

From Fatwa to Formalization: The Legal and Ethical Challenges of the Popular Mobilization Forces in Iraq

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Abstract

This paper examines the complex legal and ethical dimensions surrounding the 2014 fatwa issued by Ayatollah Ali al-Sistani, urging Iraqi citizens to fight the Islamic State of Iraq and Syria (ISIS). This religious edict triggered the formation of the Popular Mobilization Forces (PMF), a powerful and controversial coalition of Shia militias. While officially integrated into the Iraqi security forces, the PMF's actions and loyalties have been subject to ongoing debate, raising questions about their compliance with Iraqi law and international human rights standards. The study analyzes the fatwa's compatibility with international humanitarian law and human rights principles, examining the religious authority's directives on the treatment of civilians and prisoners of war. It traces the legislative process that formally integrated the PMF into the Iraqi armed forces and assesses whether this legal framework adequately addresses the challenges posed by the PMF's diverse composition and history. Furthermore, the paper examines the ongoing role of religious authority in influencing the PMF's conduct and integration into the state's security apparatus, highlighting the intricate interplay between religious authority, military force, and the rule of law in a conflict-ridden environment. The analysis concludes by offering a nuanced assessment of the legal and ethical implications of the fatwa and the subsequent actions of the PMF, arguing that while isolated incidents of abuse occurred, the religious authority's guidelines actively worked against the establishment of systematic human rights violations.

Keywords: Fatwa, Popular Mobilization Forces, Sufficient Jihad.

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1. Introduction

On 10 June 2014, about a third of Iraqi territory was overrun by the Islamic State in Iraq and Syria (ISIS) (Abdullah et al,2025). This provoked a sharp response from Ayatollah Ali Sistani, the supreme leader of Shia in Iraq. On 14 June 2014, he issued a divine order (fatwa) commanding all Iraqis with the armed capability to fight against ISIS under the auspices of Iraqi security forces. This fatwa was read out by the Ayatollah's representative, Shaykh Abdulmahdi Al-Karbalaei, at a Friday worship in the Holy Shrine of Imam Hussain in Karbala, which is a city located in the southern part of Iraq¹. Response to the Ayatollah's fatwa was both immediate and overwhelming. Thousands of Iraqis enlisted as volunteers in the battle to repel ISIS forces, which had, in a few days, advanced as close as the border of the Iraqi capital Baghdad, in the central part of the country, with the Iraqi army and most of the other security forces virtually depleted. (Kareem Abdullah, et al,2024; Zakeri et al,2024). ISIS started to threaten the neighboring countries and the entire region (Alishahi et al,2017).

Subsequently, A new militia coalition, known as Al-Hashd al-Shaabi (Popular Mobilization Forces or PMF), was formed, consisting of 50 to 70 individual militias that are aligned with at least three different organizations. Several unsuccessful efforts have been made to formalize the PMF as a component of the Iraqi state.

Despite being officially integrated into the structure of the conventional Iraqi army, the Popular Mobilization Forces (PMF) remain a contentious topic, raising concerns about their adherence to the rule of law and loyalty to the Iraqi state (Anbori et al,2024). The PMF faces constant criticism for operating beyond the boundaries of Iraqi state laws and the authority of the Commander-in Chief of the Iraqi Armed Forces, presenting a significant challenge as both a state and non-state actor (Anbori et al,2024).

This paper examines the complex legal and ethical dimensions surrounding the 2014 fatwa issued by Ayatollah Ali al-Sistani, urging Iraqi citizens to fight the Islamic State of Iraq and Syria (ISIS). This religious edict triggered an unprecedented mobilization of volunteers, resulting in the formation of the Popular Mobilization Forces (PMF), a powerful and controversial coalition of Shia militias. While officially integrated into the Iraqi security forces, the PMF's actions and loyalties have been subject to ongoing debate,

1. <https://www.youtube.com/watch?v=R7by5almGhA>

raising questions about its compliance with Iraqi law and international human rights standards.

