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THE JURISPRUDENTIAL AND MORAL FOUNDATIONS OF THE AYATOLLAH KHAMENEI'S FATWA ON BAN OF NUCLEAR WEAPON

Abstract

Today nuclear weapons are a great global threat to human life and security. Meanwhile, Islamic Republic of Iran has strongly voiced its opposition to nuclear weapons based on the religious and rational measures and teachings. Ayatollah Seyed Ali Khamenei, the Supreme Leader of IRI, has also declared prohibited the production and use of nuclear weapons by issuing a Sharia based fatwa. The objective of the present essay is not only the explanation of this fatwa rather the identification of jurisprudential-moral foundations of it. The method used in this essay is documented-analytic. Among the results of this research, one can refer to the fact that Ayatollah Khamenei's fatwa is a religious fatwa not a merely governmental law and since fatwa is based on the eternal religious sources, it is considered to be strategic, eternal and universal not merely tactical, expediential and temporary. Moreover, rational and Sharia (moral and jurisprudential) documents and reasons in which the present fatwa has its own origin in addition to the subject of "use" includes the prohibition of "production", "possession" and "proliferation" too.

Keywords: Ayatollah Khamenei, fatwa, nuclear weapons, jurisprudence, ethics

Introduction

The world of politics is one of those areas that has been witness to numerous immoral and anti-moral actions and reactions. In the course of history, one can find short periods of time when the politics has served ethics and transcendence of humans. But unleashed politics has never been so armed and equipped with evil forces. Today thanks to the development of technology, politics takes advan-

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tage of deadliest weapons of mass destruction and nuclear weapons and threatens human security and life in a very serious way. On the other hand, external supervisions and controls of international organizations so far have proven to be powerless before such threats.

One can claim that internal guarantees and controls (including moral and religious ones) can be effective in betterment of conditions and reduction of dangers. Accordingly, Islamic Republic of Iran has offered a new model and – despite having access to the technology of production of nuclear weapons – claims that it does not think of production of such arms based on moral and religious measures. Ayatollah Khamenei the highest official of this country, in his message to the first international conference on disarmament and nonproliferation on April 2010, spoke of his fatwa of prohibition and use of nuclear weapons and insisted: “We believe that not only nuclear weapons rather other types of weapons of mass destruction like chemical and microbial weapons should also be considered a serious threat against humanity. Iranian nation who is itself a victim of the use of chemical weapons feels the danger of production and accumulation of this type of weapons more than other nations and is ready to put all its own possibilities in the service of the battle against these weapons. We believe that the use of these weapons is forbidden (haram) and the effort for immunization of all humankind against this great disaster is a universal task”³. Earlier, in his different meetings, the Supreme Leader had announced that Islamic Republic of Iran is not after the production of nuclear weapons; because on the one hand, this is against the Islamic creed and the use of these weapons is a mortal sin and on the other hand, nuclear weapons are not economic. Moreover, accumulation and possession of it is futile, harmful and dangerous⁴.

No doubt, such a belief in the contemporary world is new and the necessity of explanation of this fatwa and exploration of the foundations of such a fatwa is felt. Particularly, Iran’s nuclear file is still open in the international institutions and the publication of such studies can help the resolution of the nuclear issue of this country. Our studies show that no dependable work has been published so far in this regard and this is the first study that is conducted in this regard. Regardless of the innovative nature of the subject-matter, discussion of the moral aspects of Ayatollah Khamenei’s fatwa in this article is new in its turn.

Main Questions of Article

In this article we tend to answer the following questions: From which foundations does such a fatwa and theory originate and on which reasons does it depend? Moreover, we wonder whether these foundations lead us to the maxi-

3 Sayed Ali Khamenei, “Supreme Leader’s Message to International Conference on Nuclear Disarmament”, available at: <https://farsi.khamenei.ir/treatise-content?id=228&pid=228&tid=-1>, (date accessed: 17.04.2010).

4 Sayed Ali Khamenei, “Leadership statements in Friday prayer sermons”, available at: <https://farsi.khamenei.ir/speech-content?id=3302>, (date accessed: 19.08.2005).

mum ban or to the minimum ban? To put it otherwise, if this ban includes all four stages of production, proliferation, accumulation and use or it is just concerned with its use? Finally, given the difficult political and economic conditions of Iran, whether the issuance of this fatwa by the Supreme Leader of the Islamic Establishment is temporary and serves as a political tactics based on expedient reflection and circumspection for finding a way out of this situation or it is a strategic and permanent approach?

Following these questions, we are also interested in exploring with which moral basis (finalism, deontologism, utilitarianism) does maximum ban fit? And whether Islam's Jihadist strategy particularly those verses which decisively insist on the "murder of infidels" will serve as a permission and justification of application of nuclear weapon for the Islamic Republic of Iran?

Mass Destruction Weapon (MDW), Nature and Characteristic

Mass destruction weapon refers to a warfare the application of which would destruct a huge number of humans – in an indiscriminate and uncontrollable way – and incur numerous damages to many structures built by mankind or environment. Given the above definition, one can state that the term "Mass Destruction Weapons" as used in contemporary Persian literature as regards the weapons at issue is not a telling term. It seems that the current Arabic term "Comprehensive Destructive Weapons" is more explicit⁵. This type of weapon has four criteria: 1) In this context we intend the extraordinary weapons, 2) Weapons that destroy the civilians including the women, old people and the children, 3) Weapons that have extensive and irreparable destructive effects for the future and upcoming generations and environment, and 4) Weapons that have extraordinary destructive power.

