



WHO WILL BE LEFT TO DEFEND HUMAN RIGHTS?

PERSECUTION OF ONLINE
EXPRESSION IN THE GULF
AND NEIGHBOURING COUNTRIES



Berkeley
Law

International
Human Rights
Law Clinic

WHO WILL BE LEFT TO DEFEND HUMAN RIGHTS?

PERSECUTION OF ONLINE EXPRESSION IN THE GULF AND NEIGHBOURING COUNTRIES

NOVEMBER 2021

THE GULF CENTRE FOR HUMAN RIGHTS

The Gulf Centre for Human Rights (GCHR) is an independent, non-profit NGO that provides support and protection to human rights defenders (HRDs) in order to promote human rights, including but not limited to freedom of expression, association and peaceful assembly. GCHR is based in Lebanon and documents the environment for HRDs in the Gulf region and neighbouring countries, specifically Bahrain, Kuwait, Iran, Iraq, Jordan, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen. GCHR was founded in 2011.

INTERNATIONAL HUMAN RIGHTS LAW CLINIC

The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. The IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. The IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day.



Berkeley
Law

International
Human Rights
Law Clinic

AUTHORS AND ACKNOWLEDGMENTS

AUTHORS

Laurel E. Fletcher
Chancellor's Clinical Professor of Law
Co-Director, International Human Rights Law Clinic
University of California, Berkeley, School of Law

Astha Sharma Pokharel
Clinical Teaching Fellow, International Human Rights Law Clinic
University of California, Berkeley, School of Law

Gulf Centre for Human Rights

CONTRIBUTORS

International Human Rights Law Clinic

The following IHRLC interns, as well as those who wish to remain anonymous, contributed valuable research and text to the report: Sarah Abelow '22, Blake Danser '22, Ian Good '22, A.L., B.L.N., H.V.N., S.O., Harriet Steele '22, Hailey Yook '21.

Gulf Centre for Human Rights

GCHR staff members provided feedback, research, and contributions to text for this report. Special thanks and appreciation to the contributions of Kristina Stockwood.

DEDICATION

To human rights defenders in the Gulf states and neighbouring countries who, in the face of enormous obstacles, continue to struggle for human rights, and for a more just and equitable world.

DESIGN

Report design by Stoller Design Group

ACKNOWLEDGMENTS

The authors express their everlasting appreciation to Roxanna Altholz for her strategic guidance, to Olivia Layug Balbarin for her tireless work preparing the manuscript, to Amy Utstein for her administrative leadership, to Sarah Weld for her copyediting assistance, to Gabriel Gonzalez and Montie Magree for their cybersecurity support, and to Marci Hoffman, Kristina Chamorro, and the many other Berkeley Law librarians who aided us immeasurably with their research expertise. We thank the Norwegian Human Rights Fund for their support of this collaboration.

Finally, we are grateful to Dean Erwin Chemerinsky of Berkeley Law and the individual and institutional donors to the International Human Rights Law Clinic and GCHR without whom this work would not be possible.

SUGGESTED CITATION FORMAT

GULF CENTRE FOR HUMAN RIGHTS & INTERNATIONAL HUMAN RIGHTS LAW CLINIC,
WHO WILL BE LEFT TO DEFEND HUMAN RIGHTS: PERSECUTION OF ONLINE EXPRESSION
IN THE GULF AND NEIGHBOURING COUNTRIES (2021)

QATAR



QATAR SCORECARD

Targeted Activism or Expression



Criticism of Government



Expression re Minority/
Migrants' Rights



Journalists



Women's Rights and WHRDs

Human Rights Violations



Privacy & Surveillance



Arbitrary Detention



Incommunicado Detention



Torture



Fair Trial

Problematic Legal Provisions and Institutions



Criminal Defamation



Cybercrime Law



Public Order



Specialised Law Enforcement Units

5

Number of incidents that fit the inclusion criteria of this study

INTRODUCTION

Between 01 May 2018 and 31 October 2020 there were five reported incidents in Qatar that fit this study's inclusion criteria.¹ Qatar is ruled by a constitutional emirate.² These incidents provide credible evidence that Qatar has violated the freedom of online expression of human rights defenders (HRDs), including bloggers and journalists, who authorities viewed as criticising the government.

Officials punished these individuals and groups through criminal prosecution, fines, forced deactivation of Twitter accounts, summons, arrests (including arbitrary arrest and detention), and closing down organisations. While reporting does not identify the specific provisions enforced against defenders, the authorities in Qatar have enacted multiple laws that criminalise online expression.

Human rights advocacy is further limited in Qatar through the threat of surveillance, strict laws prohibiting collective political advocacy and associations, and the potential imposition of harsh penalties on the vast majority of Qatar's population who are migrant workers. Based on this research, the government has violated its obligation to respect online freedom of expression and additional associated rights of HRDs. These violations also constitute breaches of the duty of the State,

pursuant to the United Nations (UN) charter, "as the main duty-bearer" to ensure "defenders enjoy a safe and enabling environment" and that government institutions and processes "are aligned with their safety and the aim of their activities."³

Qatar is party to several international human rights treaties protecting the right to freedom of expression, including the International Covenant on Civil and Political Rights (ICCPR).⁴ As a UN member State, Qatar is also bound by the UN Charter and has pledged to adhere to the principles reflected in the Universal Declaration of Human Rights (UDHR), including article 19, which enshrines the right to freedom of opinion and expression.⁵

LEGAL ENVIRONMENT FOR ONLINE EXPRESSION IN QATAR

While none of the documented cases collected for this report indicate which laws the government enforced against HRDs, international human rights bodies and experts have criticised several laws in Qatar that restrict human rights, such as the exercise of the right to online expression by HRDs, including journalists.⁶ These include the 2014 Cybercrime Prevention Act (“cybercrime law”), the 2004 Penal Code, the 1979 Press and Publications Law, and other laws that enable authorities to arbitrarily detain HRDs. In addition to this legal framework, the State Security Bureau has used its broad authority to detain individuals for online human rights advocacy. Civic space in Qatar is severely constrained, due to restrictions on the formation of civil society organisations, widespread government surveillance, and the threat of deportation that engagement in online human rights advocacy poses to Qatar’s majority, non-citizen population.

Laws Related to Online Expression

2014 Cybercrime Prevention Act

Qatar’s cybercrime law contains several vague and overbroad provisions, and one imposes criminal penalties, including imprisonment for defamation, contrary to Qatar’s obligations under ICCPR article 19.⁷ It also requires service providers to assist the State in surveilling online communications, including by blocking content and retaining user data.⁸ In its 2019 Universal Periodic Review, several countries and the UN High Commissioner on Human Rights urged Qatar to repeal or amend this law to meet its human rights obligations under ICCPR article 19.⁹ The Qatari government took note of, but did not accept these recommendations.¹⁰ As part of Qatar’s first upcoming ICCPR review, the Human Rights

Committee explicitly asked the State in August 2020 to respond to the criticism that the cybercrime law, article 136 (bis) of the Penal Code, and the Press and Publications Law lead to “severe restrictions on the freedom of expression and opinion, including in relation to the sharing of information online” that are incompatible with Qatar’s commitments under the ICCPR.¹¹

