

In the Presence of a Noble Theologian My Mentor Ayatollah Montazeri (1922-2009) Mohsen Kadivar

کتاب «در محضر فقیه آزاده» مجموعه‌ی مراودات علمی شاگرد و استاد حسین علی منتظری نجف‌آبادی (۱۳۸۸-۱۳۰۱) بین سال‌های ۱۳۷۳ تا ۱۳۸۸ یعنی پانزده سالِ آخر حیات استاد است.

اهمّ آراء خاص علمی استاد عبارتند از: ماهیت حکومت عقد و معاهده بین مردم و کارگزاران خدمات عمومی است. نصب عام فقیهان از سوی شارع به ولایت بر مردم فاقد دلیل است. ایشان نخستین فقیه شیعی است که با ابطال انتصاب، به لزوم انتخاب فقیه از سوی مردم قائل شده است. ولایت مطلقه و مادام‌العمر مردود است. رضایت مردم شرط ابتدائی مشروعیت حکومت است. وظیفه فقیه متناسب با تخصص وی نظارت عالیّه بر امور جامعه است نه دخالت در امور ریز و درشت کشور. آزادی مخالف، مادامی که دست به اسلحه نبرده از لوازم حکومت دینی است. حکومت علوی با «عدالت» و «آزادی مخالف» از حاکمیت اموی تمایز می‌یابد. نظارت و انتقاد از حکومت وظیفه دینی همگانی است. از بین رفتن هریک از شرایط عدالت، امانتداری، تدبیر و برخورداری از رأی اکثریت مردم که شرعاً و عقلاً در صحت و مشروعیت اصل تولیت و تصدی امور عامه جامعه دخیل است خودبه‌خود و بدون حاجت به عزل، موجب سقوط قهری ولایت و تصدی امر اجتماعی و عدم نفوذ احکام صادره از سوی آن متولی و متصدی می‌گردد.

در کتاب مباحثاتی نیز حول پنج محور زیر صورت گرفته است: حقوق بشر و فقه، قاعده عدم مشروعیت حکومت بدون رضایت مردم، محدودیت صلاحیت‌های فقیه، بی‌اعتباری ولایت سیاسی فقیه، و حکم شرعی سلاح‌های کشتار جمعی.



**In the Presence of a Noble Theologian
Ayatollah Montazeri**

Mohsen Kadivar

In the Presence of a Noble Theologian, Ayatollah Montazeri
(Dar Mahzar-e Faqih-e Azadeh Ustad Ayatollah Montazeri)

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Introduction

Dar Mahzar-e Faqih-e Azadeh Ustad Hussein-Ali Montazeri NajafAbadi (1301-1388 SH/1922-2009 CE) (In the Presence of a Noble Theologian: my mentor Hussein-Ali Montazeri NajafAbadi) is a collection of exchanges between my distinguished mentor and myself from 1371 to 1388/1992 and 2009, the last fifteen years of his life. Although I have had the honor of his acquaintance since the mid 1360s/1980s, I don't have any documents from those years other than my notes and transcriptions from his lessons.

The book has seven sections. The first section includes certificate of reasoning independently (*Ijazat al-Ijtihad*) and my advocacy of mentor Montazeri. Three of his writings are included in this section. The second section is the most important and includes twelve sets of questions and Montazeri's detailed responses or Fatwas. The third section includes correspondences between *ustad* Montazeri and myself. Ten congratulatory and consolatory letters are included in this section.

The fourth section includes speeches from the mentor in five meetings. In the fifth section, nine of my articles about Montazeri's opinions during his lifetime have been reprinted. Two of my speeches, one about Montazeri and the other in his presence, have been printed in section six and, finally, letters have been included in section seven. Two letters to the president of the time, Seyyed Muhammad Khatami, and six open letters written collectively by his students in defense of Montazeri's policy and oppressed state are also included.

The first part is the opinions on which the mentor and the student agree. This part is composed of questions I posed to the mentor and my analyses of his ideas. The following are three brief examples.

