

**This is an interim judgement prepared following a three-day hearing. The Tribunal will deliver a full judgement in due course.**

The Iran Tribunal has been a unique undertaking. For the first time, it has given victims an opportunity to address the world about atrocities committed in the Islamic Republic of Iran between 1981 and 1988. This process has been exceptional.

We commend the initiative of those without whose hard work, courage and perseverance this historic process would not have been possible. The Tribunal extends its thanks to the witnesses and to the organising committee, as well as to the Steering Committee, the Truth Commissioners, the prosecutors and all those who have tirelessly contributed to this process.

The Tribunal heard evidence from 19 witnesses, comprising eyewitnesses and experts, who submitted written statements to the Tribunal in advance; these documents were translated from the original Persian into English where necessary for the Tribunal's help. Witnesses were questioned by a team of experienced prosecutors and then by members of the judging panel; where witnesses wished to testify in Persian, the Tribunal was aided by simultaneous interpretation provided by highly capable interpreters. The Islamic Republic of Iran was invited to attend via a letter sent to its ambassador in The Hague, dated the 12<sup>th</sup> September 2012, but has refused to acknowledge the invitation or reply. The Tribunal deplores the decision of the Islamic Republic of Iran not to appear at these hearings.

The evidence speaks for itself. It constitutes overwhelming proof that systemic, systematic and widespread abuses of human rights were committed by and on behalf of the Islamic Republic of Iran. The Tribunal has been impressed by the volume and cogency of the uncontested evidence.

This Tribunal has been many years in the making: the thought was conceived by Iranian exiles as they fled persecution in their homeland, coming together either as individuals or organised as civil society, who are determined to seek justice for crimes committed against them and their compatriots.

This Tribunal rests on the authority of international law and the primacy of the rule of law, as adjudicated by independent and impartial international judges.

This judgement builds on a formidable corpus of evidence, which includes the Report of the Truth Commission, which held hearings in London from the 18<sup>th</sup> to 22<sup>nd</sup> June 2012. It heard 75 witnesses, who were personally victims of the Iranian regime: either tortured and imprisoned themselves, or who were the family of executed prisoners. This evidence sets out

clearly and methodically the acts committed by the Islamic Republic of Iran against its citizens. The witnesses submitted written statements in addition to their oral testimony, and this evidence is widely available online as an appendix to the Commission's report. The Truth Commission Report runs nearly 64 pages long and is substantiated by 1,400 citations, such that every assertion it makes is fully corroborated by the evidence. The Tribunal accepts this report as credible evidence.

The witnesses before the Commission and the Tribunal attested to the nature of these human rights abuses as a systemic and widespread assault on a civilian population, supported, in many instances, by documentary evidence.

As advanced by the Prosecution, the following facts have been examined and found compelling. There are six forms of gross human rights abuses to which the evidence presented to the Truth Commission and this Tribunal point incontrovertibly: murder; torture, unjust imprisonment; sexual violence; persecution and enforced disappearance. As the prosecutor noted in his closing submissions:

*Firstly, the Islamic Republic of Iran committed murder. Nima Sarvestani's documentary showed graves of executed prisoners stretching out as far as the eye can see; the gravedigger of Shiraz reported the delivery of sixty bodies on a single occasion, of victims at most twenty years old. Men were arrested at ten in the morning and dead by eleven; entire families were eliminated and whole wards purged; rows of prisoners were shot by firing squad, still breathing until they were finished off by coups de grâce; and we heard from this morning's witness of how child prisoners were required to administer these coups de grâce; truckloads of bodies were tipped into mass graves. The Tribunal heard extensive evidence of the murder of minors. In no case was an execution ordered in accordance with due process. In 1988, pursuant to a fatwa issued by Ayatollah Khomeini, over 5,000 political prisoners were killed (most were hanging) over the space of a few months.*

*Secondly, there has been not one witness who was not tortured in prison, both physically and mentally. Prisoners were hanged from the ceiling by their arms, flogged on the soles of their feet, beaten, deprived of sleep, kept in solitary confinement, subjected to mock executions and forced to watch other prisoners being tortured – or were tortured in the presence of their children. Shokufeh Sakhi told the Tribunal how she was subjected to sensory deprivation in a dark box (the "coffin") for hours on end, month after month. The general effect was to turn prisoners into*

*“zombies” by destroying their senses of self and dignity. Another witness told the Tribunal of the “psychological rape” that turned him into a “puppet”, who would shoot his fellow prisoners as member of a firing squad of tavabeen (repenters).*

