**Report on the Access of Indigenous Peoples to Justice in the Islamic Republic of Iran**

**Submitted to:** Special Rapporteur on the rights of indigenous peoples

**Submitted by:** Maat for Peace, Development and Human Rights (In a consultative status with UN ECOSOC)

**About:** TheIslamic Republic of Iran

**Date:** May 2019

**Preface**

Maat for Peace, Development and Human Rights (Egypt) submits this report to the Special Rapporteur on the rights of indigenous peoples to shed light on the violations of the rights of the Ahwazi people regarding their lack of access to justice and the enjoyment of the right to a fair trial as one of the most important human rights.

The Islamic Republic of Iran continues to violate human rights in general and the right to justice for indigenous people in particular, which are presumed to be guaranteed under the International Covenant on Civil and Political Rights, however, it ratified the covenant more than four decades ago, victims of human rights violations in Iran, including Ahwazi people, can not access any international body to present the violations committed against them, as a result of Iran's reservation to the First Optional Protocol allowing individuals to lodge complaints with the Human Rights Council on violations of their rights by the state. Although civil and political rights are theoretically included to some extent in Iranian national law, the authorities show no respect or obligation to protect these rights and it is difficult for victims to take an action against the state's violations of rights.

**The Legal Framework of the Right of Indigenous Peoples to Justice**

Article 1 of ILO Convention No. 169 defines the concept of indigenous peoples as being “Peoples in independent countries who are regarded as indigenous on account of their descent from populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present states boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.” the same convention further describes the characteristics of indigenous peoples, emphasizing their recognition of traditional lifestyles, culture and lifestyle different from the majority of the population, such as their way of earning a livelihood, language, customs, etc. In addition to the existence of social institutions and political organizations of their own. They also live in historical continuity in a particular area or before others conquer or come to the area.[[1]](#footnote-1)

The United Nations Declaration on the Rights of Indigenous Peoples, adopted on April 13, 2007, affirms in Article 2 of the Declaration that indigenous peoples and its individuals are equal and free, like all other peoples and individuals, and have the right not to be discriminated against while exercising their rights, especially if discrimination is based on the origin or original identity. In addition, Article 5 affirms the right of indigenous peoples to preserve and promote their political, legal, economic, social and cultural institutions. Also, Article 34 provides for the right of indigenous peoples to promote, develop and maintain their institutional structures, including their legal systems or norms, in accordance with international human rights standards, which are one of the basics of their right to self-determination. Furthermore, Article 40 of the same affirms the right of Indigenous peoples to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.[[2]](#footnote-2)

In the preamble to the International Covenant on Civil and Political Rights, it is emphasized that the international community must recognize the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. In accordance with the provisions of the Covenant, States Parties are committed to protecting the rights of all peoples and to taking positive steps to incorporate relevant privileges into national law and to ensure that citizens enjoy their rights freely without prejudice.[[3]](#footnote-3)

At the global level, States vary in recognition of the jurisdictions of indigenous peoples. For instance, many of Latin American countries’ national constitutions recognize the jurisdictions of indigenous peoples, particularly in Colombia, Peru, Venezuela, Ecuador and Bolivia. On the other hand, the constitutions of the Asian countries, especially Thailand and Nepal, do not recognize the customary law governing the affairs of indigenous peoples.[[4]](#footnote-4)

**Iranian Violations of Ahwazi People's Right to access to Justice**

Theoretically, Iran has incorporated most of the inherent rights contained in the International Covenant on Civil and Political Rights in its criminal and civil law, but practically, successive Iranian governments have continued to supervise systematic violations committed by the security forces and judicial authorities against indigenous peoples. The victims of these abuses are, particularly the Ahwazi people, denied the right to bring criminal proceedings against the officials in the local courts, also violators effectively associated with government agencies enjoy impunity in any prosecution, as well as they have spred the violations of the right of the indigenous peoples of Ahwaz to access to justice

**There are many violations in this regard:**

**1.The measures taken against the Ahwazi people in detention centers**

The Ahwazi activists, political prisoners and other individuals in the revolutionary courts of Iran have long complained of illegal coercive confessions, which routinely lead to long prison sentences and exile, and in many cases innocent people have been executed in prison. In accordance with the International Covenant on Civil and Political Rights and International Law, the Iranian State is committed to provide real and appropriate compensation to victims of these inhumane violations.[[5]](#footnote-5)

 The Iranian authorities arrest and kill dozens of defenseless people of Ahwaz and Ahwazi activists in various fields, as well as the implementation of inhumane verdicts against them. For example, the Iranian Revolutionary Court sentenced many Ahwazi citizens tortured in detention centers to obtain coercive confessions. The court also has prevented Ahwazi detainees from appointing a lawyer and defending their rights.[[6]](#footnote-6)

1. **Taking into consideration the cultural and social characteristics of the Ahwazi people during the trials**

However, Article 34 of the Iranian Constitution guarantees the right of access to the courts for every citizen, it states that any citizen has the right to resort to qualified courts, which is an indisputable right for every citizen and that all citizens have the right to referring to such courts.[[7]](#footnote-7)

However, violations of this article, as well as violations of the International Covenant on Civil and Political Rights (ICCPR) relating to fair trials of detainees, are widespread in Iran's courts, particularly in trials held in revolutionary courts where political detainees, Ahwazi intellectuals and those accused falsely of crimes related to national security are deprived of any equal rights before the courts. Detainees are tried summarily giving no enough time to prepare defenses by a lawyer, and are denied basic assistance by an interpreter in case they have difficulty speaking or understanding Persian, the only language officially recognized in the courts, which makes many even incapable of understanding the proceedings, not to mention replying to the charges against them. Prosecution of these courts is primarily based on self-incriminating confessions of defendants obtained under duress through physical and psychological torture.[[8]](#footnote-8)