The Rights of Political Dissidents

Political activities such as criticism, gathering and demonstrations, peaceful protest, journalism, formation of NGOs and political parties, and others are not instances of “armed revolt” (*muharibah*), “rebellion” (*baghie*), and “corruption” (*ifsad*). “Armed revolt” consists of instilling fear in the people and disrupting public peace with the use of force and weapons. “Rebellion” is also an armed attack on the rights of others in an unjust manner. “Corruption” can also only be considered when it violates the rights and peace of a group of people. However, political activities are often not of this nature and can even be categorized as promotion of good and prevention of evil (*al-amr-o bi al-ma’ruf wa al-nahie ‘ani al-munka*) in hopes of protecting the rights of society as a whole.

Peaceful opposition, meaning expressing critical opinions about the administrations of the rulers (whether the government is considered righteous or not, and whether the rulers are chosen by a majority rule or not), is not a crime. Rather, in a religious society ruled with concerns of religious law, political opposition is promotion of good and prevention of evil (*al-amr-o bi al-ma’ruf wa al-nahie ‘ani al-munka*) - within its procedures and limits- and is subject to the indications of this Islamic duty and the necessary advisory to the Muslim rulers (*al-nasihah li a’imat al-Muslimin*).

Advising and criticizing Muslim Rulers (even if righteous and chosen by the majority) are the rights and duties of all citizens. A government that accuses its unarmed dissidents (who criticize their rulers based on their legal obligations and without the use of physical force) of rebellion, armed revolt, or corruption is acting against Islamic standards and will lose its credibility and legitimacy by continuing this behavior.

Imprisoning dissidents who are politically active against the government without the use of force does not have precedents in the time of the Prophet Muhammad and Imam Ali. Even though hypocrites and outlaws committed many transgressions other than criticism against both the Prophet Muhammad and the Imam Ali, no confrontation took place if the transgressions were committed without the use of armed force.

Invalid opinions must be responded to with rational and well-thought opinions, not with punishing and silencing or restricting those with incorrect ideas. Experience has shown us that dealing with the sphere of thought and culture through retribution has reverse effects. The Prophet and the Imams dealt with heretical ideas with conversing, reasoning, preaching, and arguing in the best way possible. (23 *Tir* 1380/13 June 2002)

Some of Montazeri's Initiative Ideas

1. Montazeri saw the essence of government to be the treaty and contract (*al-'aqd wa al-mu'ahidah*) between the people and the public service agents. However, in the “*wilayat-e Entesabi Mutlaghe-ye Faqih*” (appointive and absolute guardianship of the jurist-ruler) theory, leadership is neither a contract nor a unilateral legal act (*al-igha'*), but a “situational ordinance (*al-hukm al-wadh'i*) that is originated by the legislator (*al-shari'*). The foundation of this viewpoint is the acknowledgment of the right of people in the social sphere. The people are responsible to God (*al-mukallaf*) but rightful (*al-muhiqq*) to each other. The rights of people in the public sphere are the first cornerstones of his political thought.

2. For Montazeri, the appointive and general guardianship of jurists (*al-wilayat al-intisabi al-'amma lil-fuqaha*) by the legislator (*al-shari'*) over the people lacks reason. He is the first *Shi'i faqih* to void the appointment (*al-nasb*) and speak out about the necessity of the people's choice in choosing faqihs, thus building a strong foundation for elective governance (*al-hukumat al-intikhabi*) in demonstrative jurisprudence (*al-fiqh*

al-istidlali).

3. He denied the absolute guardianship (*al-wilayat al-mutlagha*), and, considering his stance on the essence of governance, believed in conditional guardianship (*al-wilayat al-mighayyadah*). Adherence to the constitution as the condition of the treaty for rule is required. Hence, a leader who transcends the law is illegitimate to Montazeri.

4. In contradiction with the official theory of “*wilayat-e Entesabi Mutlaghe-ye Faqih*” (appointive and absolute guardianship of jurist-ruler), which considers statesmanship to be a lifelong appointment, Montazeri considered a limited term to be necessary for all government positions and considers lifelong terms to be equivalent to despotism.