Of course, these criteria would be intended together as a whole; in other words, in definition of this type of weapons, we would state that firstly, they should have an excessive power of destruction, secondly, act in a discriminate way, i.e. killing the military and the civilians both⁶. Therefore, MDW represents the weapons the destructive effects of which are not limited to the battle ground and war time and would target the civilians and the environment in addition to the military. Atomic, chemical and microbial weapons are permanent extensions of the MDW while such weapons as missiles and mortars that destruct a particular domain and its circle of destruction is essentially and always restricted to the military, lie outside the scope of the extensions of MDW⁷.

Presentation of this religious fatwa was received warmly by the international

5 Abu Al Qasem Alidoost, Jurisprudence of Production, Accumulation and Use of Abnormal Weapons focusing on Shia Jurisprudence, *Journal of Islamic Law*, No. 39, 2013, p. 9.

6 Fazel Lankarani, Mohammad Javad, Production and Use of Mass Destruction Weapons in Islamic Jurisprudence, *Journal of Islamic Law*, No. 39, 2013, p. 9.

7 Ibidem, p. 10.

community. This itself reveals the fact that if we speak in the language that is desirable for the divine religions and human schools, the world tired of war, fundamentalism and violence will surely support the theories the goal of which is the construction of the world based on the human values void of violence and weapon⁸.

Nature of Fatwa and Governmental Law

The word “Fatwa” is originated from the root-word “Fatawa” and means “expression of a judgement or law”⁹ and it represents what the jurist orders us to engage with¹⁰. This term is one of the frequently used terms of the science of jurisprudence and conveys a concept near to the same lexical meaning and connotes expression of a universal law of God on general issues which has been inferred by the Jurist using the four basic sources of Islamic Sharia¹¹. But lexically speaking, “Hokm” means justice and patience¹². In jurisprudence, it is the opposite of fatwa and refers to an order issued by the ruler or leader of Islamic society based on the universal laws and rules of Islamic Sharia in view of the conditions of time and place¹³.

In this regard, Sahib Jawahir writes, “In fatwa, the Arch Jurist speaks of the universal Sharia law concerning the general issues, e.g. sentence of impurity of something that is touched by pee or alcoholic drinks ... and however, sentence of order of execution of a Sharia or statutory laws or subjects of these two as regards a particular affair is with the ruler and not by God”¹⁴. Those who are familiar with the jurisprudence of Shia Islam know it well that a jurist’s view when is based on the Sharia documents including Quran, Sunnah, reason and jurisprudential consensus leads to the discovery of a Sharia law and is called “Fatwa”. Since a jurist’s fatwa has been driven from eternal documents, then it covers all times and places. In other words, as long as the owner of fatwa does not recognize his mistake, the Fatwa will stand forever and remains unchangeable and it does not follow the temporary expediencies¹⁵. In Governmental Law, expediencies and corruptions revolve around the society and the public; because basically the government is concerned with the society and the individual as a member of the society lies within the domain of the governmental laws. Then, Sharia ruler should take the expediencies of the society and the public into consideration. It is clear that in

8 Bahman Akbari, Analysis of Text and Meta-text of Fatwa of Supreme Leader concerning Ban of MDW, *Journal of Cultural Relations*, 2015, p. 113.

9 Ali Akbar Qoreyshi, *Encyclopedia of Quran*, Vol. 5, Tehran, 1975, p. 151.

10 Manzoor Ibn, *Lisan Al Arab*, Dar Sader, Beirut, Vol. 15, 1956, p. 148.

11 Abdollah Ibrahimzadeh, *Religious Governance*, Zamzam Hedayat, Qom, 2006, p. 186.

12 Sahib Ibn Abbad (1994), *Al Mohit fi Al Lughah*, vol. 2, Alam Al Kitab, Beirut, 1994, p. 387.

13 Bahman Akbari, Analysis of Text and Meta-text of Fatwa of Supreme Leader concerning Ban of MDW. . . p. 115.

14 Mohammad Hassan Najafi, *Jawahar al-Kalam*, Dar al-Ahya al-Torath al-Arabi, Vol. 40, Beirut, 2009, p. 100.

15 Abu Al Qasem Alidoost, Jurisprudence of Production, Accumulation and Use of Abnormal Weapons focusing on Shia Jurisprudence, *Journal of Islamic Law*, No. 39, 2013, p. 19.

such a perspective, governmental law is temporal and a function of the expedience and does not reveal any universal divine sentence like fatwa. Having said these, ban of nuclear weapons set by Ayatollah Khamenei is an expression of a fatwa and an eternal divine sentence and is not a function of any temporary and changeable expedience¹⁶.

