

## **On Human Rights and Democracy in Iran by Dr. Shirin Ebadi**

### **Abstract**

Dr. Shirin Ebadi draws attention to the role that the Guardian Council plays in determining the Islamic standards that all laws must comply with under Iran's constitution. She notes its composition where the Supreme Leader either directly or indirectly appoints all members and overturned attempts to ratify the UN Convention against Torture and on Discrimination Against Women. She discusses the practice of Islam in other countries that do not apply it in the same way and clerical opposition to the regime. Dr. Ebadi argues for the curtailing of the power of the Guardian Council as was proposed under President Khatami.

### **Biography**

Dr. Ebadi is an Iranian lawyer, a former judge, human rights activist and a co-founder of the Centre for the Defenders of Human Rights in Iran. Her pioneering work on children's, women's, minorities' and refugee rights in her country has earned her a legion of honour, more than a dozen honorary doctorates and countless other achievements. On October 10, 2003, Ebadi became the first Muslim woman to receive the Nobel Peace Prize for her outstanding contributions to the advancement of democracy and human rights. Following her decision to represent the Bahá'í minority, state-sponsored media began a series of attacks on her and the Iranian authorities threatened or arrested, members of her family and staff. Dr. Ebadi left Iran in spring of 2009 and now resides in London, UK.

## **On Human Rights and Democracy in Iran**

Article 2 of the Constitution of the Islamic Republic of Iran, approved in Azar 1358 (October 1979), forms the foundation of the political system of the country on belief in God and obedience to the laws of Shari'a. Article 4 stipulates that all laws must be in accordance with Islamic standards and the responsibility to verify this matter rests with the Guardian Council. Additionally, during each round of presidential or parliamentary elections, the eligibility of each of the nominees for candidacy is determined by the Guardian Council. Only after this process the public can make its choice(s). The Guardian Council is composed of twelve individuals, six of whom are faqihs (religious experts) appointed by the Supreme Leader and the other six are legal experts who are nominated by the head of the judiciary to the parliament, which votes in their favour.

The head of the judiciary is a cleric who is also appointed by the Supreme Leader and therefore, it can be asserted that the members of the Guardian Council are all directly and indirectly appointed by the Supreme Leader.

According to Article 109 of the Constitution the Supreme Leader is an Islamic jurist who is chosen for the duration of his lifetime by the Expediency Council. The three powers of the legislative, administrative and judiciary function under his supervision.

After a brief look at the abovementioned Articles, it is evident that the entire body of laws and regulations of the Islamic Republic in Iran must adhere to Islamic Shari'a. Those in charge of assessing this matter are limited to a few with a common approach to Islamic thought, whose worldview is shared with their predecessors and who refuse to accept any other approach. It is due to this fact that during the past 31 years we have been witness to punishments such as stoning, dismemberment, flogging and execution of juveniles among others.

Furthermore, during the sixth parliament when most of the members adhered to the reformist school of thought, two bills were submitted which recommended that the Iranian government sign the United Nations Convention Against Torture as well as the UN Convention on the Elimination of

All Forms of Discrimination against Women. However, because the Guardian Council considered both Conventions as contradictory to Islamic Shari'a, it vetoed them.

The interpretations by the Guardian Council have met with the objections of many Iranian Muslims, including the clerics. Even the late Ayatollah Montazeri clearly stated that this government is neither Islamic nor a republic. After all Islam, much like any other religion, can have different interpretations. For instance, one Christian denomination allows abortion while another rejects it, while both adhere to Christianity. The same applies to Islam. We can see that in some Islamic countries, such as Tunisia, Algiers, Morocco, Indonesia and Malaysia, where punishments such as stoning or cutting off the hand of a thief are no longer in practice. We see that conditions surrounding women in Islamic countries and their rights differ greatly. Since the Islamic Revolution a large number of discriminatory laws have been imposed on Iranian women. Again, women in countries such as Indonesia and Morocco are in relatively better circumstances.

The important point is that we must not allow a few fundamentalist figures to impose their ideas on others in the name of Islam. The final solution is the separation of religion from state so that statesmen are not able to take advantage of the religious beliefs of the people. However, due to the resistance of the current regime, achieving this goal is impossibility. As a short-term measure then, the powers of the Guardian Council must be curtailed. The first step in this direction is to abolish the law of approval monitoring by the Guardian Council, which is common law and therefore, its abrogation is far simpler than constitutional reform. Naturally, if the public are permitted to elect their true representatives to the parliament, or vote for the presidential candidate of their choice, then a significant portion of problems borne out of abusing religion will be removed.

Another important point is that should the parliament approve such a law (abolition of approval monitoring) then the Guardian Council will veto it. Just as it did during the presidency of Mohammad Khatami when the sixth parliament approved the abolition bill, but the Guardian Council used its power to veto it. To curtail such powers we must engage in a process of seeking public opinion at the national and international levels and through efforts. We must also draw attention to the wrongdoings of the Guardian Council and show that the solution to the current political crisis in Iran, rather than violence and bloodshed, is that instead of taking advantage of its unlimited powers, the Guardian Council must respect the public's vote. That way the results of the recent presidential elections can serve as a positive step towards establishing democracy in Iran.