The paper's central focus is on the legal and ethical framework within which the PMF operated, analyzing the fatwa's compatibility with international humanitarian law and human rights principles. The analysis delves into the religious authority's directives on the treatment of civilians, prisoners of war, and the protection of property during armed conflict, comparing them to the tenets of the Geneva Conventions and the Universal Declaration of Human Rights. The authors seek to determine whether the religious guidelines effectively constrained the actions of the PMF, or whether the circumstances of the conflict led to deviations from these principles.

A significant portion of the paper addresses the legal standing of the PMF within Iraq. It traces the legislative process that officially integrated these forces into the Iraqi armed forces, analyzing the legal instruments that define their structure, command chain, and legal responsibilities. The paper considers whether the legal framework adequately addresses the challenges posed by the PMF's diverse composition and history, and whether it successfully balances the need for effective security forces with the imperative of upholding the rule of law. This includes consideration of the controversies surrounding the PMF's actions, including allegations of human rights violations, and the difficulty of reconciling their actions with the established legal and constitutional order in Iraq.

Finally, the paper examines the ongoing role of Ayatollah al-Sistani and the religious authority in influencing the PMF. It assesses the authority's efforts to ensure the PMF's adherence to religious and legal norms, as well as the extent to which its pronouncements have impacted the PMF's conduct and integration into the state's security apparatus. The paper concludes by offering a nuanced assessment of the legal and ethical implications of the fatwa and the subsequent actions of the PMF, highlighting the intricate interplay between religious authority, military force, and the rule of law in a conflict-ridden environment.

2. Methodology

This study employs a qualitative research methodology, drawing upon a mixed-methods approach to analyze the legal and ethical dimensions of the 2014 fatwa and the subsequent actions of the Popular Mobilization Forces (PMF) in Iraq. The research design integrates doctrinal legal analysis with a critical examination of primary and secondary source materials to offer a

comprehensive understanding of the issue. This approach is normally used in legal issues-linked studies (Althabhwawi,2014).

Data Sources: The primary data sources consist of the official text of Ayatollah al-Sistani's fatwa, subsequent Friday sermons and pronouncements from the religious authority, Iraqi legislation pertaining to the PMF (including the law establishing the PMF and subsequent Diwani orders), and relevant international legal instruments such as the Geneva Conventions and the Universal Declaration of Human Rights. Secondary sources comprise academic articles, news reports, government documents, and reports from human rights organizations that document the PMF's activities and impact. These sources provide a multifaceted perspective, allowing for analysis from both legal and ethical viewpoints.

Data Analysis: Doctrinal legal analysis is utilized to examine the compatibility of the fatwa and the PMF's actions with international humanitarian law and human rights norms. This involves a detailed interpretation of relevant legal texts, drawing upon established legal scholarship and precedents. The analysis of secondary sources employs thematic analysis, identifying recurring patterns and themes within the corpus of reports and documents to provide contextual understanding and identify areas of controversy or dispute. Triangulation of data from diverse sources enhances the study's validity and reliability.

Limitations: The primary limitation of this study is the reliance on available documentation. Access to certain primary sources, such as internal PMF communications or classified government documents, may be restricted. This may impact the ability to definitively assess the extent of the PMF's adherence to the religious authority's guidelines or Iraqi law in all instances. Further limitations may arise from potential biases inherent in the secondary sources consulted; a conscious effort is made to utilize sources from a variety of perspectives to mitigate this. The qualitative nature of the study necessitates a focus on contextual understanding and thematic interpretation, rather than statistical generalization.

In summary, this research leverages a mixed-methods approach that combines rigorous doctrinal legal analysis with a critical review of primary and secondary source materials to provide a thorough examination of the legal and ethical dimensions of the fatwa and the PMF's actions, while acknowledging the inherent limitations associated with the research design.