Article 6 of the cybercrime law prohibits “set[ting] up or run[ning] a website to publish false news to threaten the safety and security of the state or its public order or domestic and foreign security” or “promot[ing], disseminat[ing] or publish[ing] in any way such false news for the same purpose.”¹² Under both article 19 of the ICCPR and the UDHR, criminal laws that restrict freedom of expression must be sufficiently precise so as to enable individuals to determine how to comply with the law and to limit the discretion conferred on authorities enforcing it.¹³ Vaguely and broadly worded provisions have been found by UN Special Procedures mandate holders to violate this requirement, allowing authorities to use their excessive discretion to target protected expression, and encouraging individuals to engage in self-censorship.¹⁴ UN Special Rapporteurs have criticised as overly vague provisions that prohibit individuals from using the internet to “upset social order” or “harm the public interest”, or from publishing “articles or photos that could harm national security, public order, public health or public interest, incite violence, constitute sedition or have negative consequences for the financial climate of the country.”¹⁵ Similarly, international human rights experts, including the UN Special Rapporteur on freedom of opinion and expression (SR on FOE),

have urged States to abolish general prohibitions on disseminating “false news” because of their vagueness.¹⁶

Article 8 of the cybercrime law punishes anyone who “violates social values or principles, [or] publishes news, photos or video or audio recordings related to the sanctity of people’s private or family life, even if the same is true.”¹⁷ Similar to article 6, this article is impermissibly vague and overbroad. Article 8 also imposes criminal penalties on anyone who “insults or slanders others.”¹⁸ The UN Human Rights Committee and the SR on FOE have cautioned that laws on defamation should be crafted carefully so that they do not restrict freedom of expression, and have recommended the decriminalisation of defamation.¹⁹ The UN Human Rights Committee has interpreted ICCPR article 19 to require that “the application of criminal law should only be countenanced in the most serious of cases, and imprisonment is never an appropriate penalty.”²⁰ Finally, it has stated that defamation laws should include the defence of public interest in the subject matter of the criticism, the defence of truth, and, at least in the case of expression related to public figures, the defence of error.²¹

Individuals convicted of offenses under these provisions could face significant penalties. Under article 6, if convicted of managing or creating a website with false news, individuals face sentences of up to three years in prison and/or a fine of up to QAR 500,000 (USD 138,000), while those convicted of spreading false news could receive an up to one year prison sentence and/or a fine of up to QAR 250,000 (USD 69,000).²² Article 8 offenses carry sentences of up to three years in prison and/or a fine of up to QAR 100,000 (USD 28,000).²³ Under article 53, the court can close accounts or block websites involved in any offenses under the cybercrime law.²⁴ Article 52 provides that non-citizens may be deported for any of the offences found in the act.²⁵

2004 Penal Code

Several relevant provisions of Qatar’s Penal Code, promulgated in 2004, are inconsistent with the ICCPR because they are overly broad and vague. In

2020, Qatar amended its penal code to add article 136 (bis), which imposes criminal penalties on individuals publishing, broadcasting, or spreading false or biased information “with the intention of harming national interests, provoking public opinion, or violating the social system or public order of the state.”²⁶ This article provides for sentences of up to five years in prison and a fine of up to QAR 100,000 (USD 28,000).²⁷ The SR on FOE and the Special Rapporteur on human rights defenders (SR on HRDs) expressed concern about the amendment’s vagueness.²⁸ The provision fails to define key terms like “national interests,” “public order,” “false,” “malicious,” “social system,” “rumours,” or “provoking public opinion,” which could “result in disproportionate restrictions on freedom of expression.”²⁹ It does not identify when expression would be considered “fake news” that sought to harm national interests, who would decide if it were, and through what the process.³⁰

Article 136 of the Penal Code, which is distinct from the recently added article 136 (bis), allows the State to impose life imprisonment for anyone who “instigates by public means to overthrow the regime of the country, or conducts propaganda or calls by public means for the adoption of a doctrine aiming to destroy the fundamental values of the state, to change the social or economic system prevailing in the country by use of force or through any illegal means.”³¹ Article 134 criminalises anyone who publicly criticises or challenges the authority of the Emir and other members of the royal family.³² Individuals can be sentenced to up to five years in prison for this offense.³³ The UN Working Group on Arbitrary Detention (WGAD) and several Special Rapporteurs have criticised “the vagueness of the[se] provisions and their overly broad application,” with WGAD urging Qatar to revise them to conform to human rights obligations.³⁴ Specifically, they have condemned article 134 as incompatible with human rights law because it aims to silence criticism of a head of State, and it has been used to target HRDs.³⁵

Article 138 of the Penal Code punishes those who destroy or insult flags of Qatar, non-hostile countries,

and other international and regional organisations with up to three years in prison and/or up to QAR 200,000 (USD 55,000) in fines.³⁶ The Human Rights Committee has noted concerns with laws prohibiting “disrespect for [State] flags and symbols” because they infringe on freedom of expression.³⁷

Finally, the Penal Code also includes criminal defamation provisions, which are inconsistent with the ICCPR.³⁸ Articles 326, 327, and 330 criminalise defamation when accusing someone of a crime, defaming a public employee or their family’s reputation, or defaming or insulting someone in private, through phone, in a letter, or “in an indirect way.”³⁹

1979 Press and Publications Law

Qatar’s 1979 Press and Publications Law regulates the media.⁴⁰ Article 46 makes it a criminal offense to criticise the Emir.⁴¹ Article 47 bars journalists “from publishing material that damaged the supreme interests of the country or anything that would offend public morals.”⁴² It also allows for imprisonment for libel in certain cases.⁴³ The penalties for violating these provisions differ based on the activity, but they include sentences of between one and six months in prison and/or fines of QAR 1,000–300,000 (about USD 275–83,000), or other penalties outlined in the Penal Code.⁴⁴ Additionally, a court may close a media outlet or publishing house convicted of these provisions, and double the sentences for repeated violations.⁴⁵ These provisions are inconsistent with ICCPR article 19 because they are vague and overbroad, and/or prohibit expression critical of a public official.⁴⁶

Other relevant laws

Qatari authorities, including the State Security Bureau,⁴⁷ have arbitrarily detained HRDs for exercising their right to freedom of expression online. Such actions are enabled by a number of laws that allow for detention, including the Law on the State Security Service, the Law on Protection of Community, and the Law on Combating Terrorism.⁴⁸ The Law on the State Security Service (Law No. 5 of 2003) created the State Security Bureau and its

powers to detain individuals engaged in “activities which are harmful to the security and stability of the state and its relationship with other countries,” as well as Qatar’s economy and resources.⁴⁹

The Law on Protection of Community (Law No. 17 of 2002) allows authorities to detain individuals on the basis of a well-founded belief they committed “crimes involving state security, honour, decency or public morals.”⁵⁰ The Law on Combating Terrorism (Law 27 of 2019) allows authorities to investigate, detain and criminalise individuals suspected of terrorism or recruiting, assisting or inciting others for terrorist activities outside general procedures for criminal investigations.⁵¹ Article 4 specifies this law applies to activities online, while articles 24 and 25 authorise broad surveillance, including monitoring online communication and information systems, to investigate suspects.⁵² The UN WGAD expressed concerns with these three laws as they allow detention for vaguely worded offences.⁵³ WGAD and the Committee Against Torture have criticised these laws for violating articles 9 and 14 of the ICCPR by providing broad executive powers to detain people for long periods without judicial oversight.⁵⁴

Policy and Political Environment

Limited civil society

Several additional Qatari laws limit freedom of association and restrict civic space, which in turn stifles human rights advocacy and online expression, as well as the reporting on such advocacy.⁵⁵ Qatar has erected barriers to the formation and operation of advocacy groups, political organisations, and labour unions, particularly those led by and for non-citizens.⁵⁶ Organisations are not allowed to engage in political activities, so civil society organisations that do exist often are focused on community, cultural or charitable activities.⁵⁷ Consequently, the Gulf Centre for Human Rights (GCHR) has noted a “distinct lack of oppositional civil society and a dearth of human rights activism in the country.”⁵⁸

