|  |
| --- |
| **Categorical Prohibition of Torture: an Islamic Perspective**  1. Rahim Nobahar, Associate Professor, Department of Islamic Law, Faculty of Law- Shahid Beheshti University.  2. Seyed Hosein Alizadeh Tabatabaei, PHD of Jurisprudence and Principles of Islamic Law at Science and Research Branch, Islamic Azad University, Tehran, Iran.  3. Seyed Mohammadreza Ayati, Professor of Jurisprudence, Faculty of Theology, law and Philosophy at Science and Research Branch, Islamic Azad University, Tehran, Iran.  In the international Human Rights, the prohibition of torture is categorical and unexceptional. In Islamic jurisprudence, prohibition of torture is a well-known axiom. The undconditionality of the rule, however, is under doubt and controversy. According to some jurists, in case of conflict between prohibition of torture and a more important precept, the prohibition of torture may be overridden, and therefore torture might be permissible under certain circumstances. Likewise, at the international level, some states have tried to justify torture in certain circumstances under the pretext of fighting terrorism. This paper, based on some jurisprudential principles such as the principle of human dignity, the principle of necessity of respect to all human beings, the lack of any evidence in hadiths related to torture suggesting exceptionability of prohibition of torture, the presumption of innocence and incredibility of any confession induced by torture, argues for unconditionality of prohibition of torture. In addition, the article criticizes arguments suggested to allow torture in certain cases, and concludes that they are not sufficient.  **Keywords:** Fiqh, Torture, Human dignity, Forced confession. |
| The full Persian version of this article is published in the Legal Research Quarterly of Faculty of Law, Shahid beheshti University, No. 81, 2018, pp.163-190. |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |