

The Prohibition of Torture in Iranian Jurisprudence and Law: A Comparison with International Law (Insights for Judicial Policymaking)

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Abstract

The prohibition of torture, as one of the most evolved rules, has gone through ups and downs over time. In international law, after the global consensus of 1948, this title was considered organized in legal systems and emerged as a binding rule in international documents. However, before the establishment of contemporary international law, the ugliness of acts of violence, particularly against prisoners, had been condemned in religious schools. In this regard, Islamic traditions provide explicit rulings that, while inherently serving as a source for jurisprudential decision-making, have led to divergent opinions due to the generality of the narrations and the context of their revelation.

A look at the legal opinions of the Guardian Council and the development of Iran's new legal procedure regarding the crime of torture, compared to the views of constitutional experts at the beginning of the revolution, clearly defines the different jurisprudential and legal approaches to this issue. The present article tries to present a new perspective by analyzing several significant cases in this field and the judicial rulings of courts, using a descriptive-analytical method based on library and documentary research. The findings offer new insights that can shape judicial policies in this area.

Keywords: Torture; Binding ban; Absolute ban; Guardian Council; International law; Court decisions.

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