**Unofficial Translation**

**Information provided by the State of Qatar**

**On general comment No. 5 on "Migrant rights to liberty and protection against arbitrary detention"**

1-The central theme of the questionnaire is the protection of the rights of foreign workers to freedom and protection against detention within the context of regular and irregular migration, while the term "migration" or "migrant" is not commonly used in the Qatari legal system, as it is replaced by the term (expatriate) whose entry into the country is with the purpose of (visiting) or working, but not of permanent residence.

 2. Furthermore, the State of Qatar is not facing irregular mass exoduses of foreign workers and subsequent serious violations of their human rights as a result of migration procedures such as (mandatory detention, the problem of housing in poor conditions, dispersal of family members and detention of children, etc.).  Their recruitment is governed by employment contracts between employers and expatriate workers through offices of recruitment (in the source countries) and under the supervision of the Ministry of Administrative Development, Labour and Social Affairs, in addition to regulation of the conditions of expatriate workers through bilateral agreements between the State of Qatar and a number of labour exporting countries.

3. It follows that the questions raised in the questionnaire related to detention in the context of migration do not need to be answered.

However, it is useful to refer here (as long as foreign workers are concerns) to the rights and guarantees available for them within the national legal system in terms of security, freedom and protection against arbitrary arrest and detention during their residence in the State of Qatar with the purposes of employment and not of migration. This responds to some of the questions raised in the questionnaire as much as it relates to the content and scope of these rights of non-citizens, including expatriate workers.

These rights of expatriate workers are reflected in the Constitution, in Code of Criminal Procedure and in other relevant laws as follows:

**A -Status of the issue in the Constitution**

The Constitution guarantees expatriate workers rights related to (equality before the law, access to justice, grievance, security and freedom and protection against arbitrary detention).

**In terms of the following articles:**

Articles that address individuals in general and without any discrimination between citizens and residents.

* Article 18:  The Qatari society is based upon the pillars of justice, charity, freedom, equality, and good morals.
* Article 36: Personal freedom is inviolable. No one can be arrested, or jailed, or searched, or having his residence confined, or having his freedom of residence or mobility restricted, except according to the provisions of the law. No one shall be subjected to torture or humiliating treatment. Torture is a crime punishable by law.
* Article 35: People are equal before the law. There shall be no discrimination against them because of sex, race, language, or religion.
* Article 46: Every individual has the right to address public authorities.
* Article 135 Litigation is an inviolable and guaranteed right to all the people. The law specifies the procedures and manners of exercising this right.

Articles that address workers and residents in particular:

* Article 30: The relationship between workers and employers is based upon social justice, and is regulated by law.
* Article 52: Every person, legally residing in the State, enjoys protection of his person and property, according to the provisions of the law.

B- **Criminal Procedure Code and the Law on the Public Prosecution:**

The law includes a range of safeguards that provide protection against arbitrary arrest and detention, which are as follows:

   • Report on the detention procedure by a competent investigative authority, represented by the Public Prosecution as an independent, competent and discreet judicial body (A / 1 of Law No. 10 of 2002 on Public Prosecution).

**·**    Identification of situations in which detention is permitted (A / 110 procedures).

·    Determination of length of pre-trial detention and its extension (A / 117 et following/ procedures).

·    Right of a defendant in pre-trial detention to request temporary release either with or without bail (A / 119 procedures).

·    Members of the Public Prosecutor’s Office have the right to enter places of detention to ensure that no prisoner is being held there unlawfully. They may examine registers, arrest warrants and detention orders, make copies thereof, meet with any detainee and listen to any complaint that he or she may wish to submit. They should be provided with all the assistance they need to obtain the information they require.” (A/335).

·       Any prisoner in a place of pretrial detention may, at any time, submit a written or oral complaint to the officer in charge, requesting that the complaint be forwarded to the Public Prosecutor’s Office after it has been recorded in a special register.  (A/339 Para 1).

·    Anyone who knows that a person is being detained unlawfully or in an unauthorized place of detention shall notify a member of the Public Prosecutor’s Office. (A/339 Para 2).

