

**Legal rulings of Grand Ayatollah Montazeri on the political legitimacy
of the Islamic Republic of Iran**

Text of the letter by Dr. Mohsen Kadivar

In the Name of God the Most Merciful

To the auspicious audience of theologian and jurist, our most erudite and courageous master, the Grand Ayatollah Montazeri, may his presence endure

Peace be upon you.

I congratulate and offer my good wishes on the occasion of the birthday of Imam Ali (Peace be upon him), commander of the devout, guide of the oppressed, and the superlative leader of those who seek justice and freedom. We celebrate this holiday at a time when dozens of your eminence's followers have perished, hundreds are wounded and thousands more have been imprisoned for daring to peacefully protest the trampling of their rights by the Iranian government. It is cause for sorrow that this assault on people's rights has been waged in the name of Islam and Shiite beliefs. Grievously have the wicked flown the green banner of Ali while treading on the black path of Muawiah.

I have been instructed by your eminence that transmitting the wisdom of the Quran and the teachings of our Prophet and his household is the surest way of fighting injustice and oppression at all times. Now, this modest student of yours is constrained by the necessities of the times to seek your guidance in keeping the dim flame of hope alive in the innocent hearts of a young generation. This generation has been treated with utmost cruelty in the name of Islam. It has been offered superstition in the name of Shiite beliefs and its soul has been wounded and weakened by lies, dishonesty and betrayal. Now this generation is at your door which is beacon of hope for the oppressed people of Iran. This generation shall never forget your courageous defense of the plundered rights of the people in 1997 that culminated in more than five years of house arrest for your eminence. Now, I hope that your eminence honors this humble student by offering your legal rulings on the following questions, thus piercing the darkness of this dungeon. These are indeed questions that the long suffering but proud people of Iran ask their religious leaders.

I take this opportunity to express my gratitude that you will spend your precious time to prevent the "justice-oriented" Shiite jurisprudence (fegh`h) from sliding into the depths of the "security-oriented" apologetics of oppression which have been the hallmark of the "Ash`ari" school. This is a favor you extend to the pious believers who thirst for truth. I thank you from the bottom of my heart and hope you may remember this humble and cast away student in your prayers.

May your exulted honor be ever lasting

Mohsen Kadivar,

July 6th, 2009

Text of Grand-Ayatollah Montazeri's Response

In the Name of God, the Most Merciful

“And soon shall those who commit injustice learn how the twisters are twisted”
(Quran 26:227)

Prominent Sir, Hujjat ul-Islam wal-Muslimin, Dr. Mohsen Kadivar, may his effusions be everlasting,

I greet you and reciprocate your good wishes. Noting that a detailed answer to your questions requires a more expansive occasion I will nevertheless briefly point to a few answers.

First Question:

Since, according to binding law – namely, conditions implicit in the contract of employment of public servants – occupying certain positions are contingent upon such necessary qualities as justice, honesty, competence and popular electoral support. What is the ruling on those who continue to occupy such public offices after they have repeatedly failed to uphold the conditions of their employment and obtained qualities contrary (to those necessary for their office) leading to near complete certainty (that they have forfeited the right to occupy those public offices)?

Answer to the First Question:

Voiding any of the said conditions (for the occupation of public office) mentioned above, (conditions that) according to both reason and religious law are of the essence of the aptness and legitimacy of the principle of management and administration of public affairs, shall necessarily constitute the automatic dismissal (of the occupying individual) without the need to take further action (by the people). Under such conditions the directives of the administration will not be authoritative.

But voiding conditions that according to reason and religious law are not of the essence of discharging managerial and administrative duties, but which nevertheless have been agreed upon by the parties, will give the choice to the people to dismiss their managers and administrators. In this case, people can, if they so wish, dismiss the occupant from public office as a result of his violations of the agreed upon conditions.

However, voiding conditions of justice, honesty or obtaining and maintaining the popular electoral support, are among the (former) conditions that are of essence to the administration of public affairs. Voiding of these (essential) conditions therefore will lead to the suspension of the principles of “Assuming the Best” (al-haml-u ‘ala al-sehhah) and “Innocent until Proven Guilty” (asalat-ol bara’at) in cases related to the discharging of public duties.

The burden of presenting reliable and reasonable proof that religious or civil law have not been violated in discharging public duties, that rights of people have not been violated and that the occupier still deserves the public trust rests on the occupier. (People need not prove his misdeeds, rather) it is his duty to persuade the people (that he has not violated the conditions of his employment.) If there is a disagreement in such a case, the occupier ought to defend himself in front of a free, fair and impartial judge. According to reason and religious law, the judgment of an organization that is dependent on him will not be authoritative.

Second Question:

What is the religious obligation of people vis-à-vis such occupiers (of public office) who despite repeated “enjoining to righteousness and dissuading from evil” administered to them by people of good faith, nevertheless persist on their actions in violation of religious law?