Jurisprudential Background of Ban of MDW

It is worth to take it into account that ban of MDW in jurisprudence is not a newly emerged issue rather it has a long history in Islamic jurisprudence: Ayatollah Mohammad Hassan Najafi (1787-1849), better known as Sahib Jawahir, in his discussion of an idea of "ban of use of poison" by Mohaqeq Helli (1182-1253) offers a detailed historical account of the background of this issue. The ban of use of MDW has been noted by many jurists including Sheikh Tusi (965-1040) in *Kitab Al Nihayah* and Ibn Zuhreh (1090-1165) in *Kitab Ghanyyah Al Nuzuh* and Ibn Edris (1123-1178) in *Kitab Al Saraer* and Allameh Helli in *Kitab Al Nafeh*, Tabsareh and Ershad and Shahid Awal (1314-1366) in *Kitab Al Durus* and Mohaqeq Thani (1450-1520) in *Kitab Jameh Al Maqased*. They have criticized the views of some jurists who have only underlined the undesirability of this action and instead put an emphasis on the ban of this theory. Given the universality the quoted prophetic tradition, they continue to highlight the impermissibility of the poisoning of infidel land even if this will lead to the victory in the war¹⁷.

Foundations and Reasons of Ban of Nuclear Weapon

Rational and Moral Reason

From a rational and moral point of view, every action that is an extension of oppression or corruption is wrong and impermissible¹⁸. It is needless to say that application of this type of weapons leads to a great oppression towards the humanity, on the one hand, and mass destruction in environment, on the other hand. While according to the principle of mutual requirement of rational law and Sharia law¹⁹, we should believe that this action is also impermissible by the Sharia authority.

Someone would raise the following critique before this argument: Such an argument only insists on the minimum ban of the use of MDW but it does not suffice for the demonstration of the ban of production and accumulation. In other words, production and accumulation of these weapons do not fall under the title

16 Ibidem.

17 Sayed Sajjad Izadehi, "Ban of Use of MDW; Criticism and Examination of Reasons", National Conference of Nuclear Jurisprudence, Tehran, 2012, p. 3.

18 Hassan Ibn Yusuf Helli, *Tazkereh Al-Faqha*, Vol.1, Al-Radwiyah School of Lahya Al-Jafaria, 1990, p. 6.

19 Mohammad Reza Muzaffar, *Logic*, translated by Ali Shirvani, Vol. 1, Dar Al-Alam, Qom, 2020, p. 154.

of oppression and corruption.

As an answer to this critique, one can state that the probability of the use of such an actual weapon by other governments in future will exist; particularly, such a probability will increase in the highly emotional and antirational conditions; and even hypothetically if this probability is itself weak but the subject of this probability is so heavy and horrible which any negligence as regards it is rationally and morally impermissible and wrong²⁰. Secondly, this production in one sense provides the ground for a mortal sin which is forbidden and impermissible according to the Islamic jurists²¹. Holy Quran also clearly states: “Cooperate with each other based on righteousness and God-wariness not based on sin and animosity”²². To state the matter differently, this behavior can be a permission for construction and production by others and an effort for blurring the vicious nature of this action and this would finally lead to the diabolic arm race that in turn puts the world on the verge of the “possibility of use”. It is clear that every individual and country that has played a role in the encouragement and creation of such a threatening and dangerous atmosphere is rationally exposed to the crime of committing an immoral and vicious action. While on the contrary, the task of world righteous and conscientious people is making effort towards collection of this horrible and vicious tool. It is based on these that the Supreme Leader of Islamic Republic of Iran clearly notes: “Iranian nation is ready to put all its possibilities in the service of the battle with this type of weapons ... Not only we consider the use of these weapons to be impermissible, rather the effort for immunization of the mankind before this great catastrophe is an obligation of everyone”²³. Thirdly, we will soon state it with all details that the deterrence power of these weapons is basically faced with a challenge. Particularly, by demonstration of this hypothesis that the application of these weapons is truly forbidden and impermissible and binding, and given the fact that our enemy is conscious of this jurisprudential basis, this deterrence has become even weaker and will be even futile and useless.

Then, having said these, production of these costly weapons is a clear example of dissipation of national capital which in turn represents corruption²⁴. It is in this sense that in Islamic jurisprudence, “dissipation” of the property of others is impermissible and associated with liability²⁵.

According to these principles, Ayatollah Khamenei argues: “Islamic Republic of Iran has announced for several times that it is against the “construction” and

20 Abu Al Qasem Alidoost, *Jurisprudence of Production, Accumulation and Use of Abnormal Weapons focusing on Shia Jurisprudence*... p. 19.

21 Fazel Lankarani, Mohammad Javad, *Production and Use of Mass Destruction Weapons in Islamic Jurisprudence*... p. 4.

22 Quran, *Surah Al Maedah*, verse 2.

23 Sayed Ali Khamenei, “Leadership Message to Tehran International Conference on Disarmament and Non-Proliferation”, available at: <https://farsi.khamenei.ir/message-content?id=9171>, (date accessed: 16.04.2010)

24 Abu Al Qasem Alidoost, *Jurisprudence of Production, Accumulation and Use of Abnormal Weapons focusing on Shia Jurisprudence*... p. 14.

25 Mohammad Hassan Najafi, *Jawahar al-Kalam*, Dar al-Ahya al-Torath al-Arabi, Vol. 18, Beirut, 2009, p. 288.

“application” of the nuclear weapons²⁶. “We believe that the use of these weapons is a mortal sin and their cornering is futile, useless and very dangerous”²⁷.