·    Right of a defendant placed in pretrial detention to appeal against the pretrial detention order or its extension as (Article 157 / procedures) stipulates that (the suspect or his/her representative may appeal the order of precautionary detention against him).

* Any person arrested or precautionary detained shall be informed immediately of the reasons of the arrest, detention and the charge attributed thereto, and that person shall be entitled to communicate with any person he so requests and to seek the assistance of an attorney (A.113).

It is to be noted that the term "communicate" is absolute; which means that the detainee may communicate with his family, his lawyer, his legal adviser, his private doctor, the consular representative of his country, and any person who deems it necessary to communicate with.

**Other legal status of expatriates:**

The questionnaire included questions regarding the detention procedures of minor expatriates, monitoring of places of detention and repatriation of expats.

* With regard to the detention of minor expatriates for criminal reasons, this category is dealt with in accordance with special procedures provided for in Law No. (1) of 1994on juveniles, taking into consideration the age of the juvenile, his/her being incapable of discernment, his/her lack of awareness of the consequences of prohibited acts, his/her rehabilitation assistance. Such procedures are performed by a specialized system including (juvenile police, public prosecution, juvenile control), and all what satisfies the provisions of the Convention on the Rights of the Child
* With regard to repatriation of expatriate workers, its legal basis is the amended Law 21of 2015 which regulates the entry and exit of the expatriates as indicated in:

1-    The residence permit of the expatriate is based on a valid employment contract under the Labour Law and Law No. 21of 2015 which regulates the entry, exit of the expatriates and their residence. Therefore, the expiry of this contract would invalidate the purpose for which the residence permit was authorized. The expatriate shall then be required to leave the country after the expiration of the residence permit to settle his/her personal affairs before leaving, pursuant to Article (24) of the related law.

The expatriate shall leave the country if he/she does not obtain a residence permit in accordance with the provisions of the law

He shall also be required to leave the State if the residence permit expires, or is revoked for any reason, or the purpose for which it was authorized is over, within ninety days as of the date of expiry of the permit, its revocation or the fulfilment of the aim.

2-    Revocation of residence permit following the issuance of a repatriation order of the expatriate in accordance with article 25 of the said law which has empowered the Minister of the Interior to issue a repatriation order of any expatriate, if there is evidence that his/her presence in the State threatens its security or safety inside or outside the borders, or jeopardises its national economy, public health or morals.

Also, in case of the issuance of a judicial judgement on the repatriation of an expatriate on the basis of Article (28) of the said law.

3- The stay of an expatriate without a residence permit, in the aforementioned cases, makes his/her residence in the country illegal. Therefore, he/she must be repatriated and his/her departure secured on the basis of the provisions of Law No. 21 of 2015 which regulates the entry and exit of expatriates and their residence and in accordance with the approved work context in the Search and *Follow up Department* which has, for this purpose, a model temporary detention centre equipped with the most up-to-date means for persons awaiting departure until their final procedures are completed.

 Including:

• Modern and air-conditioned accommodation.

• Health services (a special hospital inside the centre which operates around the clock).

  • Daily subsistence requirements (with special dining rooms).

  • Recreational services (sports facilities and a TV lounge).

  • Termination of procedures required by external personal treatment.

  • Organizing visits for families, lawyers, and consular representatives.

  This category of expatriates should be treated with consideration and human dignity in line with national and international human rights standards.

 It should be noted that the Ministry of Interior has taken care to facilitate the procedures of repatriation and to secure the departure of those mentioned through several possible facilities for humanitarian considerations, including:

• Workers who have broken the Law No. 21 of 2015 and voluntarily surrendered for the purpose of travel will not be permanently arrested. Rather, their procedures will be terminated and their departure will be secured without arrest.

   • Persons awaiting repatriation and have lost their passports, their travel documents will be produced in coordination with their embassies to enable them to return to their countries. They will also be exempted from fines for traffic violations that they are unable to pay.

  • Issuing tickets for these workers if they are unable to do it. 249 tickets were issued in 2017, 7502 in 2016, 10068 in 2015 and 2858 in 2014.