Answer to the Second Question:

As stated above, the occupiers who have, based on reason and religious law, forfeited their managerial and administrative positions are automatically released of their duties. The continued occupation of their jobs has no legitimacy whatsoever. If they persist on remaining at their positions by force or by deception, people must ascertain their lack of legitimacy and demand their dismissal in the least costly and most expedient way while observing the axiom of “the easiest and most beneficial path.” It is self evident that this is a general duty that applies to everyone regardless of social position. No excuses may be adduced to shirk this responsibility.

Of course, elites who are more familiar with civil and religious law are capable and possess an authoritative voice, bear more responsibility. They must unite and cooperate in order to spread the information and devise solutions by founding parties, organizations and private as well as public gatherings. Imam Ali, our leader, stated in his last will and testament: “Do not abandon the principle of “enjoining to righteousness and dissuading from evil” for then the worst among you will dominate you and your prayers will not be heard.” The domination and control of the wicked is the natural result of abandoning the principle of “enjoining to righteousness and dissuading from evil” because the wicked abuse all opportunities (in order to consolidate their dominion.)

Third Question:

Do perpetrating and persisting on cardinal sins, detailed below, void the principle of “disposition to justice” (necessary for those in positions of political authority) and engender the (opposite) principle of “disposition to injustice”?

1. Ordering and causing the murder of innocent individuals.
2. Causing armed intimidation and terrorizing, as well as striking and injuring of innocent people in public venues.

3. Forcefully preventing the exercise of the religious obligation to preach good deeds and avoid sins by blocking all rational and legitimate channels of peaceful protest.
4. Abolition of liberty, incarceration of the “enjoiners to righteousness and dissuaders from evil”; and exertion of pressure on those individuals in order to extract false confessions from them.
5. Preventing the circulation of information and censorship of the news, which is the prerequisite for exercising the two religious obligations “enjoining to righteousness and dissuading from evil” and “exhorting the leaders of the Muslim community”.
6. Defamating dissidents and justice-seekers on the grounds that “he whoever disagrees with the government is a mercenary of the foreigners and a spy of the alien powers.”
7. Fraudulence, bearing of false witness, and untruthful reporting in matters related to public rights.
8. Betraying the nation’s trust.
9. Tyranny of opinion and ignoring the people’s votes and the admonitions of the knowledgeable.
10. Preventing the exercise of the collective, religiously sanctioned right of the people, to determine their nation’s destiny.
11. Demeaning Islam and debasing the (Shiite) religion through presentation of a violent, unreasonable, aggressive, superstitious, and tyrannical portrait of Islam and the Shiite religion to the world.

Answer to the Third Question:

Perpetrating all the above-mentioned sins or persisting on some of them constitute the most telling and salient evidence of the lack of “the disposition to justice.” Such actions are the embodiment of open inequality and injustice. Truly, if such sins would not constitute the corruption and clear violation of justice in public eye, then which ones would!?

It is evident that if any kind of sin, particularly of those listed above, is perpetrated within the framework and in the name of religion, justice, and law; it will have ramifications beyond the sin itself as it involves the additional sins of deception and tainting the countenance of religion, justice, and law.

In cases where certain affairs seem to be just and legitimate from the point of view of the rulers, yet illegitimate, corrupt, and tantamount to injustice and loss of rights from the point of view of the people, then an appeal to the judgment of just, neutral, and mutually agreeable arbiters must be the criteria (to decide who is right).

Fourth Question:

Can the appeal to phrases such as: “protection of the regime is among the most incumbent of the necessities” justify the violation of people’s legitimate rights and trampling of numerous moral and religious standards such as sincerity and honesty? Can one, under the pretext of “the expedient interest of the regime” lay aside the authentic principle of “justice” – that has been the distinguishing attribute of the political jurisprudence of Shiite Islam throughout history? What is the religious duty of the faithful if some governments would have mistakenly replaced their own personal interests for those of the regime and continue to persist in their error?

Answer to the Fourth Question:

Protection of the regime, in itself, is neither essential nor, per se, obligatory; particularly when the regime becomes equal to a person. When one speaks of a regime whose protection is among “the most incumbent of the necessities”, only a regime can be meant, which is preparatory and instrumental to the upholding of a just society in which the religious and reasonable duties of the people can be carried out. The necessity of the protection of such a regime is of the “contingent” variety, (that is the necessity is contingent on its discharging of its proper functions.) With this in mind, resorting to the phrase: “protection of the regime is among the most incumbent of the necessities” in order to justify and conceal the operations of the administrators and their functionaries who pretend to render justice on behalf of others, is not allowed because it emphasizes the general principle while what is at doubt is its instantiation (al-tamassok bel-‘amm fe-shobhat el-mesdaghiyah). It prejudices the case and reaches a self-serving conclusion without exposing the premises to examination. If offering such an argument is the result of ignorance, then it should be corrected by “enjoining to righteousness and dissuading from evil.”