Qatari authorities further restrict online advocacy through laws and practices that force non-citizens to

choose between advocating for their human rights and facing deportation.⁵⁹ Ninety percent of Qatari residents are non-citizens, and 71% are low-wage workers whose livelihoods depend on their continued employment in the country.⁶⁰ These workers face serious human rights abuses as a result of what the Special Rapporteur on racism, racial discrimination, xenophobia and related forms of intolerance has described as a “de facto caste system based on national origin, which results in structural discrimination against non-citizens.”⁶¹ However, non-citizens, both migrant workers and non-citizens working on the human rights of migrant workers, risk their residency status, detention, and deportation for their advocacy and writing.⁶² The laws described above further enable these practices by giving Qatari authorities the power to deport individuals for online expression.⁶³ The threat of deportation for human rights-related expression and organised advocacy risks interfering with the rights to freedom of expression, association, and peaceful assembly of non-citizen workers’ and HRDs.⁶⁴

Surveillance

The surveillance of HRDs impacts a number of interrelated human rights, including their rights to freedom of expression and opinion, to peaceful assembly and association, to religion or belief, and to privacy.⁶⁵ The SR on FOE has noted that surveillance, if conducted for an unlawful purpose, “may be used in an effort to silence dissent, sanction criticism or punish independent reporting (and sources for that reporting).”⁶⁶ This in turn has a chilling effect on expression and association.⁶⁷

Qatar has likely engaged in surveillance of residents, although the extent and priorities of this surveillance are unknown.⁶⁸ Qatar appears to have purchased surveillance and censorship technologies from Danish, British, American, and Canadian companies, including FinFisher, Evident, Netsweeper, and Blue Coat ProxySG.⁶⁹ The State also may have engaged in surveillance through ISPs, including Vodafone.⁷⁰ In 2020, human rights organisations raised concerns about mass government surveillance through the EHTERAZ app, which the Qatari government

required all citizens, residents, and visitors to download on their phones for contact tracing during the COVID-19 pandemic.⁷¹

Social media and internet

Social media and internet usage in Qatar is high, reaching approximately 99% of the population.⁷² Of the 2.91 million people living in Qatar in January 2021, 2.88 million were internet users and 2.87 million used social media.⁷³ While individuals in Qatar access many social media platforms, most of the cases identified for this report show that the Qatari government punished individuals for their expression on Twitter.⁷⁴

TRENDS EMERGING FROM INCIDENTS OF REPRESSION OF ONLINE EXPRESSION IN QATAR

The reported incidents reveal that since May 2018, Qatar has targeted HRDs with various identities and relationships to the State—some who have consistently been critical of the government, and some who were otherwise supportive of it—but all of the targeted expression was perceived by Qatari authorities as critical of government policy. Some of these individuals are members of marginalised groups, such as stateless communities and women. Although reports of these cases do not describe specific charges, two identify the State Security Bureau and Cybercrime Police in the Ministry of the Interior as enforcement agencies.⁷⁵ Individuals who faced violations of the right to freedom of expression often experienced additional rights violations, including arbitrary and incommunicado detention.

Violations of the Right to Freedom of Expression

Targeting individuals for criticising government action or policy

Across the reported incidents, officials targeted HRDs for their online expression politically critical of the Qatari government. This is inconsistent with article 19 of the ICCPR.⁷⁶

On 04 October 2020, Mohammed Al-Sulaiti was detained by State Security Bureau officers and held incommunicado by the bureau for at least two weeks on unspecified “State Security Crimes.”⁷⁷ While Qatari authorities have not revealed why Al-Sulaiti was targeted, his detention followed tweets criticising the government, and his Twitter account was deleted while Qatari authorities held him.⁷⁸ Two years prior, Al-Sulaiti had been arbitrarily detained by Qatar’s

State Security Bureau⁷⁹ for five months.⁸⁰ Following his release, Al-Sulaiti was subjected to a travel ban without legal justification or recourse.⁸¹ Leading up to his most recent detention, he had shared an Amnesty International statement about his travel ban online multiple times, criticised travel bans and government policy on social media, and launched a Twitter poll to connect with others who were impacted by travel bans.⁸² His case was also raised with WGAD.⁸³ Al-Sulaiti’s case demonstrates the power the State Security Bureau—which reports directly to the Emir—has to enforce broad provisions allowing for long periods of administrative detention and restricting the right to freedom of expression online.⁸⁴ Qatar’s imposition of this travel ban also raises concerns regarding its obligations to protect HRDs’ freedom of movement. Article 13 of the UDHR provides that “[e]veryone has the right to freedom of movement” as well as “the right to leave any country, including his own.”⁸⁵ Similarly, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has criticised a trend of governments restricting the freedom of movement of civil society activists under the guise of national security concerns.⁸⁶

Authorities also targeted Faisal Muhammad Al-Marzouki, a Qatari writer and blogger, for online expression, specifically tweets to his nearly 195,000 Twitter followers, officials considered critical of the Qatari government.⁸⁷ In June 2020, he tweeted “[n]othing equals the corruption of education,” critiquing the Qatari education system. In a March 2020 comment on Qatari stock exchange management, he tweeted “[t]he crash continues, and the stock market is running like a donkey carrying travels.”⁸⁸ Borrowing from a Quranic verse, this tweet criticised corruption

in the management of the stock market by suggesting its managers are in charge of something they do not understand. Al-Marzouki received a three-year-suspended prison sentence, his Twitter account was seized, and he was fined QAR 30,000 (about USD 8,250).⁸⁹

Targeting marginalised groups for their online advocacy

The Qatari government has also breached its human rights commitments by targeting members of marginalised groups including women and stateless members of the Al-Ghufran clan. The UN Human Rights Council and the SR on FOE have emphasised the importance of ensuring the right of marginalised communities to exercise freedom of expression, and the SR on FOE has highlighted the value of the internet, particularly where marginalised communities can assert their rights and provide their perspectives in public debate.⁹⁰ Group arrests of marginalised groups engaged in collective advocacy also raise concerns regarding their rights to freedom of assembly and association. The UN Human Rights Council has emphasised that States have the obligation to respect and protect the rights to freedom of assembly and association both offline and online.⁹¹ The UN Human Rights Committee has underscored that the protection of activities associated with the right to peaceful assembly, including information dissemination, communication between participants, and broadcasting, is crucial to the exercise of that right.⁹²

In 2019, Amnesty International reported the arbitrary detention of stateless members of the Al-Ghufran clan, who had “spoke[n] out on social media about their situation.”⁹³ Authorities later released them without charge.⁹⁴ Qatar stripped some Al-Ghufran clan members of their citizenship after they supported a failed coup in 1996.⁹⁵ Members of the Al-Ghufran clan face rights violations and restrictions in accessing housing, employment, healthcare, education, freedom of movement, and other areas

due to their loss of citizenship, and they do not have access to a transparent process to gain or regain Qatari citizenship.⁹⁶ Targeting stateless members of this clan for discussing human rights violations against their community online illustrates Qatar’s failure to uphold its obligations under the ICCPR.

Human Rights Watch and others have reported that, in August 2019, Qatari authorities summoned at least one of the women activists behind the @QatarFem (Qatari Feminists) Twitter account, and also summoned her parents.⁹⁷ The summons was apparently due to the account’s tweets on women’s rights issues, including male guardianship rules, other discriminatory laws, and domestic violence, and tweets challenging Qatar’s suitability as host of the 2022 World Cup given its human rights record.⁹⁸ Qatar’s National Human Rights Committee identified the Cyber Crime Police of the General Directorate of Criminal Investigation of the Ministry of the Interior as the agency involved.⁹⁹ The @QatarFem account was reportedly shut down after this summons, though it is now an existing but locked account.¹⁰⁰ Under CEDAW, Qatar must protect the rights of women human rights defenders (WHRDs) to freedom of expression, including online expression, and freedom from arbitrary detention,¹⁰¹ but by targeting feminist Twitter users for their online expression, Qatar is violating these obligations. The SR on FOE and the SR on HRDs have condemned attacks targeting WHRDs for their advocacy on the internet and noted the heightened vulnerability of women online.¹⁰²

Additional Human Rights Violations

Arbitrary deprivation of liberty is prohibited under article 9 of the ICCPR and customary international law, and is a *jus cogens* norm.¹⁰³ A deprivation is arbitrary including when it is without a legal basis as well as when it results from the exercise of freedom of expression.¹⁰⁴ As WGAD has reiterated, any measure

depriving an individual of liberty must meet strict standards of lawfulness, necessity and proportionality to avoid arbitrariness.¹⁰⁵ Deprivations may be arbitrary when they are based on discriminatory grounds against HRDs and activists, violating the rights to equality before the law and the right to equal protection under article 26 of the ICCPR.¹⁰⁶

While there is limited information regarding many of the reported incidents, at least two involve arbitrary deprivations of liberty, including arrests and detentions.¹⁰⁷ Qatari authorities arbitrarily detained several stateless members of the Al-Ghufran clan for online expression about their situation, and authorities also detained Mohammad Al-Sulaiti after he used social media to condemn the travel ban imposed on him.¹⁰⁸

Detained individuals may have experienced other due process violations. Fundamental principles of fair trials are protected under international law at all times.¹⁰⁹ Individuals have universal rights to seek competent, independent, impartial judicial review of the arbitrariness and lawfulness of deprivations of liberty and to obtain without delay adequate and appropriate remedies.¹¹⁰ Those detained enjoy a number of procedural safeguards of their rights including the right to be informed of rights, the right to initiate court proceedings without delay, and the right to legal assistance of counsel of their choice from the moment of apprehension.¹¹¹ Contrary to these obligations, the State Security Bureau subjected Al-Sulaiti to detention and Amnesty International reported there were no disclosed charges against him.¹¹² He was unable to contest his detention, and he was denied meaningful access to his lawyer.¹¹³

During his detention, Al-Sulaiti was also unable to communicate with his family for at least two weeks.¹¹⁴ Incommunicado detention “places an individual outside the protection of the law,”¹¹⁵ in violation of the article 6 of UDHR and article 16 of the ICCPR,¹¹⁶ protecting the right to be recognised as a person

before the law.¹¹⁷ The Special Rapporteur against torture has observed that torture is “most frequently practiced during incommunicado detention,”¹¹⁸ and it is outlawed by international law.¹¹⁹ The UN Working Group on Arbitrary Detention considers incommunicado detention a form of arbitrary detention.¹²⁰ The SR against Torture has stated that “[i]n all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours.”¹²¹

CONCLUSION AND RECOMMENDATIONS

The government of Qatar has enacted overly broad and vague laws and used arbitrary arrests and detention when enforcing these laws. The government reportedly has targeted and punished individuals for expressing criticism of government policies, speaking out about injustices they have faced personally, as well as speaking out about injustices experienced by members of marginalised groups in Qatar. Based on reported credible evidence, Qatar's actions in these cases violate its international human rights obligations, particularly under ICCPR article 19, to protect the freedom of expression, including online expression.

To address these concerns, we offer the following general recommendations and country-specific recommendations.

General Recommendations

To Governments of Gulf States and Neighbouring Countries:

- ✦ Eliminate laws and articles in national legal frameworks that criminalise online freedom of expression protected under international human rights law, specifically:
 - All laws including anti-cybercrime, anti-terrorism, communications, media, penal, and technology laws that restrict online or offline expression through provisions to protect public order, national security, or the national economy; insults laws; and laws that criminalise fake news, that do not conform to international human rights standards and satisfy the principles of legality, legitimacy, necessity and proportionality;
 - Decriminalise the offense of defamation;
 - Revise anti-cybercrime laws to include affirmative protection for the legitimate online expression of HRDs, including journalists.
- ✦ Cease using deportation and travel bans as tools for targeting HRDs for their online human rights advocacy, and refrain from infringing on their right to freedom of movement.
- ✦ Reform legal institutions, including the criminal legal system, to promote the independence and autonomy necessary for:
 - Investigating human rights violations committed against HRDs by law enforcement, such as engaging in unlawful surveillance of HRDs, enforced disappearances, holding HRDs in unlawful detention, incommunicado, and subjecting them to ill-treatment and torture;
 - Ensuring that HRDs', citizens', and residents' right to freedom of movement is not violated;
 - Ensuring the judiciary upholds international standards guaranteeing the right to fair trial.

To the UN Human Rights Council:

- ✦ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study of the transnational cooperation among governments to affect the apprehension and rendering of foreign HRDs to their countries of origin for prosecution of online expression that is protected under international law.
- ✦ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study to identify and track developments in the surveillance regimes in each State in the region. The governments in question should cooperate in this study. The study should identify third party actors including business enterprises and other States that contribute to advancing the surveillance infrastructure in each State concerned. State and non-State actors complicit in illegal surveillance of HRDs by governments should be held accountable.

To All States:

- ♦ Implement an immediate moratorium on the use, acquisition, sale and transfer of surveillance technology. This moratorium should extend until adequate global controls and safeguards against abuse are in place.

- 2014 Cybercrime Law, article 52;
- The Kafala system used for migrant workers, which underwent significant reform in 2019 and 2020, but continues to enable systemic rights violations of migrants.

Country Recommendations

In addition to the above recommendations, States should revise their domestic laws and institutions to ensure compliance with international human rights standards regarding online freedom of expression as indicated below.

We call on the government of Qatar to create a safe and enabling environment for HRDs including by taking the following steps:

- ♦ Eliminate laws and articles in Qatar's legal frameworks that criminalise online freedom of expression protected under international human rights law, or that are inconsistent with the right to due process and a fair trial, including:
 - 2019 Law on Combating Terrorism, articles 4, 24, 25;
 - 2014 Cybercrime Prevention Law, articles 6, 8, 53;
 - 2004 Penal Code, articles 134, 136, 136(bis), 138, 326, 327, 330;
 - 2003 Law on the State Security Service, article 2;
 - 2002 Law on Protection of Community, article 1;
 - 1979 Press and Publications Law, articles 46, 47, 82–84.
- ♦ Eliminate the laws and articles in Qatar's legal frameworks that restrict the labour rights of migrant low-wage workers and threaten them with deportation for advocating for their human rights online, including:

NOTES

- 1 Case information was compiled from the following international sources: Amnesty International, Al Jazeera, ARTICLE 19, British Broadcasting Corporation (BBC), Committee to Protect Journalists, Front Line Defenders, Gulf Centre for Human Rights, Human Rights Watch, and UN Communications to the State of Qatar. Researchers searched these sources for violations of freedom of expression online between 01 May 2018 and 31 October 2020. Researchers also searched for incidents in Qatari news sources: *Gulf Times*, *Qatar Tribune*, and *The Peninsula*. Using the search engine on each news source's website, researchers ran searches with the following terms: Qatar, freedom of expression, online expression, cybercrime, human rights defender, internet, free speech, prosecution, jail, prison, arrest, activist, trials, social media, and censor. Researchers searched "Qatar" to find cases on human rights organisations' websites. Once cases were identified, researchers conducted web searches using the names of those targeted to find more case details. See methodology section for more information.
- 2 Jill Ann Crystal & John Duke Anthony, *Qatar: Government and Society*, BRITANNICA (June 26, 2021). This characterisation of the political system of the country is offered for descriptive purposes; a normative evaluation of the political system as such is beyond the scope of this chapter.
- 3 Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, ¶ 77, U.N. Doc. A/HRC/31/55 (Feb. 1, 2016); Civil Society Space, Human Rights Council Res. 27/31, U.N. Doc. A/HRC/RES/27/31, ¶ 3 (Oct. 3, 2014); Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. Res. 53/144, U.N. Doc. A/RES/53/144 (Mar. 8, 1999).
- 4 International Covenant on Civil and Political Rights, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]. Qatar also has ratified CEDAW in 2009, CERD in 1976, the ICESCR in 2018, CAT in 2000, the CRC in 1995, and the CPRD in 2008. *UN Treaty Body Database: Ratification Status for Qatar*, OHCHR.ORG. Qatar is a party to the Arab Charter on Human Rights. League of Arab States, Arab Charter on Human Rights, May 22, 2004, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005) (entered into force Mar. 15, 2008); *League of Arab States: Key Legal Texts*, INT'L CTR. FOR NOT-FOR-PROFIT L. (Sept. 25, 2021).
- 5 World Conference on Human Rights, *Vienna Declaration and Programme of Action*, pmbl. at 20-21, §§ I(1), I(3), I(8), U.N. Doc. A/CONF.157/24 (Part 1) (Oct. 13, 1993); Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at art. 19 (Dec. 10, 1948) [hereinafter UDHR].
- 6 See e.g., Working Grp. on Arbitrary Det., *Visit to Qatar: Report of the Working Group on Arbitrary Detention*, ¶¶ 85-88, U.N. Doc. A/HRC/45/16/Add.2 (July 30, 2020) [hereinafter WGAD *Qatar Visit Report*]; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression) & Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Communication to Qatar*, Ref. No. OL QAT 1/2020 (Apr. 14, 2020) [hereinafter Apr. 2020 Communication to Qatar]; Hum. Rts. Council, *Report of the Working Group on the Universal Periodic Review: Qatar*, U.N. Doc. A/HRC/42/15 (July 11, 2019) [hereinafter WGAD *Report of July 2019*]; *New Cybercrime Law Could Have Serious Consequences for Press Freedom in Qatar*, COMM. TO PROTECT JOURNALISTS (Sept. 17, 2014); GULF CTR. FOR HUM. RTS., QATAR, CIVIL SOCIETY AND HUMAN RIGHTS: LACK OF CIVIL SOCIETY SPACE HINDERS WORK OF HUMAN RIGHTS DEFENDERS (2016); Amnesty Int'l, *Qatar: Promises Yet to Be Fulfilled—Amnesty International Submission for the Universal Periodic Review, 33rd Session of the UPR Working Group, May 2019*, at 5-6 (May 2019); CIVICUS & Gulf Ctr. for Hum. Rts., *Qatar: Joint Submission to the UN Universal Periodic Review, 33rd Session of the UPR Working Group* (Oct. 4, 2018) [hereinafter *Joint Submission on Qatar to the UPR*].
- 7 See Law No. 14 of 2014 Promulgating the Cybercrime Prevention Law, arts. 6, 8 [hereinafter Cybercrime Law] (Qatar) (unofficial English translation); Hum. Rts. Comm., *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, ¶¶ 22, 25, 34, 47, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011) [hereinafter *HRC General Comment No. 34*].
- 8 Article 21 of the cybercrime law requires service providers to block objectionable content based on judicial requests. They are also required to retain user information for a year and other user data for a renewable period of ninety days. Cybercrime Law, *supra* note 7, at art. 21. The Cybercrime Law defines service

- provider as “[a]ny natural or legal person enabling users to communicate through information technology or processing any storing of information.” *Id.* The Special Rapporteur on Freedom of Opinion and Expression (SR on FOE) has said that mandatory data retention laws threaten the right to privacy and freedom of expression. See Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue*, ¶¶ 65-67, U.N. Doc. A/HRC/23/40 (Apr. 17, 2013).
- 9 WGAD *Report of July 2019*, *supra* note 6, ¶¶ 134.100, 134.106, 134.107, 134.117; Letter from Michelle Bachelet, High Comm’r for Hum. Rts., U.N., to Excellency (Soltan bin Saad Al-Muraikhi) 4 (Nov. 29, 2019) [hereinafter Nov. 2019 Letter by the High Commissioner to Sultan bin Saad Al-Muraikhi] (Universal Periodic Review Third Cycle—Qatar).
- 10 See Working Grp. on the Universal Periodic Rev., *Report of the Working Group on the Universal Periodic Review: State of Qatar—Addendum—Views on Conclusions and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, ¶ 6, U.N. Doc. A/HRC/42/15/Add.1 (Aug. 30, 2019).
- 11 Hum. Rts. Comm., *List of Issues in Relation to the Initial Report of Qatar*, ¶ 24, U.N. Doc. CCPR/C/QAT/Q/1 (Aug. 24, 2020).
- 12 Cybercrime Law, *supra* note 7, at art. 6.
- 13 ICCPR, *supra* note 4, at art. 19; UDHR, *supra* note 5, at arts. 11, 19; HRC General Comment No. 34, *supra* note 7, ¶ 25; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 7, U.N. Doc. A/HRC/32/38 (May 11, 2016) [hereinafter SRFOE Report of May 2016]; Working Grp. on Arbitrary Det., *Opinion No. 71/2019 Concerning Issa al-Nukhefi, Abdulaziz Youssef Mohamed al-Shubaili and Issa Hamid al-Hamid (Saudi Arabia)*, ¶ 73, U.N. Doc. A/HRC/WGAD/2019/71 (Feb. 14, 2020) (“[V]aguely and broadly worded provisions ... which cannot qualify as *lex certa*, violate the due process of law undergirded by the principle of legality in article 11 (2) of the Universal Declaration of Human Rights.”).
- 14 SRFOE Report of May 2016, *supra* note 13, ¶ 39; Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue*, ¶ 34, U.N. Doc. A/HRC/17/27 (May 16, 2011) [hereinafter SRFOE Report of May 2011].
- 15 SRFOE Report of May 2016, *supra* note 13, ¶ 39; Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶ 24, U.N. Doc. A/67/292 (Aug. 10, 2012) (“Provisions that criminalize the publication of articles or photos that could harm national security, public order, public health or public interest, incite violence, constitute sedition or have negative consequences for the financial climate of the country are overly broad and restrictive.”).
- 16 U.N. Special Rapporteur on Freedom of Op. & Expression et al., Org. for Sec. & Co-operation in Eur. Representative on Freedom of the Media, Org. of Am. States Special Rapporteur on Freedom of Expression & African Comm’n on Hum. & Peoples’ Rts. Special Rapporteur on Freedom of Expression & Access to Info., *Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda*, ¶ 2(a) (Mar. 3, 2017); Apr. 2020 Communication to Qatar, *supra* note 6, at 3.
- 17 Cybercrime Law, *supra* note 7, at art. 8.
- 18 See Qatar: New Cyber Crime Law Poses Real Threat to Freedom of Expression, GCHR (Sept. 17, 2014); Cybercrime Law, *supra* note 7, at art. 8.
- 19 HRC General Comment No. 34, *supra* note 7, ¶ 47. See also SRFOE Report of May 2011, *supra* note 14, ¶ 36 (“defamation should be decriminalized”).
- 20 HRC General Comment No. 34, *supra* note 7, ¶ 47.
- 21 *Id.* See also Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue*, ¶¶ 83-88, U.N. Doc. A/HRC/20/17 (June 4, 2012).
- 22 Cybercrime Law, *supra* note 7, at art. 6.
- 23 *Id.* at art. 8.
- 24 *Id.* at art. 53.
- 25 *Id.* at art. 52.
- 26 Law No. 2 of 2020 Amending Some Provisions of the Penal Code Issued by Law No. 11 of 2004, art. 2 [hereinafter 2020 Penal Code Amendment Adding Article 136 (bis)] (Qatar) (unofficial Arabic version); see also Apr. 2020 Communication to Qatar, *supra* note 6, at 1. In a letter, the SRs include an unofficial English