5. In Montazeri’s view, the people’s satisfaction is a condition of the government’s legitimacy and is a separate condition from the necessity of the ruler’s fairness and justice. No one should rule a society without its people’s consent and satisfaction, which is both a primary and continuous condition of governance. The public consent could be examined through rational methods such as elections in determined intervals of time (for example four, seven or ten years) and referendum (in sensitive cases). According to Montazeri, rule by force and without the consent of the people is an instance of an oppressive leader.

6. To Montazeri, the *faqih*’s appropriate task is overseeing the affairs of the state, not interfering with every large or small matter, and the one in charge of running the country is the elected president, not the Supreme Leader. Montazeri saw this twofold leadership as an obliterating factor and the result of the incorrect understanding of the *wilayat-e faqih* (the guardianship of the jurists) that considers *fiqh* to be needless of all knowledge and sciences. Managing a society is possible through experience and scientific methods. We can never expect the ability to form public policy for a society from *fiqh*.

7. Montazeri considered the freedom of the dissident as the prerequisite of an Islamic state until he takes up armed

force. An Alawite government differs from an Umayyad government by justice and fairness (*'idalat*) and the freedom of the dissident. Montazeri, as did M.H. Na'ini, considered religious despotism (*al-istibdad al-dini*) to be the worst kind of despotism. He believed the right of criticism of the government to be everyone's Islamic duty, and the abuse of religion and *fiqh* as a ladder to gain this-worldly power to be unlawful. He believed that the judgment (*al-qidhawāt*) should not be politicized. In his viewpoint the fair judiciary is a plumb line for the health of the administration, and the judges under command of the rulers are in the pits of hell. The house arrest of a scholar with such brilliant views is a sign of the government's contention with science, law, and justice. (*Panj Sal Dar Jostojoye Edalat-e Gomshode*) (Five Years in Search of Last Justice), 25 Azar 1381/16 Dec 2002)

Removing a Cruel and Unjust Ruler¹

“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 conviction approaching certainly (that they have forfeited the right to occupy those public offices?)

Answer: Voiding any of the said conditions (for the occupation of public office) mentioned in the above question, (conditions that) according to both reason and religious law are of the essence of the aptness and legitimacy of the principle of

1 . This section has been translated by Ahmad Sadri and Mahmoud Sadri, and published in Nader Hashemi and Danny Postel, 2010, *The People Reloaded: The Green Movement and the Struggle for Iran's Future*. Brooklyn, NY: Melville House Publishing, pp.151-164.

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) for such dismissal. Under such conditions the directives of such (holders of public office) 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 on his violations of 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 the essence of management and 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.

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”?

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A. Ordering and causing the murder of innocent individuals.

B. Causing (with greater liability than the perpetrating) armed intimidation and terrorizing, as well as striking and injuring of innocent people in public venues.

C. Forceful prevention of the exercise of the religious obligation “enjoining to righteousness and dissuading from evil” and the duty to “exhort the leaders of the Muslim community”, through blocking of all the rational and legitimate channels of peaceful protest.

D. 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.

E. Prevention of the circulation of information and censorship of the news that is the required prerequisite of the exercise of the two religious obligations “enjoining to righteousness and dissuading from evil” and “exhorting the leaders of the Muslim community”.

F. Defamation of 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.”

G. Fraudulence, bearing of false witness, and untruthful reporting in matters related to public rights.

H. Betraying the nation’s trust.

I. Tyranny of opinion and ignoring of exhortations of the exhorters and admonitions of the knowledgeable.

J. Prevention of the exercise of the religiously sanctioned right of the right-holders in their collective right for determining of the national destiny.

K. 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: Perpetrating all the above-mentioned sins or

persisting on some of them constitutes 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 what sins would constitute such a violation!?

It is evident that if any kind of sin, particularly any 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 the 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 operative principle.