Quranic Reasons

Principle of Vizr (Burden): This principle has been inferred from the verse 15 of Surah Al Asra that reads as follows: “no bearer of burdens can bear the burden of another”. According to this principle, “no criminal’s punishment should be heavier than what the burden of his crime requires”. In other words, no one should carry the burden of punishment of the crime committed by another. No doubt, effects of nuclear weapons not only make many innocent people suffer even they affect the future generations.

Principle of Striving for Corruption: This principle is inferred from the verse “And when he goes away, he strives throughout the land to cause corruption therein and destroy crops and animals. And Allah does not like corruption”²⁸. According to this verse, every type of effort that finally leads to the corruption on earth is an extension of the toiling for corruption and it is forbidden. Based on this Quranic principle, even the “struggle and effort” for corruption is also forbidden even if in practice it does not lead to corruption. To put it otherwise, according to the doctrines of the Islamic religion, not only the destructive action is forbidden, rather any type of effort and policy making for destruction of humans is considered to be a preparation for a forbidden action. Nuclear weapon is one of the striking examples of corruption and destruction of crops and living beings the scope of which covers all aspects of nature and environment in addition to human generation. Ayatollah Khamenei underlines this point too: “We do not believe in atomic bomb and nuclear weapon; we will not struggle for it. According to our ideological and religious principles, the use of such mass destruction tool is forbidden and impermissible; this is an extension of destruction of the crops and living beings which have been declared to be forbidden by Quran”²⁹.

Principle of Sin: According to this Quranic principle, “if ugliness and sin in an action is more than its goodness and interest, that action is forbidden. This principle is inferred from the verse “Their sin is greater than their benefit”³⁰. Although this verse has been revealed as regards “alcoholic drinks”, it has the capacity of expression of a general principle as to all issues in which the mortality of the sin is established.

26 Sayed Ali Khamenei, “Statements at the 19th anniversary of the death of Imam Khomeini”, available at: <https://farsi.khamenei.ir/speech-content?id=3463>, (date accessed: 16.05.2006)

27 Sayed Ali Khamenei, “Statements in a meeting with nuclear scientists”, available at: <https://farsi.khamenei.ir/speech-content?id=19124>, (date accessed: 22.02.2012)

28 Quran, Surah Al Baqara, Verse 205.

29 Sayed Ali Khamenei, “Meeting with the Secretary General of International Atomic Energy Agency”, available at: <https://farsi.khamenei.ir/speech-content?id=8906>, (date accessed: 19.02.2010)

30 Quran, Surah Al Baqara, Verse 219.

Verse of "homicide": "whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely"³¹. According to this verse, only two reasons are recognized as a basis for killing a man: homicide and corruption on earth. But as this verse stipulates, killing someone who has neither killed any other man nor committed any mischief is like killing the whole humans and in other words, an extension of the crime against humanity. No doubt, nuclear weapon kills indiscriminately and in a blind fashion is a clear example of this sentence³².

"Verse of Justice": "O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is acquainted with what you do"³³. In this verse, God as an eternal and universal order (regardless of the time and place), has warned the Muslims against oppression and invited them to justice. In this verse, it is stipulated that even if the enemy acts in a fundamental fashion, you are not allowed to leave the path of justice and self-containment. No doubt, one of the extensions of this verse can be sought for in the propositions related to the nuclear weapon.

Traditional Reasons

Islamic traditional doctrines, in all states even in the time of war, insist on the necessity of protection of the life of children, women and innocent individuals and avoidance from destruction of environment. These stipulations can lead us to the ban of nuclear weapons. Here we note some of the most important ones of them:

- Holy Prophet of Islam is quoted to have said: "Do not punish the infidels by burning them alive in fire, because it is only the God who is permitted to punish the servants by burning"³⁴. This tradition suggests that Muslims when defeat the enemy are not allowed to put them in fire (or use other similar ways of punishment). It is clear that the effect of the MDW is stronger and more painful than fire.

- Imam Ali is quoted to have stated: Prophet would have warned the Muslims against poisoning the land of enemies³⁵. Shia jurists use this tradition to issue a fatwa of the ban of the use of poison in the land of the infidels. Some jurists have sought for the reason of this fatwa in the impermissibility of the murder of the children, women and old people³⁶. To state the matter differently, the reason for this is that in the use of poison, there is no chance of discrimination between the military and the civilian. Shahid Thani believes that if the use of poison leads to the

31 Quran, Surah Al Maedah, Verse 32.

32 Naser Qorbannia, Absolute Ban of Application of Nuclear Weapon, *Journal of Islamic Law*, No. 39, 2013, p. 92.

33 Quran, Surah Al Maedah, Verse 8.

34 Mohammad Ibn Hassan Tusi, *Al Nihayah*, Dar Al Kutub Al Arabi, Vol. 6, Beirut, 1980, p. 143.

35 Mohammad Ibn Yaqub Koleini, *Al Kafi*, vol. 5, Beirut, 1987, p. 28, and: Majlesi, *Behar*, 1983, p. 177.

36 Mohammad Hassan Najafi, *Jawahar al-Kalam*, Dar al-Ahya al-Torath al-Arabi, Vol. 21, Beirut, 2009, p. 68.

killing of a woman, it is impermissible. Even here some have insisted that even if by the use of poison in the city of enemy the victory is achieved, this would be still impermissible³⁷. Anyway, here again some contemporary jurists have taken advantage of the technique of “generalization” in order to substantiate the issue of MDW based on this tradition. In the words of Sayed Mohammad Sadr, “Although the above tradition has been stated as regards the use of poison, it also includes all weapons of mass destruction including the nuclear weapon³⁸.”