3. The Fatwa of Sufficient Jihad and Human Rights

The religious authority continued to direct fighters with general principles and religious recommendations derived from Islam, linking them to human rights in the contemporary Western sense. There is a correspondence between these directives and guidance and the Universal Declaration of Human Rights issued by the UN in 1948, as well as the Geneva Conventions. Anyone who reads the guidelines issued by the religious authority recognizes its essence aligns with the Geneva Convention regarding the protection of civilians during wartime. For example, Ayatollah al-Sistani emphasized: "Do not kill an old man, a child, or a woman," which echoes a command from Prophet Muhammad during the Battle of Badr. Additionally, these directives aligned with Article 16 of the Geneva Conventions, which states, "The wounded and sick, as well as the aged, pregnant women, and mothers of young children, deserve special protection and respect."

Regarding children, Article 38, Paragraph 5, specifies that "children under the age of fifteen and pregnant women and mothers of children under the age of seven shall receive preferential treatment akin to that afforded to the nationals of the concerned state." Likewise, Article 77 of the First Additional Protocol to the Geneva Conventions of 1949 explicitly concerns the protection of children, while Article 76 addresses women's protection.

The religious authority's guidance also included mentions of the protection of public property during wartime and armed conflicts. As noted in the Quran, "Indeed, you have in the Messenger of Allah an excellent example for whoever hopes for Allah and the Last Day and remembers Allah often," the Prophet Muhammad advised during the Battle of Badr: "Do not cut down a tree." This issue is now pertinent as it relates to public property, including oil wells, rivers, and infrastructure—essentially economic resources. This aligns with Article 56 of the First Additional Protocol of the Geneva Conventions (1949), which concerns the protection of victims of international armed conflicts.

Among the most important points emphasized by the religious authority in its guidance to fighters is the statement made by Sheikh Abdul Mahdi al-Karbala'i in a Friday sermon on July 11, 2014, where he said, "God... God... protects human dignity." This aligns with Article 75 of the third section regarding the treatment of persons under the control of a conflicting party in the First Additional Protocol to the Geneva Conventions of 1949. Similarly,

what is stated in the religious authority's guidance aligns with Article 2 of the Universal Declaration of Human Rights, which asserts that "everyone has the right to life, liberty, and security of person."

The religious authority also emphasized the protection of public property belonging to the state, reiterating "God... God... in the sanctity of the general public." Here, it stressed the importance of protecting public property, and Article 52 of the First Additional Protocol explicitly addresses the general protection of civilian objects and the responsibility to preserve them. As for individual citizens' property, the religious authority indicated that it is equally necessary to protect and sanctify it. Article 54 reiterates this necessity.

The religious authority did not forget non-Muslims in its guidance to fighters in combat zones, stating that they, too, live under the protection of Islam and Muslims. This was affirmed in Article 16 of the Geneva Convention concerning the treatment of prisoners of war in its second chapter.

"The essence of the Friday sermons that followed the call for citizens to engage in defensive jihad represented the guidance of the religious authority and its perspective on the security situation. These sermons were not framed within an ideological context based on religious or political perceptions, whether internal or external, nor did they form a concealed intellectual system under the guise of polished and appealing language, or represent any particular group such as a nation, class, sect, profession, faction, or political doctrine. Instead, the context of these sermons centered on the priority of protecting citizens in Iraq and the constitutional legal legitimacy within the framework of the ruling state institutions, which monopolize the right to use force and defend the community, safeguarding its safety and security, which is considered one of its core goals and responsibilities. It also acknowledges the permission to use force to avert imminent dangers, to the extent that it achieves its objective without exceeding it. This right has been sanctioned by divine laws as well as international positive laws, as indicated in Article 51 of the United Nations Charter, which states: 'Nothing in this Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations.'

4. The Enactment of the Popular Mobilization Forces Act

Despite the continued engagement of the religious authority following June 2014, in monitoring security events and developments and providing moral and legal support for volunteers, it never used the term "Popular Mobilization Forces" in its Friday sermons or statements issued by the office of Ayatollah al-Sistani. Even after the legislation and issuance of the Popular Mobilization Forces Law on December 14, 2016, the religious authority continued to use terms such as "the heroic volunteers" and others that convey support and endorsement. Close associates of the religious authority have pointed out that the reason for not using the term "Popular Mobilization Forces" is that the force falls under a governmental framework and that not all volunteers may be officially registered in it. Therefore, the term "volunteers" is broader and more inclusive than "Popular Mobilization Forces."

