

TO BE OR NOT TO BE
FACT AND FICTION IN THE NUCLEAR FATWA DEBATE

Ali M. Ansari
University of St. Andrews
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There has been considerable discussion of late about a *fatwa* reportedly issued by the Supreme Leader of Iran, Ayatollah Ali Khamenei, outlawing the use of nuclear weapons. This *fatwa* is regarded by its proponents as a sound basis upon which the current impasse on Iran's controversial nuclear programme can be satisfactorily resolved. The *fatwa* is considered to be a religious ruling by Iran's highest religious authority which is binding upon the Iranian state, to include the government along with the military and other associated agencies. The attraction of such a *fatwa* is clear but there are important questions that need to be addressed before constructive progress can be made.

1. The nature and status of a *fatwa*: A *fatwa* may be best described as a judicial ruling based on scriptural interpretation. In order to qualify to issue a *fatwa*, a cleric must have attained the rank of 'Ayatollah' and be recognised as a *mujtahid*, one than can practise *ijtehad*, which roughly translates as exegesis. This sort of binding exegesis is a peculiarity of Shia epistemology and does not apply to Sunni Islam. *Fatwas* are traditionally considered binding upon the followers of a particular *Mujtahid* and it was not uncommon for different Ayatollahs to provide different readings and interpretations of particular questions. The more senior an Ayatollah is considered, the more binding and universal the remit of the *fatwa*. Traditionally, the *fatwa* of a living *mujtahid* supersedes that of a deceased *mujtahid*, although this obviously requires a living *mujtahid* to issue a new *fatwa*. A *fatwa* is traditionally written in response to a question and is couched within the scholarly apparatus of Shia exegesis; that is, depending on the nature and importance of the question, and the qualifications of the *mujtahid* in question, the *fatwa* must refer to the scriptural evidence it draws on to justify the ruling. With the advent of the internet and the ability of devotees to ask questions online, on a variety of issues, answers have tended to become shorter stressing the ruling rather than the reasoned argument that led to it. Nonetheless, even on the internet, the question is stated and followed by an answer. Brevity is also facilitated by the relative authority of the ruling *mujtahid*. A senior cleric may get away with the brief answer to a question on the basis that his authority would not be challenged. Ideally however the *fatwa* should exist in written form and applies to self-conscious disciples of the Ayatollah in question.
2. Ayatollah Khamenei's theological status: Supporters of the *fatwa* argue that Khamenei's status as Supreme Leader make the *fatwa* binding upon the State. They also argue that given his status he only has to pronounce his views for it be regarded as a judicial ruling (*fatwa*). Consequently, a series of statements and speeches in which he alludes to the nuclear question is regarded by supporters as a *fatwa*. It is however highly unusual for a *fatwa*, however brief, not to be written down in some form. To suggest that we have a *fatwa* in purely in oral form and that at no time since

the initial pronouncement in 2003 it was thought useful to write such an important statement of opinion down, not only undermines its significance but effectively implies that in Iran Khamenei governs by decree. As controversial as this is in its own right, such a position would likely be challenged by other Ayatollahs who are critical of Khamenei's theological credentials, let alone possessing the authority to issue unsubstantiated opinions of this nature. Khamenei could go some way to answering these criticisms by issuing a detailed written exegesis substantiating his opinion, firmly anchored in scripture such that it would not be easily overturned by another *fatwa*, either by himself or another Ayatollah. At present, the existence of an 'oral' *fatwa* with no written support tells us more about the state of modern Iranian politics, and Khamenei's perceived position within it, than any meaningful basis for the resolution of a crisis.

3. Further complications: The notion that a *fatwa* is sacred and binding, quite apart from the difficulties this would normally incur, is further complicated by the precedence provided by the Islamic Republic itself. We have crucially the example of the *fatwa* against Salman Rushdie issued by the founding father of the Islamic Revolution, Ayatollah (Imam) Khomeini. This *fatwa* was also much debated at the time since it was not clear what question had been asked and whether the standard procedure had in fact been followed. Given the status of Ayatollah Khomeini, these points were largely dismissed and furthermore when the details of the *fatwa* were 'explained' by the then president, one Ali Khamenei (then a Hojjat-ol Islam, not an Ayatollah) to the effect that if Rushdie apologised the *fatwa* could be removed, he was swiftly rebuked by Khomeini who categorically stated that this was not the case and the judgment of death had to be carried out. So far so good as far as the inviolability of a *fatwa* is concerned. However the problem arose after Khomeini's death when Iranian diplomats and politicians spent the better of part of decade trying to argue that the *fatwa* was only religiously binding and not politically relevant to the state; that it was not a *fatwa* at all but a decree (*hokm*) and that religion and politics had always been separate in Iran (an awkward position to take given the thrust of the Islamic Revolution). The point is that the crisis was resolved in 1998 when the Iranian government agreed not to pursue it. This flatly contradicts the position currently being argued with regard to the nuclear *fatwa*.

There can be little doubt that the existence of a "nuclear fatwa" would be a useful basis on which to build a satisfactory resolution to the current crisis. But there also can be little doubt that at present such a fatwa – in any meaningful form - does not appear to exist. The concept of an "oral fatwa," in the context of Iran's nuclear programme, is meaningless and for any such ruling to have any weight it should be detailed and substantiated, *and* ideally supported by a broad range of the senior clerical hierarchy in Iran today. This surely cannot be beyond the capabilities of the vast bureaucracy that is the Supreme Leader's office? A fatwa of this nature would make a substantive and interesting document that could and should be taken seriously. It would also convey to the outside world the seriousness with which Iran takes the issue, and be a sound basis for possible progress.