NOTES

- translation of article 136 *bis*: “A penalty of imprisonment for a period not exceeding five years and a fine of no more than (100,000) one hundred thousand riyals, or one of these two penalties, shall be imposed on anyone who broadcasts, or publishes or re-publishes rumours, statements, false or malicious news or propaganda, at home or abroad, with the intention of harming national interests, provoking public opinion, or violating the social system or public order of the state. The penalty stipulated in the previous paragraph shall be doubled if the crime occurred in wartime.” Apr. 2020 Communication to Qatar, *supra* note 6, at 1.
- 27 2020 Penal Code Amendment Adding Article 136 (bis), *supra* note 26; see also Apr. 2020 Communication to Qatar, *supra* note 6, at 1.
- 28 Apr. 2020 Communication to Qatar, *supra* note 6, at 3.
- 29 *Id.*
- 30 *Id.*
- 31 Law No. 11 of 2004 Issuing the Penal Code, art. 136 [hereinafter Penal Code] (Qatar) (unofficial English translation); see also Working Grp. on Arbitrary Det., *Opinion No. 48/2016 Concerning Mohammed Rashid Hassan Nasser al-Ajami (Qatar)*, ¶ 10, U.N. Doc. A/HRC/WGAD/2016/48 (Jan. 31, 2017) [hereinafter WGAD *Opinion No. 48/2016*].
- 32 Penal Code, *supra* note 31, at art. 134; see also WGAD *Qatar Visit Report*, *supra* note 6, ¶ 39; *Joint Submission on Qatar to the UPR*, *supra* note 6, ¶ 4.2.
- 33 Penal Code, *supra* note 31, at art. 134; see also *Joint Submission on Qatar to the UPR*, *supra* note 6, ¶ 4.2.
- 34 See WGAD *Opinion No. 48/2016*, *supra* note 31, ¶¶ 47, 62; Farida Shaheed (Special Rapporteur in the Field of Cultural Rights) et al., Communication to Qatar, at 2, Ref. No. AL QAT/2/2015 (Oct. 16, 2015).
- 35 See WGAD *Qatar Visit Report*, *supra* note 6, ¶¶ 39-41; WGAD *Opinion No. 48/2016*, *supra* note 31, ¶¶ 45-47.
- 36 See Law No. 22 of 2015 Amending Law No. 11 of 2004, art. 138 (Qatar) (unofficial Arabic version; unofficial English translation of this amendment on file with author); *Emir Issues Laws on Schools, Penal Code*, PENINSULA (Nov. 16, 2015); Amnesty Int’l, *supra* note 6, at 5.
- 37 See HRC General Comment No. 34, *supra* note 7, ¶ 38.
- 38 See Penal Code, *supra* note 31, at arts. 326-27, 330; HRC General Comment No. 34, *supra* note 7, ¶ 47.
- 39 Penal Code, *supra* note 31, at arts. 326-27, 330.
- 40 Law No. 8 of 1979 on Publications and Publishing (Qatar) (unofficial English translation).
- 41 *Id.* at art. 46.
- 42 *Id.* at art. 47.
- 43 *Id.* at arts. 47, 82.
- 44 *Id.* at arts. 80-82, 85.
- 45 *Id.* at arts. 83-84.
- 46 See HRC General Comment No. 34, *supra* note 7, ¶¶ 38, 47 (expressing concern regarding States’ criminalisation of criticism of public figures and criminalisation of defamation).
- 47 Different sources translate the name of the agency created by this law differently in English. Depending on the source, it is called the State Security Service, State Security Agency, or State Security Bureau. For consistency, this chapter includes the term Qatari State officials use for this institution, State Security Bureau. See *Entities Subject to Audit: Qatar State Security Bureau*, STATE AUDIT BUREAU–QATAR (June 21, 2019).
- 48 WGAD *Qatar Visit Report*, *supra* note 6, ¶ 68.
- 49 Law No. 5 of 2003 Establishing the State Security Service, amended 2008, art. 2 [hereinafter State Security Law] (Qatar) (unofficial English translation).
- 50 Law No. 17 of 2002 on Protection of Community, art. 1 [hereinafter Community Protection Law] (Qatar) (unofficial English translation).
- 51 Law No. 27 of 2019 Promulgating the Law on Combating Terrorism [hereinafter Anti-Terrorism Law] (Qatar) (unofficial English translation); see also WGAD *Qatar Visit Report*, *supra* note 6, ¶¶ 77, 94.
- 52 Anti-Terrorism Law, *supra* note 51, at arts. 4, 24-25.
- 53 WGAD *Qatar Visit Report*, *supra* note 6, ¶¶ 76, 94; see also Gabriela Knaul (Special Rapporteur on the Independence of Judges and Lawyers), *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul: Addendum—Mission to Qatar*, ¶ 56, U.N. Doc. A/HRC/29/26/Add.1 (Mar. 31, 2015).
- 54 WGAD *Qatar Visit Report*, *supra* note 6, ¶¶ 76, 78, 102(a); Comm. against Torture, *Concluding Observations*