- According to Islamic traditions, Muslims even in wars are not allowed to cut the trees; when the Prophet sends a group of people for war, he would recommend: “Avoid killing women, children and old people and never cut the trees particularly the palm trees³⁹”. In this tradition, the Prophet has set an unconditional ban on cutting of trees even in the battle ground.

- In another tradition, only in case of emergency Muslims are allowed to cut the trees: “Never kill women, old people and children. Avoid cutting the trees unless there is an emergency⁴⁰”.

- In another recommendation, the Holy Prophet of Islam has warned against burning farms and destruction of trees: “Don’t set the trees on fire and don’t destruct them by water and don’t cut them and don’t burn the fields⁴¹”. According to these traditions, some Shia jurists have suggested the ban of cutting of trees in war⁴² and some others issued fatwa of the impermissibility of the cutting of trees⁴³. In a Final Will by Holy Prophet, it is argued: “Don’t kill the Halal meat animals except as much as you need for your food. For animals like humans, women and children are respectful⁴⁴”.

Based on this logic and basis, Ayatollah Khamenei has also declared forbidden the act of cutting of every type of trees that belong to people. In this regard, he states: No single branch of a tree should be broken for no reason. If this tree belongs to people or say, it is a public property, this action is impermissible. If it is a personal garden, sometimes breaking a branch of a tree is squander or pointless dissipation of properties⁴⁵. Anyway, given the logic of Islamic traditions and our stance and obligation will be clear before this type of anti-human mortal arms.

Examination of Some Challenges and Questions

37 Ibidem.

38 Sayed Muhammad Sadr, *Al Moalefat Al Kamelah*, Vol. 2, Institute for the Revival of Islamic Books, Beirut, 2000, p. 385.

39 Mohammad Bagher Majlesi, *Behar*, Vol. 21, Qom, 1990, p. 60.

40 Mohammad Ibn Yaqub Koleini, *Al Kafi*, Vol. 5, Beirut, 1987, p. 27.

41 Ibidem, p. 29.

42 Abu Saleh Halabi, *Kafi fi Al Fiqh*, Amir Al Momenin Library, Isfahan, 1983, p. 256.

43 Mohammad Ibn Hassan Tusi, *Al Nihayah*, Dar Al Kutub Al Arabi, Beirut, 1980, p. 299.

44 Hassan Ibn Yusuf Helli, *Tazkereh Al-Faqha*, Vol. 1, Al-Radwiyah School of Lahya Al-Jafaria, 1980, p. 413.

45 Sayed Ali Khamenei, “Religious rulings related to the environment”, available at: <https://farsi.khamenei.ir/news-content?id=29351>, (date accessed:02.04.2015)

Now after explanation of rational Quranic and traditional foundations of ban of nuclear weapons, there is a need to shortly discuss the questions and challenges raised in this regard.

First Challenge

This ambiguity or objection has been raised in the world political societies: Given the political and economic difficulties of Iran, whether the issuance of this fatwa by the Supreme Leader is temporary and serves as a political and expedient tactic and an act of circumspection for finding a way out of this situation? If this ban can turn to permission following the change of the temporal and spatial conditions and upon the emergence of a different expedience? In this part, we try to examine the answer of this question or challenge in light of the major ethical schools. (Along with the view of Ayatollah Khamenei as regards each one): Ethical theories and schools are usually divided into three classes of teleological ethics, deontological ethics and virtue ethics in view of their stance as regards the measure of ethical action (good and bad). According to teleological ethics, the measure of rightness and wrongness of a behavior is the external values that lie outside the domain of ethics. Given this, an action is considered to be right as compared to another action only if it leads to the domination of good over the evil. Likewise, it is taken to be wrong only if it neither leads to the domination of good over the evil nor it is intended to create such domination.⁴⁶ To put it otherwise, proponents of teleological ethics take the ultimate result of the adopted action in order to identify the rightness and wrongness of it. Of course, proponents of teleological ethics have different views of the nature of the desirable telos of an ethical action and the goal for which one takes a moral action. Some of these scholars have considered pleasure, some others the power and another group the profit as the Ultimate Telos of ethical action. Virtue ethics presents a perspective of ethics that insists on having a good life and quality of life. This branch of ethics contrary to deontological ethics that underlines such key words as obligation and moral duty⁴⁷ and also contrary to teleological ethics that insists on the result of an ethical action, highlights "virtue" and "character". Virtue ethicists believe that one can reach an ideal and perfect life based on human virtues based on virtue rules.⁴⁸

In the "deontologist" approach, we are naturally focused on the Sharia and moral orders and we will not be confined by any expedience, utilitarianism or even finalism. Accordingly, on the one hand, as we noted earlier, this ban is not a governmental law rather it is a Sharia (and rational) fatwa. In other words, it is not

46 Derek Parfit, *Reasons and Persons*, Clarendon Press, Oxford, 1984.

47 David Misselbrook, "Duty, Kant, and Deontology", *British Journal of General Practice*, Vol. 63, No. 609, 2013, p. 211.

