, 105, 114, 118, 130, 131, 132, 135.

<sup>11</sup> Law No. 11 of 2004, Articles 107, 110, 111.

<sup>12</sup> Law No. 11 of 2004, Article 1.

<sup>13</sup> Law No. 11 of 2004, Article 58.

<sup>14</sup> Human Rights Committee, *Summary record of the 3837th meeting*, U.N. Doc. CCPR/C/SR.3837 (Feb. 28, 2022), ¶ 33.

<sup>15</sup> Law No. 11 of 2004, Article 20.

<sup>16</sup> Law No. 11 of 2004, Article 1.

<sup>17</sup> Committee on the Rights of the Child, *Fifth and sixth periodic reports submitted by Qatar under article 44 of the Convention, due in 2024*, (16 July 2024), U.N. Doc. CRC/C/QAT/5-6, ¶ 75.

<sup>18</sup> See also Child Rights International Network, *Inhuman Sentencing of Children in Qatar*, 2016, [https://archive.crin.org/sites/default/files/inhuman\\_sentencing\\_children\\_qatar\\_2016.pdf](https://archive.crin.org/sites/default/files/inhuman_sentencing_children_qatar_2016.pdf).

money, for these offenses, whether any such payments were made, and in what amounts.

- When does the State Party anticipate that it will adopt the draft law on the rights of the child?
- Would the law on the rights of the child, as currently drafted, ensure that no person could be sentenced to death for any crime committed when under the age of 18 in any circumstances?
- What procedures are in place to ascertain the age of the alleged offender at the time of the offense when determining what penalties are available?
- Are specific measures taken to ensure the rights of children whose parents are sentenced to death?

10. The coauthors suggest that the Committee recommend that the Government of Qatar:

- Take urgent measures to issue a directive to all prosecutors and judicial officers clarifying that Article 20 of the Penal Code applies to all criminal offenses, including retribution (*qisas*) offenses under Sharia law
- Take swift action to adopt the draft law on the rights of the child, and ensure that it specifies that no person may be sentenced to death for any crime committed when under the age of 18 in any circumstances, regardless of whether the offense is enumerated in the Penal Code or falls under Sharia law referenced in Article 1 of the Penal Code.
- Direct judicial authorities to promptly resentence any person currently under sentence of death for an offense they are believed to have committed when under the age of 18 years.
- On at least an annual basis, publish comprehensive data regarding all persons convicted of crimes committed when the offender was believed to have been under the age of 18, disaggregated by age at the time of offense, age at the date of sentencing, nature of the offense, sex or gender, relationship to any codefendants or victims, penalty imposed, amount of *diya* demanded by the victim or victim's family, whether *diya* was paid and in what amount, sentencing court, current sentence, current location, and status of any appeals or petitions for mercy.