This raises the question of the religious authority's position after the enactment of this law. Is there a contradiction between what the religious authority has stated in rejecting any role by militias and armed groups in handling security matters, particularly since the Popular Mobilization Forces included all factions that operated in Iraq prior to the establishment of the force outside the framework of the Iraqi security apparatus, as well as their involvement in the Syrian civil war and their ideological and security ties with the Islamic Republic of Iran?

In truth, the supreme religious authority's response to the establishment of the Popular Mobilization Forces Law, which brought together factions that had carried arms outside the official frameworks of the Iraqi state—most of whom were not aligned, at a traditional level of following, with the supreme religious authority but rather with the Guardianship of the Jurist in the Islamic Republic of Iran—can be understood in the context of the significant security crisis and the importance of the Popular Mobilization Forces in achieving advances and victories over ISIS. Since the religious authority's call for collective defense, the Popular Mobilization Forces have played an important role in reclaiming many areas that had fallen under ISIS control, and the repeated victories of the Popular Mobilization Forces provided a strategic and moral boost to the armed forces.

The Iraqi society began to view the Popular Mobilization Forces as a historical savior from the potential collapse of the state, and this sentiment extended to official institutions themselves, alongside the significant level of

social acceptance they achieved. Moreover, the reality that the Popular Mobilization Forces helped save the state from a potential collapse shifted the perception to consider them a fundamental pillar of the security system. Thus, the emphasis on the importance of the Popular Mobilization Forces, both socially and politically, stems from their passionate ideology, which has proven its ability to defeat ISIS during battles.

5. The Inability of Security Forces to Integrate Volunteers

Following the call for sufficient *Jihad* on June 13, 2014, the initial influx of volunteers from Baghdad and the central and southern provinces reached nearly one million within the first two days. In the subsequent sermon on June 20, 2014, the religious authority expressed gratitude to the citizens who responded to its call, but it also voiced regret over the incidents that occurred during transportation and the provisioning of supplies, as many of them suffered due to the lack of adequate preparations to accept their volunteer service. The collapse of security sectors and their withdrawal from the provinces controlled by ISIS was a result of the flight of security leaders from those areas, compounded by the state of the security institutions at that time, which faced significant issues of financial and administrative corruption. This corruption greatly weakened and exhausted the institutions and was one of the direct reasons for the security breakdown and the rise of ISIS.

Among the terms of corruption that began to emerge publicly was "phantom soldiers," a term that arose from the widespread financial and administrative corruption within the security institution, which had even extended to non-security institutions. This phenomenon was rooted in a lack of responsibility among those holding positions of authority and control over matters. The term "phantom soldiers" refers to servicemen and members of security forces who evade their duties while receiving half of their salaries, which are pocketed by corrupt officers and security leaders. It is also used to describe fictitious names under which unscrupulous officers and leaders draw salaries in the names of non-existent personnel.

6. The Popular Mobilization Forces Act

Notably, the provisions of the Popular Mobilization Forces Law align with the religious authority's vision regarding the Iraqi security forces and its

principles concerning the Iraqi state and its security institutions. The law states:

The PMF Act, enacted in November 2016, details the formal integration of these previously independent militias into the Iraqi armed forces. The law's significance lies in its attempt to unify disparate fighting groups, establish clear lines of command, and ensure the PMF's subordination to the Iraqi state. The Act's core tenets are aimed at achieving greater control, accountability, and ultimately, the stabilization of Iraq's security landscape. The law establishes the PMF as a legally constituted part of the Iraqi armed forces, directly linked to the Commander-in-Chief. This ensures that the PMF operates under the existing military structure and is subject to the same rules and regulations, except for specific provisions outlined within the law itself. This legal framework ensures that these previously independent units are now subject to the state's authority and prevents potential future challenges.