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: Protection of the regime, in itself, is neither essential nor, per se, obligatory; particularly when the regime is equated with a person. When one speaks of a regime whose protection is among “the most incumbent of the necessities”, only a regime that is preparatory and instrumental to the upholding of justice and discharging of religious obligations and rational premises can be intended. 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 is in mind, resorting to the phrase: “protection of the regime is among the most incumbent of the necessities” when it is made with the intention to justify and conceal the operations of the administrators and their functionaries who pretend to render justice on behalf of others is fallacious 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, to put it more succinctly, the implementation of Islamic commandments. How is it imaginable that through injustice and un-Islamic acts, a just and Islamic regime would be secured and strengthened? (28 *Tir* 1388/ 19 July 2009)

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The second part of the book contains my scientific disagreements with my mentor that are either responded to generously or with silence. Five topics are covered in this part:

Human Rights

“Without a doubt, there are innate human rights that cannot be denied by any fair and conscientious person or opposed by any religious doctrine. However, comparatively examining the Universal Declaration of Human Rights (UDHR) and the ordinances of jurisprudence (*al-ahkam al-fiqhi*) shows six points of conflict to a point of contradiction between the two.

1. Unequal rights for Muslims and non-Muslims and different rights for believers, people of the book, friendly non-believers (*al-kafir al-mu'ahad*), and hostile non-believers (*al-kafir al-harbi*) are considered evident religious ordinances. However, the UDHR does not allow for any religious discrimination.

2. Unequal rights for men and women in civil, criminal, rituals and religious rights are undeniable. Gender discrimination in religious ordinances contradicts the UDHR.

3. Unequal rights for slaves and free individuals are axioms of *fiqh*. Slavery conflicts with the UDHR and the International Covenant of Civil and Political Rights (ICCPR).

4. Inequality of laypeople with the jurists (*fuqaha*) in the public sphere and the difference between the people as unemancipated (*muwalla 'alaiehim*) and in need of guardianship and the *fuqaha* as guardians (*awliya'*) according to the supporters of the *wilayat al-faqih*, conflict with the UDHR.

In the aforementioned matters, the principle of equal human rights on one hand and the concept of innate and natural human rights on the other hand have been violated. Human beings are given these rights based on their status as Muslim, believer, male, free, and *faqih*, whereas different rights are granted based on their status as non-Muslim believer, non-believer, female, slave, and layperson. In other words, it is not the humanity of the individual that guarantees human rights, but faith, Islam, maleness, femaleness, liberation, slavery, *fiqh*, etc.

5. Freedoms of thought and religion in the UDHR and the ICCPR conflict with principles of apostasy, relevant codes of punishment, and limitations on the protected people (*ahl al-dhimma*), and generally people of the Book (*ahl al-Kitab*) and non-believers (*al-mulhidin*).

6. Arbitrary and cruel punishments and torture such as punishment of unprotected persons (*mahdur al-dam*), some of the *shar'i* codes of punishment (*al-hudud wa al-ta'zirat*), and retaliation (*al-qisas*) conflict with the legal rights of criminals,

as stated in the UDHR, the ICCPR, and the United Nations Convention Against Torture (1984).

Considering these large areas of conflicts between the *shar'i* ordinances and international documents of human rights, we must rethink our deduction of religious ordinances, if we consider the protection of basic human rights to be the basis for justice. Otherwise, the concordance of the deduced ordinances with basic natural and initiative rights of human beings and a universal sense of justice must be proven.

This is an important question for all Muslims of our time and an inability to answer it jeopardizes *shari'at*, *fiqahat*, and even religiosity.” (Letter written on 17 *Mordad* 1380/8 Aug 2001)

Ayatollah *Montazeri* published his opinion regarding this matter in “Resale-ye *Hoghoogh* (Treatise on Rights)” in *Shahrivar* 1383/ September 2004.

The Principle of the Illegitimacy of Rule Without the Consent of the People

“The discussion with Ayatollah *Montazeri* about the *fiqhi* principle of “Presiding over a society without the consent of the people is not allowed” (*la yajuz al-ta'mmur 'ala jama'at-en beghiyr-e ridhahum*) began in *Mehr* 1381/Sep 2002. The following were some questions that were posed:

1. Is the people's consent not proof of their rightfulness in the public forum? So that no one is allowed to monopolize this sphere without permission of the people? (Public joint rights of the people).