*Thirdly, the Islamic Republic of Iran has committed the crime of persecution, which the Report touched on in §4.5.2 (p.47). Kurds, Arabs and Bahá'ís were targeted. The Bahá'ís were denied protection; the Constitution deliberately excluded them from a class of protected minorities, which meant that they could be killed with impunity; their holy sites, including the House of Báb, were razed; their homes were set ablaze; their cemeteries were vandalised; their leadership was repeatedly eliminated; they were refused the right to practise their religion; they were dismissed from their employment; they were forced to convert to Islam and divorce their spouses, and were pressured to marry Revolutionary Guards; they were imprisoned on the charges of being Bahá'í, and were threatened that they would be eliminated one by one.*

*Fourthly, the Islamic Republic of Iran tolerated sexual abuse of prisoners by guards. Such evidence is naturally difficult to obtain, but §1.4.2 of the Report explains how men and women were subjected to sexual abuse.*

*Fifthly, individuals were imprisoned “in violation of fundamental rules of international law”. §1.2-1.4 of the Report describes how persons were detained for long periods without trial. Prisoners were charged with vague political offences at hearings lasting on average a couple of minutes, during which they were blindfolded and verbally assaulted; no defendant in a civilian court was ever given access to any defence counsel of any sort. Prisoners were subjected to cruel, inhuman and degrading treatment: prison cells were overcrowded; medical assistance was withheld, including for injuries from torture and for contagious diseases that spread in the wards; prisoners were forced to participate in religious indoctrination and lived under constant threats of death.*

*In addition, prisoners’ families were subjected to cruel treatment. They were forced to pay for the bullets used to shoot their loved ones; they were assaulted when they tried to hold mourning services and gravestones were smashed; mothers were refused the right to recover their children’s bodies. When Malekeh Mostafa Soltani went to collect her brothers’ bodies, they were bullet-ridden to the extent that their organs were coming out and they bled profusely. Witnesses attested to depression and*

*recurring nightmares. The legacy of abuse is extensive and inevitably persists to the present day.*

Moreover, we concur with the “Attribution of the Facts” on page 64 of the Truth Commission’s report:

*The arrests, disappearances, methods of torture, “trials” and executions as attested to by witnesses had the same characteristics in all the prisons and detention centres in Iran, whether in Mashhad, Shiraz, Tehran or Mahabad. The witnesses’ testimonies disclosed similar and widespread patterns of brutality and disregard for basic human rights as well as extra-judicial executions throughout the country.*

*The Commission concludes that these violations of human rights were devised, instigated and executed (or caused to be executed) by a single central authority, and as such the Government of Islamic Republic of Iran is the only authority responsible for these acts.*

*The facts reported by the Commission have been committed by State officials: “judges”, “prosecutors”, prison officials, torturers and interrogators. Because they are State agents, it follows that Iran itself bears international responsibility.*

*However, Iran’s responsibility does not exclude individual responsibility of the perpetrators themselves.*

Furthermore, having established the above factual background, we find that:

- a) The Islamic Republic of Iran bears absolute responsibility for gross violations of human rights against its citizens under the International Covenant of Civil and Political Rights;
- b) The Islamic Republic of Iran has a strong case to answer for crimes against humanity under customary international law as applicable to Iran in the 1980s.

The Tribunal recommends:

- 1) That the Islamic Republic of Iran as the prime authority, bearing the greatest responsibility, investigate these atrocities and bring the alleged perpetrators to justice;
- 2) That the Human Rights Council of the United Nations establish a commission of inquiry, as recommended by the special rapporteur, to investigate these atrocities;

- 3) That the Organisation of Islamic Cooperation mandate its Independent Permanent Commission of Human Rights to designate these violations a “priority human rights issue” and “conduct studies and research” into it;
- 4) That individual states implement their obligations under international law, including the exercise of universal jurisdiction to pursue individual perpetrators and to hold them accountable for crimes against humanity;
- 5) That civil society fully support and pursue the findings of this Tribunal.

The Tribunal reminds the international community of the words of Justice Jackson at Nuremberg: “crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced”.

The Tribunal wishes once again to thank all the organisers and witnesses for their extraordinary initiative in seeing this process through to fruition: may your example serve as a model for other victims of human rights abuses across the globe to claim their rights under international law and succeed in getting the world to listen to their plight.

**Adopted by the Iran Tribunal at the Peace Palace in The Hague, on the 27<sup>th</sup> day of October 2012.**

*Johann Kriegler*

*Makau Mutua*

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