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Iranian Desk

## **The Islamic Revolution and the legal issues of the Jews' escape from Iran**

Author: Adv. Kambiz Vosouk

### **introduction**

I was born in Iran - a country that floats in a sea of art, culture and civilization. Iranian culture is original and unique and deeply rooted in history. The power of history, culture, and civilization is particularly evident in the museums and in the everyday lives of the people. The historical works that remain from the different historical periods reflect the power and progress of Iran's culture and civilization. It is possible to say that Iranian culture is highly developed, and in light of the presence of various tribes in the country, such as the Kurds, the Luris, the Arabs, the Baluchis, the Turkmen, and the Armenians, a beautiful spectrum of culture, art and customs has been created there. A magnificent arch that rests on the greatness of King Cyrus and the 2,500-year-old reign of the Iranian kings, who later fell into the hands of the extremist religious and became the stronghold of the ayatollahs.

I am a member of a Jewish family of parents who have pursued education and art; My father is a famous artist who paints in realist style, taught at the University of Tehran and his works decorated the palace "Saad Abuad" in Tehran, the center of the life of the Shah.

After the revolution, in light of his Zionist views and a number of bold images he had painted, he had to sit in an Iranian prison for more than a year. When he was released from the Iranian prison, my father decided to leave Iran and immigrate to Israel (of course, in light of his views, the only target for him was Israel) without his property (in order not to raise suspicion that he would not return to the country).

My mother, my younger brother and I flew to Turkey and from there to Israel, but my father had to flee through the fields to Pakistan and from there to Switzerland and eventually to Eretz Israel.

Two weeks after I immigrated to Israel, I started high school and finished my studies at a young age, earlier than expected, enlisted in the Intelligence Corps (8,200), studied law, worked in several leading law firms and later served in a highly classified security project.

From my first steps in the profession (even when I was an intern at Weisglass-Almagor) and to this day, In light of my familiarity with and interest in Iranian language and culture, many Iranian Jews from all over the world (especially from the United States) were interested in various legal matters related to their personal and public life, but one thing interested them all - the restitution of assets left in Iran at the outbreak of the revolution.

This issue arose simultaneously in the handling of the German pension portfolio (Israel Perry) in the law firm Amit, Pollak Matalon & Co. Although the return of assets to Iranians is (much the same and different) similar but not the same as the issue of the return of Holocaust survivors' assets (which occurred incidentally while dealing with this case).

In view of the above, I saw the need to investigate and address the issue and to implement and examine it of the great property left in the Arab countries and Europe by the Jews against the assets of the Iranians who fled Iran after the Islamic Revolution.

### **The religious and legal basis for taking over the assets of the Iranians**

About two weeks after the victory of the Islamic Revolution on February 1979, the Iranian Supreme Leader, Ruhollah Khomeini, issued an order to confiscate all property belonging to the monarchy, an order in which the Supreme Leader meant only to the confiscation of property belonging to the royalists (And not to property belonging to Iranian citizens).

The following is the text of the order by Khomeini:

**"On the basis of this letter, the Supreme Council must confiscate all property and the assets belonging to the Pahlavi dynasty and its relatives, who during the period of its illegal rule were expropriated from the Muslim treasury, and to deposit them in the bank account in the name of the Revolutionary Council or in My name, and assets such as land and real estate - register them, so that they can be used for the benefit of the oppressed and the weak of all strata for the purpose of creating a residence, a place of work, etc.**

**I hereby instruct the "komite" of the revolution, that all the spoils that have been obtained must be deposited in a bank account and notified to the government that the total of this booty does not belong to it. In addition, the government representatives must bring what they obtain to this bank, as well as the people to transfer what they have obtained from the above-mentioned property, immediately to its death, and the criminals will be brought to justice. " Ruhollah Mousavi Khomeini**

Following the issuance of the aforementioned ordinance by Khomeini, the property of the royal family and their relatives were confiscated, their owners who could not leave Iran were hanged, and all their property was transferred to the "oppressed" - a broad definition that entailed those close to the success of the Islamic Republic, including their children, grandchildren, great-grandchildren and great-grandchildren, (including) as well as the members of the Military Police, the Basij, and the Kaminities).

As stated, despite Khomeini's clear statement of the takeover of the royal family's assets, the IRGC and Basij forces chose to precede decades of what was learned in the Israeli Aphropim ruling and to provide the broadest (and not the most literal) interpretation of the term "royal family" to The people who fled Iran after the revolution.

According to this broad definition, they found the legal way to take control of all the property belonging to the escapees (who were barely included in the definition of the royal family and were included as the king family) including land, shops, factories, etc., while emphasizing particularly the property of the Jews who left Iran overnight through the border city of Zahedan, to the intermediate station - Turkey or Pakistan - and from there to the final destination, the Land of Israel (and who at times apparently lost their way to the United States). The religious basis for the order issued by the Supreme Leader was the "pheghh" Islamic law, whereby radical changes were made in the Iranian penal code by adding new clauses such as the "war on God" clause - which defines all the people who caused economic damage to the Iranian people as "corrupt on earth. It required to destroy the property of anyone included in this definition, and to transfer it to the oppressed (a vague term which, as stated, includes those close to the regime).