2. Is “group of people” in principle absolute, regardless of their religions and beliefs? Is obtaining the consent of the Shi'ites, Muslims or monotheists (*al-muwwahidun*) a necessity, but the consent of a society of mixed groups (with the aforementioned characteristics) not required to govern them? In other words, is the public's consent and right to the public sphere an absolute human right or is it a right granted only to certain peoples such as Muslims?

3. Is this consent absolute (primary and continuous), or is it only primary and the ruler is allowed to rule until his death with the initial consent?

4. Considering that rational methods must be used for the acquisition of the people's primary consent, such as public election in specific intervals of time (such as 4, 5, or 7 years) or referendum in the case of sensitive matters, is the ruler considered a usurper if he does not allow either of these methods and continues to rule despite the discontent of the people? And is he considered a cruel and oppressive ruler (*al-wali al-ja'ir*) due to such public rights violations?

5. Based on this principle, is the people's consent and satisfaction a required condition for governing a society so that disregarding them is considered the realization of cruelty (*al-jawr*)? Or could the lack of public consent be connivance, if the ruler has been qualified as just ruler and has respected public expediency?

6. If a jurist (*faqih*) decides to execute governance without the support of the public, and if the people do not agree with his administration of rights and the public expediency, which of the following two must be his policy?

A. He must put forth strenuous efforts to justify, teach, and propagate his intentions until the public opinion supports him before he can govern the people (regarding the absoluteness of the principle and fatwa of Ibn Fahd).

B. He is required to rule by force without public consent, which requires battery, censorship, imprisonment, exile, and execution of dissidents and seizing their property without their consent, among other cruel methods, of course in the measure of necessity." (22 *Aban* 1381/13 Nov 2002)

This discussion is covered extensively in Ayatollah Montazeri's book "*Hokoomat-e Deeni va Hoghoogh-e Ensan*" (Islamic State and the Rights of Human Beings) (1386/2007).

Limiting the Qualifications of the *Faqih*

"A. The principle of "determining the instantiation is not the

job of the jurist” (*ta’yin al-misdaq laisa bi sha’n-e al-faqih*) points to the expertise of the *faqih*, as *faqih* by definition, is the knowledge of practical religious ordinances, not determining subjects and instantiation (*tashkhis al-mawdhu’at wa al-masadiq*). Hence in the political and judicial sphere, what is expected of the *faqih* is the type of knowledge of ordinances and independent reasoning (*ijtihad*). These matters are considered political today, and contemporary politicizing is considered to be the science of applying general decrees to specific matters. This application requires an expertise and experience different from that of the *faqih*.

The *faqi*, as he is *faqih* is not a politician or manager. The government of a Muslim majority territory needs the consultation of the *fuqaha*, not their leadership and guardianship. Sentencing specified ordinances from the *faqih* regarding particular matters (as opposed to fatwa that is general) is the first challenging point. And this is the most important reason against the leadership and guardianship of the *faqih* as he is *faqih*.

B. Two things take place in judgment: first, deriving the *shar’i* ordinance in those cases that independent reasoning (*Ijtihad*) has not occurred, and this is the exclusive duty of the professional jurist (*al-mujtahid al-mutlaq*), no one else; and second, applying the ordinance to its subject (*tatbiq al-hukm ‘ala al-mawhdu’*) and constructing the ordinance (*insha’ al-hukm*). This is the task of law, and does not need absolute independent reasoning (*al-ijtihad al-mutlaq*). Familiarity with law is sufficient for the second task, and it is not the job of the *faqih* as he is *faqih*, as ayatollah *Shari’atmadari* mentioned in his *Kitab al-Qada’* (book of judgment).

In the past, these two responsibilities had not been differentiated and judgment was considered the responsibility of the *faqih*. However the first duty, I mean the knowledge of ordinance, is his job; so the generality and absoluteness of the principle is preserved.