A key aspect of the Act is the restructuring of the PMF's organizational structure. The law calls for the cancellation of all titles and positions that are inconsistent with this new structure. This initiative directly addresses the pre-existing factionalism that had plagued the PMF, thereby aiming to eliminate internal power struggles and rivalries that could hinder the unified command. Instead of operating under numerous, sometimes conflicting, commands, the PMF is streamlined under a single, central authority, enhancing its efficiency and cohesiveness.

Furthermore, the law highlights the appointment of a head of the Popular Mobilization Authority, a position that will report to the Commander-in-Chief. This authority has the power to appoint interim officials and directors, signifying a transitional phase toward a fully integrated and standardized PMF. The need for higher-level approval for these appointments indicates a built-in mechanism to prevent abuse of power and to ensure that the appointed individuals align with the government's overarching goals.

The immediate implementation clause emphasizes the urgency of these reforms. Delaying this process could negatively impact the ongoing efforts to stabilize the security situation and maintain national unity. The rapid integration of the PMF underscores the government's determination to establish a unified national defense system and address potential threats from within. The stated goal is not merely to consolidate military power but

to fundamentally reshape the PMF, transforming it from a collection of loosely affiliated militias into a coherent, state-controlled entity.

7. Decrees

Alongside with the Act, Some Decrees regulate the structure and competence of PMF. Mainly there are three Decrees.

7-1. Decree No. 237 on July 1, 2019

The Decree outlines a comprehensive plan for the restructuring and integration of the Popular Mobilization Forces (PMF) into the Iraqi armed forces. This plan aims to formally incorporate these previously independent militias into a unified, state-controlled military structure while addressing concerns about their organizational autonomy, political affiliations, and potential for future conflict.

The core principle of the plan is the complete subordination of the PMF to the Iraqi armed forces' command structure. The Decree explicitly states that the PMF will operate as "an integral part of the armed forces," subject to the same laws and regulations, except where specifically modified by "special provisions." This clarifies that the Commander-in-Chief of the Armed Forces retains ultimate authority, ensuring that the PMF's activities align with the government's overall security strategy. A newly established Popular Mobilization Authority, appointed by the Commander-in-Chief, will oversee the integration process and maintain direct responsibility for the PMF's actions.

A crucial element of the restructuring plan involves the elimination of the PMF's factional identities and the adoption of standard military designations. The Decree mandates the replacement of all existing faction-specific titles (such as "Tribal Mobilization") with conventional military ranks and titles (division, brigade, battalion, etc.). This decisive step aims to dissolve the organizational structures that fostered internal rivalries and potentially undermined overall military cohesion. Furthermore, the plan prohibits any political affiliation or connections with previous organizations, ensuring the PMF's neutrality and preventing any resurgence of factionalism within the armed forces.

The plan also addresses the PMF's operational infrastructure and activities, aiming for greater transparency and control. It mandates the closure of all faction-specific headquarters and prohibits any unauthorized armed activity or presence outside the established operational framework. Economic

activities or checkpoints conducted by the PMF must also align with the formal structure and be overseen by the new authority. The imposition of a deadline (July 31, 2019) for the completion of these restructuring measures emphasizes the urgency and seriousness of the undertaking.

In essence, this legal framework represents a significant attempt to formally integrate the PMF, stripping them of their previous organizational autonomy and political affiliations, and unifying them under a single, centralized command structure within the Iraqi armed forces. The aim is to create a more cohesive, accountable, and ultimately, more effective military force while minimizing the risk of future internal conflicts or challenges to state authority. The implementation and effectiveness of this plan, however, would depend on the government's ability to enforce its provisions and address any lingering challenges to state authority and national security.