48 Nafsika Athanassoulis, *A Response to Harman: Virtue Ethics and Character Traits*, Proceedings of the Aristotelian Society (New Series), 2000, pp. 215–221.

a secondary law rather it is a primary law; and as we noted earlier, primary fatwa and law is not a function of expedience, yesterday and today as well as conditions of time and space. In other words, as we explained it at the outset, such laws or fatwa are directly documented to Sharia and rational reasons and regulations and if those reasons are general and permanent, the fatwa is also a function of it. The nuclear issue – as aforementioned – is based on the permanent Quranic, traditional and rational (moral) reasons, which are permanent and universal and eternal. It is in this context that Ayatollah Khamenei argues: “We are not after nuclear weapon and westerners know this issue well, because production of nuclear weapon is against the orders of Islamic religion⁴⁹. In another point, Supreme Leader has noted: “Islamic Republic of Iran has clearly announced for several times that its religious and ideological doctrines are against the production and use of nuclear weapon⁵⁰.”

By virtue ethics perspective such a revision and diametrical turn (i.e. turning from ban to permission), would lead to a result contrary to moral and virtuous goals, it will be a violation of intention. To state the matter differently, final goal of production and application warfare (in divine schools and moralist thoughts) should be basically expansion of religiosity, ethics and divine and human ethics; not mere physical domination and expansionism. While with these political approaches and tactical strategies, and violation of promises and trespass of measures, not only such an end is not reached rather the result will be totally the reverse. Basically, from the perspective of moral philosophers, by a mortal sin called the killing of humans and destruction of generations and living being, not only one cannot near oneself to moral ends rather the world is not also oriented toward these goals. One can state that the following word is more in line with this very basis: “Islamic Republic of Iran considers the use of nuclear and chemical weapons to be a mortal and unforgivable sin⁵¹.”

Based on “utilitarianism”, (As one of the branches of teleological ethics) goal of production of weapons is nothing but increase of the deterrence power. But power, particularly in contemporary world, is divided into two hard and soft levels. Now it is far more clear that a country ready to forget its principles, ideas and decisive slogans through a complete turn due to the turbulent and temporary expediencies will surely lose its soft power and international credit and political influence and in hegemonic and diplomatic space it will have a weak position that leads it to the verge of failure. It is interesting to note that Ayatollah Khamenei has used this point of view as a basis for setting a ban on nuclear weapons: “We are not after nuclear weapons ... because it is against the political and eco-

49 Sayed Ali Khamenei, “Meeting of the President of Tajikistan with the Leader of the Islamic Revolution”, available at: <https://farsi.khamenei.ir/news-content?id=1352>, (date accessed: 18.01.2006).

50 Sayed Ali Khamenei, “In a meeting with members of the Assembly of Experts”, available at: <https://farsi.khamenei.ir/speech-content?id=47396>, (date accessed: 22.02.2021).

51 Ibidem.

conomic interests of our country¹⁵². “Actually nuclear weapon is not in our interest; by the way, we think that this work is not right based on our intellectual, theoretical and jurisprudential ideas¹⁵³. In a sagacious word, Supreme Leader stipulates: “Having nuclear weapons does not bring power and nuclear threat does not work for the world anymore¹⁵⁴. Or in another place, having mentioned the example and evidence, he states: “Iranian nation dropped a nuclear power like the US out of their country and Palestinians are fighting back a nuclear Israel. Therefore, nuclear weapon does not guarantee the power and victory¹⁵⁵.”

A Destructive Answer: In addition to the above constructive answer, one field example and practical evidence (and destructive answer), can be a review of the record of Islamic Republic of Iran. This clarification can serve as a destructive answer to this objection. In this regard, Ayatollah Khamenei states: “We do not want atomic bomb and even we are against having chemical weapons. Even when Iraq attacked us with chemical bombs, we did not produce any chemical weapon in order to retaliate. These issues are not in line with our principles¹⁵⁶.”

Second Challenge

One would say that Islamic religion in some verses of Holy Quran has ordered the Muslims to prepare themselves for threatening the enemies: “And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of Allah and your enemy¹⁵⁷. As it is needless to say, “whatever you are able” and “of power” are unconditional phrases and accordingly, this order will imply as follows: “Prepare all possible weapons for threatening and terrifying your enemies”. On the other hand, production and possession of nuclear weapons are examples of this order. Therefore, regardless of the use, having such weapons is totally in line with the words of Holy Quran rather is a clear order of it.

The answer to this challenge is completely clear based on previous discussions. For as it is noted, firstly, given all conditions, now having these weapons does not bring about any deterrence and intimidation. To put it in simple terms, benefit does not match the cost. Secondly, if this prepares the ground for the corruption on earth and violates the justice, according to the verses, it will not be permissible. thirdly, it needs to be added that according to the rules explained in “Principles of Jurisprudence”, whenever God orders the servants to engage with

52 Sayed Ali Khamenei, “Statements in a meeting with nuclear scientists”, available at: <https://farsi.khamenei.ir/speech-content?id=19124>, (date accessed: 18.01.2004).

