

# Ayatollah Montazeri's no-nonsense fatwah

**On July, Iranian cleric and activist Mohsen Kadivar wrote to ostracized mentor Ayatollah Hosein-Ali Montazeri asking for direction following the systematic repression of his followers. ● Four days later, Montazeri replied with a strongly-worded *fatwa*. ● by Farian Sabahi**

**B**y law, a fatwa is the response of an eminent lawyer to questions posed by his followers. The answer is binding among those who recognize the lawyer in question as a point of reference. In this case, the man asking the question was Hojatolleslam Mohsen Kadivar,

a reformist cleric who believes in the compatibility between Islam and democracy. During the “Tehran spring,” while moderate President Mohammad Khatami occupied the Iranian presidency, Kadivar raised doubts about the legitimacy of a clergy-run government and as a result served eight months in prison. Last year he left Iran and has since been a visiting professor of religious studies in the United States.

On July 6, 2009 Kadivar, wrote to Ayatollah Hosein-Ali Montazeri, his mentor, demanding to know how it was



Reform-oriented cleric Mohsen Kadivar, right, with his mentor, Ayatollah Hosein-Ali Montazeri. Montazeri concurs with Kadivar that systematic repression by Iran's government is not in keeping with the Koran's teaching.

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possible that dozens of his followers had been killed, hundreds injured and thousands arrested for publicly and peacefully demonstrating against human rights violations. Worst of all, said Kadivar, citizen rights had been trampled in the name of Islam and Shiism.

In his letter, Kadivar asked Montazari what steps might be necessary to avoid the transformation of the ruling Shiite-oriented justice into a “security-oriented” mechanism with an apologist view of oppression.

Montazari, who lives in the holy city of Qum, answered four days later, on July 10, and his fatwa was published on Kadivar’s website. Iranian censors refused to make the grand ayatollah’s response available in Iran. An abbreviated version of his answers is published below.

Montazari was a student of Ayatollah Khomeini, speaking for him during Khomeini’s lengthy exile. After the 1979 revolution, Montazari became Khomeini’s protégé and anointed successor. He was forced to resign and was forcibly sidelined because of criticism he aimed at opposition purges undertaken by the government.

**Kadivar** According to the law and based on contracts that govern employment, public servants should be fair, honest, competent and enjoy popular support expressed through elections. Why do people who have repeatedly failed to adhere to these conditions still occupy public office?

**Montazari** Voiding these conditions for the occupying public office should be automatic grounds for dismissal. This is the religious and logical point of view. In case when the infringements are less grave it should be up to the people to decide whether to relive administrators of their duties. Justice, honesty and popular consensus should always be the primary conditions under which public affair are managed. The burden of proof will always fall on the manager, who will have to persuade the people that he has not failed in his duties. In the event of disagreement, the manager will have to defend himself before a fair and impartial judge, but not before an organization that depends on him, and therefore lacks any authority over him.

**Kadivar** What religious obligation do people have toward public employees who repeatedly violate religious law?

**Montazari** Those who occupy public positions and have failed in their duties should be automatically relieved of them. If they insists on occupying their positions they forfeit their legitimacy. The people must realize this and de-



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A pro-democracy demonstrator in Dubai.

mand their dismissal in the least costly and most expedient way. This is a duty that belongs to all, regardless of social position. No excuse erases 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 to spread information. They must devise solutions by founding political parties and organizations as well as sponsoring private and 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.”

**Kadivar** Does the fact that capital sins are persistently committed by those in a position of political authority

undermine the entire principle of justice, leading instead to a “disposition to injustice”?

By that I mean: Ordering and causing the death of innocent people; the terrorizing and maiming of the innocent in public; the forcible barring – through blocking peaceful protests – of the exercise religious obligations to introduce good and discourage evil; the suppression of freedom; the arrest of those who work to induce good and discourage evil; the pressure placed on individuals to falsely confess; the prevention of the free flow of information and the censorship of information needed indispensable to the religious obligation of inducing good and deterring evil; the defamation of dissidents based on the assumption that those who disagree with the government are mercenaries paid foreigners or spies of foreign powers; fraudulence; the use of false information and witnesses legal matters; betrayal of public trust; tyranny and the ignoring the opinion and admonitions offered by the wise; the prevention of operation of business by those who have the religious right to determine the fate of nation; the diminishing of the importance of Islam and Shiism through its representation as violent, irrational, aggressive, superstitious and tyrannical.

**Montazeri** Perpetrating all the above-mentioned sins or persisting in some of them constitutes the most telling and salient evidence of the lack of “the disposition to justice.” If these faults are not a sign of corruption and violations of justice, what other sins would be? Clearly, if these offenses were committed in the name of religion, justice and the law there would be consequences beyond the sins themselves as they would introduce deception and misrepresentation of religion, justice and the law.