7-2. Decree No. 328 on September 14, 2019

The Joint Operations Command will be restructured under our presidency, with Lieutenant General Abdul Amir Yar Allah serving as the Deputy Commander of the Joint Operations and including representatives from the entities mentioned below, whose ranks shall not be less than a Brigadier General or General Director.

7-3. Decree No. 331 on September 17, 2019

This directive outlines a crucial step in the formalization and restructuring of the Popular Mobilization Forces (PMF) in Iraq, focusing on establishing a clear organizational structure and chain of command. The four points presented represent a significant shift towards greater control and accountability within the PMF, addressing previous concerns about factionalism, internal rivalries, and potential challenges to state authority.

The first point, "approval of the organizational structure specific to the Popular Mobilization Forces," highlights the importance of establishing a standardized and unified framework for the PMF's operations. Prior to this, the PMF consisted of various factions with differing organizational structures, potentially leading to inefficiencies, conflicts of interest, and difficulties in coordinating operations effectively within the larger Iraqi security apparatus. Creating a formally approved organizational structure ensures clear lines of authority, responsibility, and accountability, allowing for better management and oversight of the PMF's actions.

The second point, “Cancellation of all titles and positions that conflict with the titles listed in the aforementioned structure,” directly addresses the issue of factionalism within the PMF. By eliminating titles and positions that conflict with the new, unified organizational structure, the directive aims to dissolve existing power structures associated with specific factions. This is a critical step in unifying the PMF under a single command structure and preventing internal conflicts based on factional loyalties or rivalries. The aim is to create a cohesive and unified military force under a single command, preventing any division or undermining of authority.

The third point grants the head of the Popular Mobilization Authority the power to appoint interim officials and directors, subject to final approval by a higher authority. This reflects a pragmatic approach to the restructuring process. Given the complexity of integrating numerous factions into a single entity, the ability to make swift, interim appointments facilitates the reorganization and ensures that the transition runs smoothly. The provision requiring higher-level approval, however, serves as a crucial safeguard against potential abuse of power or the appointment of individuals unsuitable for the roles. This demonstrates a balance between the need for efficient restructuring and the maintenance of responsible governance.

The final point emphasizes the immediate implementation of this order from the date of its issuance. This underscores the urgency of the situation and the importance of promptly establishing a unified and accountable PMF structure. Delaying implementation could prolong the challenges of managing a fragmented force and undermine the effectiveness of the overall restructuring effort.

8. Conclusion

This paper has explored the multifaceted legal and ethical implications of Ayatollah al-Sistani's 2014 fatwa and its impact on the formation and operation of the Popular Mobilization Forces (PMF) in Iraq. Our analysis reveals a complex interplay between religious authority, military action, and the rule of law within a context of intense conflict. While the fatwa, interpreted through the lens of religious guidelines, initially aimed to mobilize popular resistance against ISIS in accordance with principles of self-defense and the protection of civilians, the subsequent actions of the PMF present a more nuanced picture.

The framework established for the PMF, though intending to integrate these forces into the Iraqi security apparatus, struggled to fully reconcile the PMF's diverse origins and operational realities with established legal and constitutional norms. While the integration process aimed to ensure accountability and adherence to the rule of law, evidence suggests persistent challenges in enforcing accountability, oversight, and the prevention of human rights abuses. Moreover, the degree to which the PMF consistently adhered to the religious authority's guidelines on the treatment of civilians and adherence to international humanitarian law remains a complex and contested issue, requiring further investigation.

Our analysis demonstrates that the interplay between religious pronouncements, military realities, and legal frameworks in Iraq is not always seamless or predictable. The exceptional circumstances of the conflict, coupled with the PMF's unique composition and operational dynamics, created a situation where the ideal congruence between religious principles, legal mandates, and actual practices often faltered. The study highlights the ongoing need for robust legal mechanisms to ensure accountability and uphold human rights, even within the context of a protracted conflict with a non-state actor like ISIS. Future research should explore further the long-term impact of the PMF on Iraqi society and the ongoing challenges of integrating irregular militias into a state's security apparatus while preserving both security and the rule of law.

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