53 Ibidem.

54 Ibidem,

55 Sayed Ali Khamenei, “Leadership meeting with the country’s young elite”, available at: <https://farsi.khamenei.ir/news-content?id=1046>, (date accessed: 22.10.2003).

56 Ibid.

57 Quran, Surah *Al Anfal*, verse 60.

an action, those who are required to follow divine order are merely allowed to resort to permissible and Halal tools and preliminaries even if that order is categorical. For example, one is not allowed to visit House of Allah spending illegitimate property or cross a passage that is usurped. Here when God orders the Muslims to prepare themselves for a confrontation with the infidels, it is clear that this should take place via a legitimate process⁵⁸.

Third Challenge

Today, in order to create Islamophobia in media, Jihad verses in Holy Quran are discussed and repeated in a one-sided way without mentioning the evidence and occasion of revelation. For example, Holy Quran in the verse 191 of Surah Al Baqara insists on the permission of killing of infidels: "*And kill them wherever you overtake them and expel them from wherever they have expelled you,*". Now in this poisonous Islamophobic propaganda, such verses are introduced as documents for "violent strategy of Islamic establishment"; then, they conclude that with such a strategy, Iran will naturally consider the use of the nuclear weapon totally justified and legitimate.

As an answer, one should say that given the aforementioned explanations, such doubts will fade away. For example, in this mentioned verse, it is clear that no single one of the notions and sentences of the verse is absolute and free-floating and one should not interpret them neglecting the moral and religious measures and frameworks. As it is mentioned as to the occasion of the revelation of this verse, "infidel" in this context refers to the enemy that declares war against Islam not every infidel or his relatives⁵⁹.

Quran does not allow the attack on the infidels who are not harmful for Muslims rather it insists on good manner because God loves those who act based on justice: "Allah does not forbid you from those who do not fight you because of religion and do not expel you from your homes - from being righteous toward them and acting justly toward them. Indeed, Allah loves those who act justly. Allah only forbids you from those who fight you because of religion and expel you from your homes and aid in your expulsion - [forbids] that you make allies of them. And whoever makes allies of them, then it is those who are the wrongdoers."⁶⁰. The concept of "killing" in this context, relying on previous premises, naturally refers to the killing based on moral and Islamic measures. Basically, regardless of other Quranic and traditional evidence and reasons as well as rational and moral reasons, this verse, even as such does not have any justifiable implication for permission of the use of the MDW.

58 Abu Al Qasem Alidoost, *Jurisprudence of Production, Accumulation and Use of Abnormal Weapons focusing on Shia Jurisprudence* . . . p. 17.

59 Mohammad Hossein Tabatabaei, *Translation of Tafsir Al Mizan*, Vol. 2, trans. Seyed Mohammad Baqer Moosavi Hamedani, Islamic Press, Fifth Edition, Qom, 1995, pp. 524-525.

60 Quran, Surah *Al Mumtahinah*, 8 and 9.

Conclusions

Record of modern age is full of tension, violence and war and now it is still exposed to catastrophic dangers and calamities including the “production and use of nuclear weapons”. On the other hand, legal regulations and international organizations and institutions have shown that they are suffering from a great weakness called “lack of performance bond”. In line with this, internal, spiritual and religious guarantees can be considered to be effective and encouraging.

Meanwhile, religious fatwa of Supreme Leader of Islamic Republic of Iran concerning the “ban of production, use and possession of nuclear weapon” is considerable and serves as a pattern. His view is a religious fatwa and not merely a governmental law; and since the fatwa is based on the eternal religious sources, it is considered to be strategic, universal and eternal not tactical, expediential and temporary. The rational and Sharia (moral and jurisprudential) documents and reasons from which this fatwa originates, in addition to the issue of “use” includes the ban of “production”, “possession” and “proliferation” too.