The constitutional basis for the order of the Supreme Leader was Article 49 of the Constitution of the Islamic Republic, according to which the government is empowered to locate the assets whose owners are unknown and identified and transfer them to the government.

According to this section, the government is obliged to remove the wealth accumulated by the oppressors as a result of theft, embezzlement, gambling, abuse of the endowments, misuse of government transactions, sale of land and property of the Fund, construction of places of corruption and other illegal acts and transfer it to its rightful owners.

In light of the above, Article 49 of the constitution was the constitutional anchor for the issuance of thousands of orders by the Revolutionary Court headed by Sadeq Khalafali, who was responsible for the execution of tens of thousands of Iranians who could not escape Iran.

In practice, according to the Khalhali order, the seizure of the property of the fugitives was carried out by the executive branch of the regime, which initially consisted of several people with the most extreme ideology and eventually was one of the founders of the organization, the Revolutionary Guards and the Basij, In order to dispossess the wealthy and educated Iranians of their property.

### **The current trends in the Iranian regime in connection with the abandoned property**

As noted, in the early years of the Islamic revolution, Khomeini's frowning face was emphasized, as was the rigid policy of the Islamic Revolution, which was characterized by the export of the revolution to the world, the conquest of the world through Islamic ideology, and the isolation of Iran from all the countries in the world. But in contrast to the early years, in recent, apparently due to the survival difficulties of the ayatollahs regime, Iran's rigid and separatist behavior in the first years after the revolution was replaced overnight by the conciliatory policy of Rouhani's new administration, And Foreign Minister zarif.

As a result of the recent riots in Iran, the Iranian regime is doing everything in its power to emphasize its conciliatory face, which one of the by-products of this policy has recently been the statements of Asgar-Oladi, a member of the Iranian Chamber of Commerce, Industry and Minerals, regarding Property confiscated during the first decade after the Islamic Revolution.

After 40 years of merciless expropriation and the execution of innocent people, Asgar Oladi now notes that in the event that some of the expropriations and / or takeovers of property by Khalhali were contrary to religion, if someone complains to the state, this will be checked accordingly.

He further adds: "The cases on the confiscation of property and the takeover have been closed, but if there is anyone who will demand that the matter be re-examined, and that this issue reaches the court, it will be possible to return the above assets to their owners. There were also cases when people came to Iran and managed to get back their property and now there are no more takeover operations. "

### **The main questions on the subject**

After a comprehensive examination of this issue, I chose to present the main questions raised by the Iranians who approached me and I will try to answer them in the most precise manner (and this, of course, in the absence of diplomatic relations between Iran and Israel).

1. Is it possible to obtain the same land that was confiscated in Iran after the Islamic Revolution?

The answer is no. In the best case, it will be possible to receive monetary compensation or equivalent land up to 60% of the value of the land that was expropriated.

2. Is compensation in kind granted in the same city where the land was expropriated?

The answer is no. Most of the land is awarded as compensation in the cities of Karaj, Harir, and Wuramin, but not in the city of Tehran, due to population density.

3. Is filing a claim the most correct way to get back the land that was expropriated?

The answer is no. According to the new policy, anyone whose property has been confiscated and who has evidence on this matter must apply to the Iranian Housing Ministry and be able to fill out a form under section 12 of the City Building Law, declaring that his land was unlawfully confiscated even though he is alive. An affidavit may be prepared to present the evidence to

the contrary and to receive appropriate compensation up to an amount equal to 70 percent of the present value of the confiscated land. Of course things can be presented through a power of attorney without the physical presence of the property owner. In this context, it should be noted that Iran's judicial discretion prevails over all the evidence presented in the case, and the judge can decide on the matter completely ignoring the rules of the law in the Iranian court.

4. What about the agricultural lands - will it be possible to return these lands that were expropriated during the revolution?

If the land was originally designated as agricultural, but now that the climate conditions are different and that they are no longer agricultural and are in the possession of the state, they can be received back for 30 percent of the land value for their maintenance fees.

5. What are the documents that should be presented to get back the confiscated property?

The most important things are the passport and the national card. Those who have a Shah passport (before the revolution) can receive a national card and act according to the above documents, and refrain from using power of attorney for certain parties who present themselves as intermediaries who can assist in this matter.

6. Is there an extreme discrimination against the members of the Iranian minority in the context of the return of the assets?

At the beginning of the revolution the discrimination against members of the Iranian minority was very prominent, but in recent years efforts have been made by the regime to emphasize the trend of affirmative action and to come to the minorities in Iran.

### **Final words**

In the absence of diplomatic relations with Iran, the best way to deal with the property issue of the fleeing people was described in the previous chapters. At the same time, I believe that the establishment of diplomatic relations with Iran is not a vision of the end of days. We should not forget that the Arab Spring was started in Iran by the green movement, and that there are currently riots that surround all sectors in Iran (workers, teachers, doctors, lecturers, etc.).

Adv. Kambiz Vosouk  
Chairman, The Iranian Desk  
Diplomatic Institute  
info@diplomaticinstitute.org