In cases where certain conduct seem 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 sought.

**Kadivar** Can a desire to preserve the system justify the violation of the human rights and the decline of moral and religious standards? In the name of safeguarding the system, can justice, the most important ingredient in Shiite political jurisprudence over the centuries, be surrendered? What is the religious duty of the believer if the interests of those who persist in their errors prevail?

**Montazeri** Safeguarding the system is neither essential



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The contested results of Iran’s recent presidential elections led to violent clashes between dissenters and police.

nor required. And certainly not when the regime coincides with an individual. You can’t protect or strengthen the Islamic regime through non-Islamic and unjust behavior because a real Islamic regime exists to do justice and protect the rights everywhere, which means implementing Islam’s commandments. A regime based on injustice, the violation of rights, usurpation and fraud, murder, indiscriminate arrests, medieval and Stalinist torture, repression, media censorship, and the arrest of intellectuals and elites should be condemned. One that obtains confessions through torture can’t use those confessions as a basis for a conviction. They have no value.

Confessions obtained that way are typical of Fascist and Communist regimes, and in Iran they only serve to hide the mistakes of the regime and to degrade peaceful and legal protests staged by the people. Those involved in such

activities must realize that forcing people to confess under torture is wrong in both in religious and legal terms.

The country belongs to the people and not a single individual. The decisions belong to the people and politicians exist to serve the electorate. The people must be free to gather to defend their rights. The Shah of Persia heard the voice of the revolution too late. I hope that the leadership of the Islamic Republic doesn't waste time and becomes more flexible to the demands of the nation.

**Kadivar** How can tyranny be recognized, and what should the Ulema [Muslim legal scholars] do?

**Montazeri** Tyranny is the deliberate opposition to the commandments of religion and the decisions of the people as constituted by law. Anyone who should look after the interests of the people but opposes these principles is a tyrant, and tyranny is his mandate. To decide whether a situation of tyranny exists is primarily the role of the elite educated in religion and independent from the governing power structure. In the same way, those who object to tyranny should be intellectuals and lawyers who provide evidence of errors made. To be able conduct their duties, the elite should be free and independent from any in-

fluence and political considerations. Finally, justice and injustice by those who govern is a reality and its consequences are evident: a mask does not cover the tyrant's face. Each of us is capable of recognizing what they see and acting accordingly.

Citizens have the responsibility to resist injustice and erosion of their rights, and must warn others by spreading a greater awareness to encourage the good and discourage evil, while always seeking a solution. At the same time it's inconceivable that a person would be afraid or procrastinate in an effort to seek justice on the pretext of not being able to change the situation. But it is in the tradition of infallible Imams to always fight for social justice. If the Imam had occupied himself only with religious matters he would have been subject to ever-greater oppression and martyrdom. God asked the wise, particularly religious scholars, not to remain silent in the face of injustice. This is a path of long and grave suffering. May God can guarantee you success. ●

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BELOW demonstrators fighting police in Tehran.

FACING PAGE supporters of President Mahmoud Ahmadinejad, who was re-elected.



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## Talking to Mohsen Kadivar

**D**o you think Green Wave leader Mir-Hossain Mousavi is a real reformer?

In the last three decades people have changed a lot, and not just Mousavi. Just after the revolution, he was prime minister [between 1981 and 1989] and could have made any number of decisions. Today, his requests represent the bare minimum that can be asked in an effort to reform the system. In this phase, it's fine.

**Ayatollah Shahrudi has been replaced by Sadeq Larijani as head of the judiciary. What does this changing of the guard imply?**

Sadeq Larijani doesn't believe in either democracy or human rights. He was a member of the Guardian Council and is known for being more conservative than

Ayatollah Jannati [Ayatollah Ahmad Jannati Massah is the head of the Guardian Council and a critic of reform]. Larijani is young, is low in the ranks of the hierarchy of the Shiite clergy, studied theology in seminaries but never really got deep into law, and has no experience. The problem is that Iran's judiciary responds less to principles of justice than the rule of politics. Sadeq Larijani was chosen it's because he obeys the Supreme Leader Ayatollah Ali Khamenei. I do not think anything will improve over the next five years. Maybe we'll even end up being wistful for the days of Shahrudi.

**Should the international community fear the Iranian nuclear program?**

Iran has ratified the Nuclear Prolifera-

tion Treaty and claims the right to [generate] civilian technology. I don't think it's appropriate to fear nuclear power plants intended to produce electricity. After all, it was the United States that was interested in fostering an Iranian nuclear program at the time of the Shah. As for atom bomb capacity, many countries have it. I don't think we should fear the nuclear as such, but I do think we need to ask ourselves who has this power: Is it a democracy or a dictatorship? If the international community is afraid of Iran it should contribute to the development of democracy and human rights in the country, because by doing so the [nuclear] matter would take care of itself.

(F.S.) ●