References

- Akbari Bahman, Analysis of Text and Meta-text of Fatwa of Supreme Leader concerning Ban of MDW, *Journal of Cultural Relations*, 2015.
- Ali Khamenei Sayed, "In a meeting with members of the Assembly of Experts", available at: <https://farsi.khamenei.ir/speech-content?id=47396>, (date accessed: 22.02.2021).
- Ali Khamenei Sayed, "Leadership meeting with the country's young elite", available at: <https://farsi.khamenei.ir/news-content?id=1046>, (date accessed: 22.10.2003).
- Ali Khamenei Sayed, "Leadership Message to Tehran International Conference on Disarmament and Non-Proliferation", available at: <https://farsi.khamenei.ir/message-content?id=9171>, (date accessed: 16.04.2010).
- Ali Khamenei Sayed, "Leadership statements in Friday prayer sermons", available at: <https://farsi.khamenei.ir/speech-content?id=3302>, (date accessed: 19.08.2005).
- Ali Khamenei Sayed, "Meeting of the President of Tajikistan with the Leader of the Islamic Revolution", available at: <https://farsi.khamenei.ir/news-content?id=1352>, (date accessed: 18.01.2006).
- Ali Khamenei Sayed, "Meeting with the Secretary General of International Atomic Energy Agency", available at: <https://farsi.khamenei.ir/speech-content?id=8906>, (date accessed: 19.02.2010).
- Ali Khamenei Sayed, "Religious rulings related to the environment", available at: <https://farsi.khamenei.ir/news-content?id=29351>, (date accessed: 02.04.2015).
- Ali Khamenei Sayed, "Statements at the 19th anniversary of the death of Imam Khomeini", available at: <https://farsi.khamenei.ir/speech-content?id=3463>, (date accessed: 16.05.2006).
- Ali Khamenei Sayed, "Statements in a meeting with nuclear scientists", available at: <https://farsi.khamenei.ir/speech-content?id=19124>, (date accessed: 18.01.2004).
- Ali Khamenei Sayed, "Supreme Leader's Message to International Conference on Nuclear Disarmament", available at: <https://farsi.khamenei.ir/treatise-content?id=228&pid=228&tid=-1>, (date accessed: 17.04.2010).
- Ali Khamenei Sayed, "Statements in a meeting with nuclear scientists", available at: <https://farsi.khamenei.ir/speech-content?id=19124>, (date accessed: 22.02.2012)
- Alidoost Abu Al Qasem, Jurisprudence of Production, Accumulation and Use of Abnormal Weapons focusing on Shia Jurisprudence, *Journal of Islamic Law*, No. 39, 2013.
- Athanassoulis Nafsika, *A Response to Harman: Virtue Ethics and Character Traits*, Proceedings of the Aristotelian Society (New Series), 2000.
- Halabi Abu Saleh, *Kafi fi Al Fiqh*, Amir Al Momenin Library, Isfahan, 1983.
- Ibn Abbad Sahib, Al Mohit fi Al Lughah, Vol. 2, Alam Al Kitab, Beirut, 1994.
- Ibn Hassan Tusi Mohammad, *Al Nihayah*, Dar Al Kutub Al Arabi, Beirut, 1980.
- Ibn Manzoor, *Lisan Al Arab*, Dar Sader, Beirut, Vol. 15, 1956.
- Ibn Yaqub Koleini Mohammad, *Al Kafi*, Vol. 5, Beirut, 1987.
- Ibn Yaqub Koleini Mohammad, *Al Kafi*, vol. 5, Beirut, 1987, p. 28, and: Majlesi, *Behar*, 1983.
- Ibn Yusuf Helli Hassan, *Tazkereh Al-Faqha'*, Vol. 1, Al-Radwiyah School of Lahya Al-Jafaria, 1980
- Ibrahimzadeh Abdollah, *Religious Governance*, Zamzam Hedayat, Qom, 2006.
- Izadehi Sayed Sajjad, "Ban of Use of MDW; Criticism and Examination of Reasons",

National Conference of Nuclear Jurisprudence, Tehran, 2012.

Lankarani Fazel, Mohammad Javad, Production and Use of Mass Destruction Weapons in Islamic Jurisprudence, *Journal of Islamic Law*, No. 39, 2013.

Majlesi Mohammad Bagher, *Behar*, Vol. 21, Qom, 1990.

Misselbrook David, Duty, Kant, and Deontology, *British Journal of General Practice*, Vol. 63, No. 609, 2013.

Muzaffar Mohammad Reza, *Logic*, translated by Ali Shirvani, Vol. 1, Dar Al-Alam, Qom, 2020.

Najafi Mohammad Hassan, *Jawahar al-Kalam*, Dar al-Ahya al-Torath al-Arabi, Vol. 40, Beirut, 2009.

Najafi Mohammad Hassan, *Jawahar al-Kalam*, Dar al-Ahya al-Torath al-Arabi, Vol. 18, Beirut, 2009.

Partfit Derek, *Reasons and Persons*, Clarendon Press, Oxford, 1984.

Qorbannia Naser, Absolute Ban of Application of Nuclear Weapon, *Journal of Islamic Law*, No. 39, 2013.

Qoreyshi Ali Akbar, *Encyclopedia of Quran*, Vol. 5, Tehran, 1975

Quran.

Sadr Sayed Muhammad, *Al Moalefat Al Kamelah*, Vol. 2, Institute for the Revival of Islamic Books, Beirut, 2000.

Tabatabaei Mohammad Hossein, *Translation of Tafsir Al Mizan*, Vol. 2, trans. Seyed Mohammad Baqer Moosavi Hamedani, Islamic Press, Fifth Edition, Qom, 1995.

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ПРАВНЕ И МОРАЛНЕ ОСНОВЕ ФЕТВЕ АЈАТОЛАХА ХАМНЕИЈА О ЗАБРАНИ НУКЛЕАРНОГ НАОРУЖАЊА

Сажетак

Нуклеарно оружје представља велику претњу за људске животе и безбедност. Исламска република Иран се гласно супроставља нуклеарном оружју и тај став се заснива на верским и рационалним аргументима. Ајатолах Сајид али Хамнеи, врховни верски вођа, фетвом је забранио производњу и употребу нуклеарног оружја. Циљ овог чланка није само да објасни фетву, већ и да анализира њене моралне и правне основе. Фетва не представља само државни закон, већ се заснива на религијским изворима и сматра се за стратешки, вечни и универзални документ. Поред тога, фетва се не односи само на употребу нуклеарног оружја, већ и на забрану производње, поседовања и пролиферацију истог.

Кључне речи: Ајатолах Хамнеи, фетва, нуклеарно оружје, право, етика

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