- on the *Third Periodic Report of Qatar*, ¶ 15, U.N. Doc. CAT/C/QAT/CO/3 (June 4, 2018).
- 55 See GULF CTR. FOR HUM. RTS., *supra* note 6; see also Comm. on the Elimination of Discrimination against Women, *Concluding Observations on the Second Periodic Report of Qatar*, ¶ 21, U.N. Doc. CEDAW/C/QAT/CO/2 (July 30, 2019) [hereinafter *Comm. on the Elimination of Discrimination against Women Concluding Observations of July 2019*] (expressing concern on the lack of independent women's rights organisations in Qatar and the burdensome requirements for registration as well as the prohibition on political advocacy).
- 56 *Joint Submission on Qatar to the UPR*, *supra* note 6, ¶¶ 2.2-2.5, 5.2; GULF CTR. FOR HUM. RTS., *supra* note 6, at 10; *Comm. on the Elimination of Discrimination against Women Concluding Observations of July 2019*, *supra* note 55, ¶ 21; AMNESTY INT'L, REALITY CHECK 2020: COUNTDOWN TO THE 2022 WORLD CUP—MIGRANT WORKERS' RIGHTS 25-26 (2020).
- 57 *Joint Submission on Qatar to the UPR*, *supra* note 6, ¶ 2.5; GULF CTR. FOR HUM. RTS., *supra* note 6, at 10.
- 58 GULF CTR. FOR HUM. RTS., *supra* note 6, at 8.
- 59 See, e.g., Nov. 2019 Letter by the High Commissioner to Sultan bin Saad Al-Murairi, *supra* note 9, at 5; GULF CTR. FOR HUM. RTS., *supra* note 6, at 8; see generally "How Can We Work Without Wages?: Salary Abuses Facing Migrant Workers Ahead of Qatar's FIFA World Cup 2022," HUM. RTS. WATCH (Aug. 24, 2020); AMNESTY INT'L, *supra* note 56; AMNESTY INT'L, "WHY DO YOU WANT TO REST?": ONGOING ABUSE OF DOMESTIC WORKERS IN QATAR (2020); AMNESTY INT'L, ALL WORK, NO PAY: THE STRUGGLE OF QATAR'S MIGRANT WORKERS FOR JUSTICE (2019).
- 60 Tendayi Achiume (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), *Visit to Qatar: Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*, ¶ 6, U.N. Doc. A/HRC/44/57/Add.1 (Apr. 27, 2020) [hereinafter *SRR Report of Apr. 2020*].
- 61 See *id.* at Summary, ¶¶ 16-17.
- 62 Qatari authorities have arrested and deported, or threatened to deport, migrant workers for demanding better working conditions. See *Joint Submission on Qatar to the UPR*, *supra* note 6, ¶ 5.3; Gulf Ctr. for Hum. Rts. & CIVICUS, *The State of Qatar: Submission to the UN Universal Periodic Review, 19th Session of the UPR Working Group* ¶ 2.5 (Sept. 16, 2013). Qatari authorities also deport journalists for reporting on workers' rights. See AMNESTY INT'L, HUMAN RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: REVIEW IN 2018—QATAR 2 (2019). Women non-citizen residents considered censoring their online women's rights advocacy to protect their and their families' legal and employment status. See HUM. RTS. WATCH, "EVERYTHING I HAVE TO DO IS TIED TO A MAN" WOMEN AND QATAR'S MALE GUARDIANSHIP RULES 22 (2021).
- 63 See Cybercrime Law, *supra* note 7, at art. 52; see also *Qatar: Significant Labor and Kafala Reforms*, HUM. RTS. WATCH (Sept. 24, 2020). Qatar has enacted some reforms, but restrictive labour laws continue to limit migrant workers' rights. See *Qatar: Significant Labor and Kafala Reforms*, *supra*.
- 64 Hum. Rts. Comm., *General Comment No. 15: The Position of Aliens Under the Covenant (Twenty-Seventh Session, 1986)*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 141-42, ¶¶ 7, 10, U.N. Doc. HRI/GEN.A/Rev.7 (May 12, 2004) (noting that non-citizens have "the right to hold opinions and to express them," and that ICCPR article 13 is meant "to prevent arbitrary expulsions"); Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, ¶ 42, U.N. Doc. A/74/349 (Sept. 11, 2019) ("stress[ing] that there is no basis in international law for completely divesting non-citizens of their assembly rights").
- 65 Special Rapporteur on the Right to Privacy, *Right to Privacy: Report of the Special Rapporteur on the Right to Privacy*, ¶ 28, U.N. Doc. A/HRC/40/63 (Oct. 16, 2019); Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, *Surveillance and Human Rights: Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 21, U.N. Doc. A/HRC/41/35 (May 28, 2019) [hereinafter *SRFOE Report of May 2019*]; Hum. Rts. Comm., *Concluding Observations on the Sixth Periodic Report of Italy*, ¶ 36, U.N. Doc. CCPR/C/ITA/CO/6 (May 1, 2017); Privacy in the Digital Age, G.A. Res. 73/179, U.N. Doc. A/RES/73/179, at 3 (Jan. 21, 2019); UDHR, *supra* note 5, at arts. 12, 18-20; ICCPR, *supra* note 4, at arts. 17-19, 21-22.
- 66 *SRFOE Report of May 2019*, *supra* note 65, ¶ 21.
- 67 *Id.*
- 68 See generally, *Freedom in the World 2020: Qatar*, FREEDOM HOUSE (2020); *How BAE Sold Cyber-Surveillance Tools to Arab States*, BBC NEWS (June 15,

NOTES

- 2017); Press Release, Access Now et al., EU: European Parliament Must Vote to Stop Surveillance Equipment Going to Rights-Abusing Governments (Jan. 16, 2008); Ryan Gallagher, *Silicon Valley Investment Firm Profits from Surveillance States*, BLOOMBERG BUSINESSWEEK (Jan. 26, 2021); Morgan Marquis-Boire et al., *Planet Blue Coat: Mapping Global Censorship and Surveillance Tools*, CITIZEN LAB (Jan. 15, 2013); Peter Kovessy, *WikiLeaks: Qatar Spent QR3.2 Million on Computer Snooping Software*, DOHA NEWS (Sept. 15, 2014).
- 69 *How BAE Sold Cyber-Surveillance Tools to Arab States*, *supra* note 68; Press Release, *supra* note 68; Gallagher, *supra* note 68; Marquis-Boire et al., *supra* note 68; JAKUB DALEK ET AL., CITIZEN LAB, PLANET NETSWEEPER 8-9, 41, 67-70 (2018); Kovessy, *supra* note 68; Access Now, Gulf Ctr. for Hum. Rts., & Ams. for Democracy & Hum. Rts. in Bahr., *Submission to the United Nations Human Rights Council, on the Universal Periodic Review for Qatar in 2019*, ¶18 (Oct. 2018) [hereinafter *Submission to the Human Rights Council on the UPR for Qatar in 2019*].
- 70 *Submission to the Human Rights Council on the UPR for Qatar in 2019*, *supra* note 69, ¶ 19.
- 71 *See Bahrain, Kuwait and Norway Contact Tracing Apps Among Most Dangerous for Privacy*, AMNESTY INT’L (June 16, 2020); SMEX, DATA PROTECTION AND PRIVACY LAWS IN MENA: A CASE STUDY OF COVID-19 CONTACT TRACING APPS 8, 10-11 (Grant Baker & Nerissa Naidoo eds., 2021); AP Muhammad Afsal, *Coronavirus: Qatar Contact-Tracing App Exposes Divide Between Rich and Poor*, MIDDLE E. EYE (June 11, 2020).
- 72 Simon Kemp, *Digital 2021: Qatar*, DATAREPORTAL (Feb. 12, 2021).
- 73 *Id.*
- 74 *See id.*; *Qatar: Authorities Suppress Freedom of Expression for Everyone, Including Loyal Journalists*, GCHR (Jan. 3, 2021) [hereinafter *Authorities Suppress Freedom of Expression for Everyone*]; AMNESTY INT’L, URGENT ACTION: CITIZEN WHO PROTESTED TRAVEL BAN ARBITRARILY DETAINED (2020); Hum. Rts. Watch, *supra* note 62, at 2, 23.
- 75 *See* AMNESTY INT’L, *supra* note 74; Nat’l Hum. Rts. Comm., *The Fifteenth Annual Report: Human Rights Situation in Qatar–2019*, at 47 (2020).
- 76 HRC General Comment No. 34, *supra* note 7, ¶¶ 34, 38. *See also* Freedom of Opinion and Expression, Human Rights Council Res. 12/16, U.N. Doc. A/HRC/
- RES/12/16, ¶ 5(p)(i) (Oct. 12, 2009) [hereinafter H.R.C. Res. 12/16].
- 77 AMNESTY INT’L, *supra* note 74.
- 78 *Id.*
- 79 The State Security Bureau first detained Al-Sulaiti under the Law on State Security Service, *see* AMNESTY INT’L, *supra* note 74. Research did not indicate the legal basis for his 2020 detention. “State security crimes” are also included in other laws, such as the Law on Protection of Community, the Penal Code, and the Cybercrime Prevention Act. *See* State Security Law, *supra* note 49, at art. 2; Community Protection Law, *supra* note 50, at art. 1; Cybercrime Law, *supra* note 7, at art. 6; Penal Code, *supra* note 31, at arts. 130-39.
- 80 AMNESTY INT’L, *supra* note 74.
- 81 *Id.*
- 82 *Id.*
- 83 *Maat Foundation Renews Its Complaint to the United Nations Against # Qatar Regarding the Arrest of Citizens and Their Travel Ban, Including One of the Members of #, the Ruling Family*, MAAT FOR PEACE DEV. & HUM. RTS. (Dec. 2, 2020).
- 84 *See* AMNESTY INT’L, *supra* note 74; *State Security Law*, *supra* note 49.
- 85 UDHR, *supra* note 5, at art. 13.
- 86 Fionnuala Ní Aoláin (Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism), *Impact of Measures to Address Terrorism and Violent Extremism on Civic Space and the Rights of Civil Society Actors and Human Rights Defenders: Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, ¶¶ 23-24, U.N. Doc. A/HRC/40/52 (Mar. 1, 2019).
- 87 *Authorities Suppress Freedom of Expression for Everyone*, *supra* note 74.
- 88 *Id.*
- 89 *Id.*
- 90 *See* H.R.C. Res. 12/16, *supra* note 76, ¶ 5(p)(i); David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Promotion and Protection of the Right to*