But it must be self evident that one cannot protect or fortify the Islamic Regime with unjust and un-Islamic acts, as the very need for an (Islamic) regime is based on the necessity of rendering justice and protecting rights, or, in brief, the implementation of Islamic principles. How is it imaginable that through injustice and un-Islamic acts, a just Islamic regime would be secured and strengthened?

A political system based on club wielding, injustice, violation of rights, usurpation and adulteration of votes, murder, subjugation, incarceration, medieval and Stalinist tortures, repression, censorship of newspapers and means of communication, imprisonment of the thinkers and elites of the society on trumped up charges, and extraction of untrue confessions – especially when these are extracted under duress – is condemned and unworthy before (the tribunal of) religion, reason, and the world’s wise observers.

Based on the teachings of the Prophet and his descendants (peace be upon them) confessions in prison do not have one iota of legal or religious value and cannot become a basis for a verdict. (Wasa’el al-Shiieh, the chapter on admissions, section 4; also, the sections on the punishment for theft, section 7.)

The discriminated people of Iran are also fully aware of the nature of such confessions, the examples of which can be found in the history of Communist and Fascist regimes. The nation of Iran realizes that such confessions and false show trail interviews are extracted from their captive sons through force, torture and threats, in order to conceal the regime’s own wrongdoings, and with the intention of besmirching and degrading the people’s peaceful and legal protests.

Those involved in such plots must realize that the managers, operators, and agents of the extraction and broadcasting of such false confessions and interviews are religiously errant and legally liable. The country belongs to the people not to you and me. The decision belongs to the people. (Political) administrators and managers are people's servants. People must be free to assemble and defend their rights through oral and written means.

The Shah of Iran heard the voice of the revolution when it was too late. It is hoped that those in charge of Iran's affairs will not wait that long, that they will show flexibility in the face of the demands of the nation. It is advisable to stop the loss as soon as possible.

Fifth Question:

What are the religious clues for ascertaining that the condition for "tyrannical mandate" has been obtained; and what is the duty of the learned Ulema, (may God exult their word) and (what are) the obligations of the public upon its (tyrannical mandate's) advent?

Answer to the Fifth Question:

Tyranny means deliberate opposition to the commandments of religion, the principles of reason, and the covenants of the people, as embodied in laws. He who is in charge of the affairs of the people and opposes these principles would be a tyrant and his mandate would be, likewise, tyrannical.

The obligation to determine such a condition lies, in the first place, with the educated elites of the society, those who are knowledgeable in religion and independent from the rulers. Similarly, it is incumbent upon the society's thinkers, legal scholars, and experts who are familiar both with the principles of reason and law and the procedures of establishing the deliberate opposition (of the above mentioned government officials to the will of the people) to adduce solid and ascertainable evidence (of such misdeeds.) The said elites will be able to perform this duty only if they are free and independent all government influence and political and factional considerations.

Secondarily, it is incumbent upon the public within the radius of their own awareness of the commandments and laws and with the help of their religious and rational resources to remain in direct contact with the religious, cultural, economic, and political realities, and be aware of the deliberate opposition of the rulers to religion and law.

Finally, to summarize, justice or injustice of the rulers is a palpable reality in the society and its ramifications are evident. This face is not covered behind a mask. Everyone, within his or her capacity to understand and act has a responsibility to resist instances of injustice and corrosion of people's rights; and must alert others as well. (The spreading of awareness shall be done) so they too can engage in "enjoining to righteousness and dissuading from evil" and strive toward offering a solution.

Indeed it is not conceivable that a justice-seeking person would be unwilling to walk on the path of justice or that he would be fearful, or occupy him/herself or others with delusions and procrastinations under the pretext that s/he is powerless to effect change. Fearing those created by God is tantamount to taking partners with the God; and engaging in self delusions and procrastination is embracing darkness and casting others into it.

It has been the tradition of the infallible Imams (peace be upon them) to struggle on the path of social justice. If they only occupied themselves with private religious matters, then why would they be subject to so much oppression, violations, incarceration, surveillance and, ultimately, martyrdom?

God has taken a solid oath from the knowledgeable, particularly the knowledgeable in religion, not to remain silent in the face of injustice: "God has obligated the knowledgeable in religion not to tolerate the rule of the tyrant or the hunger of the oppressed" (Nahjul Balagha, third sermon).

Obviously, upholding this covenant has great rewards just as it has great costs: "Do people reckon that they will be left to say 'We believe,' and (that they) will not be tried? We certainly tried those that were before them, and assuredly God knows those who speak truly, and assuredly He knows the liars". (the Quran, Chapter of Spider [29], verses 2, 3).

"It won't straighten by a whim; it won't materialize by a wish, this is a path of long and grave suffering"

May God grant you success,

17th of the month of Rajab, 1430, 19th of the month of Tir, 1388 [July 10, 2009]

The holy city of Qum

Hossein-Ali Montazeri

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