**3. Regarding compensations and remedies for indigenous peoples**

Article 171 of the Iranian Constitution stipulates that " the event that one suffers financial or spiritual damage as a consequence of a failure or mistake of a judge in the case, the verdict, or the application of the verdict to the specific case, in case of guilt, the one who is guilty is liable in accordance to Islamic criteria; otherwise, the damage is compensated by the government. In all cases the reputation of the accused will be cleared and restored.”[[9]](#footnote-9)

However, victims of human rights violations are, particularly the Ahwazi people, denied the right to bring criminal proceedings against the officials in the local courts, also violators effectively associated with government agencies enjoy impunity in any prosecution, as well as they have spread the violations of the right of the indigenous peoples of Ahwaz to access to justice. In addition, victims of human rights violations can not realistically expect to obtain any compensation or reparation under the current criminal law for several reasons including: fear of intimidation, harassment, difficulty in obtaining evidence due to lack of access to timely medical examinations, lack of evidence provided through criminal investigations and non-independence of the judiciary.

**4. Regarding special measures to ensure that detention centers respect cultural and religious practices and health services**

The Ahwazi detainees in prisons of Iran are living in particular health conditions. They are subjected to many violations by means of systematic physical and psychological torture such as denial of real medical care and deliberate delay in providing treatment to prisoners, oppression, humiliation and torture exercised by detention and interrogation teams, which are considered as violations of many international covenants and conventions. The level of health care for prisoners is very poor, whereas it is sham and virtually non-existent. Also, the medical clinics in the Iranian prisons and detention centers lack the minimum number of health services, equipment, medical supplies and specialist physicians to examine and treat multiple cases.[[10]](#footnote-10)

Arguably, Iran violates the right of the indigenous people in the region of Ahwaz to access to justice, uses the worst techniques of psychological and physical torture against Ahwazi detainees, subjects them to trials that infringe the international rules of trials, and deprives them of the right to appoint lawyers to defend them, also psychological techniques are used to compel defendants to confess fabricated charges to be used as a pretext to carry out the death sentences against them or to convict them of long-term prison sentences, in addition to depriving their families and relatives of visiting them.

**Recommendations**

* The international community should press the Iranian authorities to urge them to fulfill their international obligations in ensuring universal access to justice without discrimination.
* Iran should implement its legislation and laws on the right of all citizens to a fair trial
* Iran should rescind its reservation to the First Optional Protocol, which allows individuals to lodge complaints with the Human Rights Council on violations of their rights by the state.
1. - تقرير حول الاقليات والشعوب الاصلية، موقع الحق في التعليم، الرابط، <https://www.right-to-education.org/ar/issue-page/marginalised-groups-0> [↑](#footnote-ref-1)
2. - للمزيد من المعلومات عن الشعوب الاصلية يرجي قراءة اعلان الامم المتحدة للشعوب الاصلية على الموقع التالي، <https://www.ohchr.org/Documents/Publications/Declaration_indigenous_ar.pdf> [↑](#footnote-ref-2)
3. - يمكن الرجوع إلى العهد الدولي للحقوق المدنية والسياسية للحصول على مزيد من المعلومات، الرابط، [http://www.nhrc-qa.org/wp-content/uploads/2014/01/العهد-الدولي-الخاص-بالحقوق-المدنية-والسياسية.pdf](http://www.nhrc-qa.org/wp-content/uploads/2014/01/%D8%A7%D9%84%D8%B9%D9%87%D8%AF-%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A-%D8%A7%D9%84%D8%AE%D8%A7%D8%B5-%D8%A8%D8%A7%D9%84%D8%AD%D9%82%D9%88%D9%82-%D8%A7%D9%84%D9%85%D8%AF%D9%86%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A%D8%A9.pdf) [↑](#footnote-ref-3)
4. - تقرير الية الخبراء المعنية بالشعوب الاصلية المقدم إلى الدورة 27 لمجلس حقوق الانسان ، ابريل 2014، رقم الوثيقة A/HRC/27/65 ، الرابط، <https://undocs.org/ar/A/HRC/27/65> [↑](#footnote-ref-4)
5. - إيران تنتهك حقوق الاحواز: ملاحظات ختامية للجنة المعنية بحقوق الانسان التابعة للأمم المتحدة، مركز دراسات دور انتاش،2 سبتمبر 2018، الرابط، <https://www.dusc.org/ar/article/1350> [↑](#footnote-ref-5)
6. - التقرير السنوي لمركز الاحوازي لحقوق الانسان لعام 2018، 7فبراير 2019، الرابط، <http://acfh.info/ar/?p=2407> [↑](#footnote-ref-6)
7. - راجع 34 من الدستور الايراني [↑](#footnote-ref-7)
8. - إيران تنتهك حقوق الاحواز: ملاحظات ختامية للجنة المعنية بحقوق الانسان التابعة للأمم المتحدة، مركز دراسات دور انتاش،2 سبتمبر 2018، الرابط، <https://www.dusc.org/ar/article/1350> [↑](#footnote-ref-8)
9. - راجع المادة 171 من الدستور الايراني، الرابط، <https://www.constituteproject.org/constitution/Iran_1989.pdf?lang=ar> [↑](#footnote-ref-9)
10. - للمزيد من المعلومات حول الأوضاع الصحية في أماكن الاحتجاز الإيرانية يرجى الاطلاع على التقرير الخاص بهذا الخصوص على الرابط التالي <http://acfh.info/ar/?p=2392> [↑](#footnote-ref-10)