C. The *faqih* has no specific responsibilities outside of the knowledge and the extraction of general practical decrees. The *faqih* can, however, take on leadership or judicial roles based on his personal expertise, not solely based on his knowledge of *fiqh*, which is far from the guardianship of the jurist (*wilayat al-faqih*). Promotion of good and prevention of evil (*al-amr-o bi alma'ruf wa al-nahy-o 'an al-munkar*) and advising the Muslim leaders (*al-nasihah li a'imma al-muslimin*) is a responsibility of every Muslim and the weight of the 'Ulama's responsibility lies in their greater knowledge of religious ordinances and doctrine, and nothing else. The *faqih's* political stance is not validated by his knowledge of *fiqh*, so that could be required to his imitators (*muqallidun*). It is just the same as the situation in which the *faqih* issues a decree that this liquid is wine, and his imitator is sure that it is not alcoholic.

If a *faqih* concludes that the state is a particular form of oppressive government (*al-hukumat al-ja'ir*) based on its oppressive manner, then his opinion is valid based on his social importance; although it does not make any mandatory duty (*al-ilzam al-ta'abbudi al-shar'i*) for the believers neither as imitation (*taqlid*) nor as anything else; unless they become sure themselves. This inquiry is the duty of every Muslim including the *faqih* (as he is a believer, not as a *faqih*) as the prerequisite of prevention of evil (*al-nahy-o 'an al-munkar*). The concluding remark: determining the instantiation is not the job of the *faqih* as he is *faqih* absolutely." (30 *Aban* 1381/21 Nov 2002)

The Illegitimacy of *Wilayat al- Faqih*

"I completely understand the pressure of ill health, old age, and preoccupations. But the consideration of a more important matter, the reputation of Shi'ism and the legitimacy of the household of the prophet and Islam, urge me to ask he whose high motivation and good intentions allowed the principle of "guardianship of the jurist" (*wilayat al-faqih*) to enter the sphere of this country's politics and law, to think of a solution,

before it is too late. An opinion that can become a tool of abuse and that cannot minimize the mistakes of the incompetent, is subject to major theoretical disputes, despite the problems of its agent. Political opinions are meant for the governance of the common and ordinary man, not of angels and saints.

I pray to my Lord that “expressing the illegitimacy of the theory of ‘guardianship of the jurist (*wilayat al-faqih*’s)’ would be considered a part of the brilliant scientific record of my distinguished mentor, and still hope for His mercy. I apologize for the disruption, my audacity, and my candor. You are the only one capable of correcting this calamity.” (Letter written 26 Azar 1382/17 Dec 2003)

Montazeri’s latest opinions can be found in his book *Hukumat-e Dini wa Hughugh-e Ensan* (Theocracy and Human Rights) (1386/2007). Briefly, Ayatollah Montazeri, s evolution showed four political theories, the last theory was “supervision of the most learned jurist on lawmaking” (*nizarat al-faqih al-’lam ‘ala al-taqnin*).

Nuclear Weapons

1. “Military use of nuclear technology and weapons of mass destruction are absolutely and without any exception against the standards of humanity, morality, and Islam.

2. Investment, production, maintenance, and utilization of weapons of mass destruction and nuclear technology for military purposes are not rationally and legally allowed in any situation.

Attempting to rid the world of dangerous weapons of mass destruction and nuclear weapons and discharging international weapons are among preferable rational and legal goals, and Muslims must proceed in this positive way; “so be you forward in good works” (the Qur’an 2:148). (Letter written on 27 Mehr 1388/19 Oct 2009)

The opinions of the late Ayatollah Monazeri about this issue in his *fatwa* of 24 Mehr 1388/16 Oct 2009 can be read in this

book, (at the end of chapter two).

Despite my extensive efforts, since this collection has been gathered abroad and since I have not had access to all of my documents, this collection is not exhaustive. I hope to one day offer a more complete and inclusive collection. I will use this instance to give my regard to grand Ayatollah Montazeri and ask God for the chance to continue his way.

Mohsen Kadivar

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