- Freedom of Opinion and Expression*, ¶¶ 46-49, U.N. Doc. A/71/373 (Sept. 6, 2016) [hereinafter *SRFOE Report of Sept. 2016*]; *SRFOE Report of May 2011*, *supra* note 14, ¶¶ 37, 62.
- 91 The Promotion, Protection and Enjoyment of Human Rights on the Internet, Human Rights Council Res. 38/7, U.N. Doc. A/HRC/RES/38/7, ¶ 1 (July 17, 2018). Those rights are protected under article 20 of the UDHR, *supra* note 5, and articles 21 and 22 of the ICCPR, *supra* note 4.
- 92 Hum. Rts. Comm., *General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21)*, ¶ 33, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).
- 93 AMNESTY INT’L, HUMAN RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: REVIEW OF 2019, at 56 (2020).
- 94 *Id.*
- 95 *Qatar: Families Arbitrarily Stripped of Citizenship*, HUM. RTS. WATCH (May 12, 2019).
- 96 *SRR Report of Apr. 2020*, *supra* note 60, ¶¶ 56, 73.
- 97 See HUM. RTS. WATCH, *supra* note 62, at 23.
- 98 See *id.* at 23; David Harding, *Can Qatar’s Feminists Go Where Saudi Arabia’s Couldn’t?*, OZY (June 22, 2020); *Did Qatar Govt. Force Feminists to Close Their Accounts on Twitter?*, AL BAWABA (Aug. 8, 2019).
- 99 Nat’l Hum. Rts. Comm., *supra* note 75, at 47; Harding, *supra* note 98. This discussion of the Cyber Crime Police likely refers to authorities in the Cybercrime Combating Centre. See *Qatar 2020 Crime & Safety Report*, OVERSEAS SEC. ADVISORY COUNCIL (May 8, 2020) (outlining several of the actors involved in cyber security prevention, education, response, surveillance, data collection, and enforcement, including that the “[Ministry of the Interior]’s Cybercrime Combating Centre provides data and security intelligence to roving security patrols to interdict and investigate criminal acts”).
- 100 See *Did Qatar Govt. Force Feminists to Close Their Accounts on Twitter?*, *supra* note 98; Hum. Rts. Watch, *supra* note 62, at 23.
- 101 Convention on the Elimination of All Forms of Discrimination against Women, arts. 3, 7(c), *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13.
- 102 See *SRFOE Report of Sept. 2016*, *supra* note 90, ¶ 48; Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Women Human Rights Defenders: Report of the Special Rapporteur on the Situation of Human Rights Defenders*, ¶¶ 24, 95, U.N. Doc. A/HRC/40/60 (Jan. 10, 2019) [hereinafter *SRHRD Report of Jan. 2019*].
- 103 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention: United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court*, ¶ 11, U.N. Doc. A/HRC/30/37 (July 6, 2015) [hereinafter *WGAD Report of July 2015*]; Hum. Rts. Comm., *General Comment No. 35: Article 9 (Liberty and Security of Person)*, ¶¶ 17, 22-23, 53, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014).
- 104 *WGAD Report of July 2015*, *supra* note 103, ¶ 10; UDHR, *supra* note 5, at art. 19; ICCPR, *supra* note 4, at art. 19.
- 105 *WGAD Report of July 2015*, *supra* note 103, ¶ 11.
- 106 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 46, U.N. Doc. A/HRC/36/37 (July 19, 2017); UDHR, *supra* note 5, at art. 7; ICCPR, *supra* note 4, at art. 26.
- 107 *SRHRD Report of Jan. 2019*, *supra* note 102, ¶ 95.
- 108 See AMNESTY INT’L, *supra* note 93, at 56; AMNESTY INT’L, *supra* note 74.
- 109 Hum. Rts. Comm., *General Comment No. 32: Article 14, Right to Equality Before Courts and Tribunals and to Fair Trial*, ¶ 6, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007) [hereinafter *HRC General Comment No. 32*].
- 110 *WGAD Report of July 2015*, *supra* note 103, at annex, princ. 1; *HRC General Comment No. 32*, *supra* note 109, ¶¶ 15, 19, 31-34, 38; ICCPR, *supra* note 4, at art. 14.
- 111 *WGAD Report of July 2015*, *supra* note 103, at annex, prins. 7-9; *HRC General Comment No. 32*, *supra* note 109, ¶ 10.
- 112 AMNESTY INT’L, *supra* note 74. As of the date of writing researchers did not locate any further updates.
- 113 *Id.*
- 114 See *id.*
- 115 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 60, U.N. Doc. A/HRC/39/45 (July 2, 2018) [hereinafter *WGAD Report of July 2018*].
- 116 UDHR, *supra* note 5, at art. 6; ICCPR, *supra* note 4, at art. 6.

NOTES

- 117 UDHR, *supra* note 5, at art. 6; ICCPR, *supra* note 4, at art. 16. Additionally, incommunicado detention violates the right to be brought promptly before a judge protected by ICCPR article 9(3) and the right to challenge the lawfulness of detention protected by ICCPR article 9(4). ICCPR, *supra* note 4, at arts. 9(3), 9(4).
- 118 Theo van Boven (Special Rapporteur on Torture), *Report of the Special Rapporteur on the Question of Torture Submitted in Accordance with Commission Resolution 2002/38*, ¶ 26(g), U.N. Doc. E/CN.4/2003/68 (Dec. 17, 2002) [hereinafter *SRT Report of Dec. 2002*].
- 119 Manfred Nowak (Special Rapporteur on Torture), *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum—Study on the Phenomena of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in the World, Including an Assessment of Conditions of Detention*, ¶ 156, U.N. Doc. A/HRD/13/39/Add.5 (Feb. 5, 2010) (international law and standards prohibit “all secret and incommunicado detention”); see *Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. Res. 72/163, U.N. Doc. A/RES/72/163, ¶ 16 (Dec. 19, 2017).
- 120 WGAD *Report of July 2018*, *supra* note 115, ¶ 60.
- 121 *SRT Report of Dec. 2002*, *supra* note 118, ¶ 26(g).

Berkeley Law

International Human Rights Law Clinic

International Human Rights Law Clinic
University of California, Berkeley
School of Law
353 Law Building
Berkeley, CA 94720-7200
phone: (510) 643-4800
humanrightsclinic.org

ISBN# 978-1-938722-10-3



General inquiries info@gc4hr.org
Media inquiries media@gc4hr.org
GCHR on Facebook <https://www.facebook.com/gc4hr/>
GCHR on Twitter <https://twitter.com/GulfCentre4HR>