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Responses to Information Requests

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Pakistan: The issuance of fatawa; the manner in which they are publicized; their influence; whether they are outlawed; whether they are still being issued

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

A *fatwa* (plural *fatawa*) is an "advisory opinion" issued by a *mufti* in response to a questioner (*Encyclopedia of Islam and the Muslim World* 2004, 255; *The Oxford Encyclopedia of the Modern Islamic World* 1995, 13, 151; Professor of Law 2 Nov. 2007). A *mufti* is an authority on Islamic law and tradition, who functions independently from the judicial system (*Encyclopedia of Islam and the Muslim World* 2004, 255). Other sources indicate that a *mullah* [i.e., a religious cleric or a person with religious education (*The Oxford Encyclopedia of the Modern Islamic World* 1995, 177-178)] may also be able to issue fatawa (ICG 18 Apr. 2005, 29; *Daily Times* 17 Aug. 2007).

In a 6 November 2007 telephone interview, a professor of Islamic Studies at Emory University in Atlanta, Georgia described the difference between Islamic court rulings and fatwa rulings. He stated that

[i]n Pakistan, there are courts to which cases are brought and tried (not unlike the Western system) and the basis of the ruling by the judges (*Qadis*) is strictly Islamic. A Qadi, or Sharia court, has some authority to carry out judgement.

A fatwa, on the other hand, is a non-binding interpretation or ruling by a mufti. It is an opinion. A fatwa does not have an executive branch to carry out the ruling.

Fatawa address legal and religious issues (*Encyclopedia of Islam and the Muslim World* 2004, 255; *The Oxford Encyclopedia of the Modern Islamic World* 1995, 151), as well as matters of everyday life (ibid.; *The Christian Science Monitor* 18 Apr. 2006). They can reportedly range in length from single word responses, such as "yes" or "no," to "book-length treatises" (*Encyclopedia of Islam and the Muslim World* 2004, 255).

According to the Professor of Islamic Studies, fatawa, or rulings on a question, can differ by Muslim schools of law (6 Nov. 2007). There are three Shia schools of law and four Sunni schools of law (Professor of Islamic Studies 6 Nov. 2007). Although all these schools of law argue from the Quran, each has its own fatwa tradition and historical precedents that can make their rulings different from one other (ibid.). The Professor of Islamic Studies further stated that the issuance of fatawa is "very dynamic" and that rulings on the same question may differ by individual fatwa requester (i.e., because of different circumstances, etc.) (6 Nov. 2007).

There are reportedly "hundreds" or even "thousands" of fatawa issued on a daily basis in Muslim countries (*The Christian Science Monitor* 18 Apr. 2006).

Manner in which fatawa are publicized

In a 2 November 2007 telephone interview with the Research Directorate, a University of Toronto professor who specializes in Islamic law indicated that a fatwa may be publicized through word of mouth or through the media (Professor of Law 2 Nov. 2007). Sources consulted by the Research Directorate indicate that printed pamphlets and posters have also been used to publicize a fatwa (IPS 22 Aug. 2007; *Daily Times* 17 Aug. 2007; Jahangir 6 Sept. 2002).

According to a 29 March 2007 report by the International Crisis Group (ICG), in Karachi, some Islamic religious schools [referred to as *madrasas*] "compile and publish" their fatawa (ICG 29 Mar. 2007, 15). The ICG report further notes that "[w]ealthier madrasas also

maintain online fatwa services" (ibid.). Other sources corroborate that fatawa may be issued online (Professor of Islamic Studies 6 Nov. 2007; Online-fatwa.com n.d.; IslamOnline.net n.d.).

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The Professor of Islamic Studies at Emory University indicated that fatwa requests can also be made through an institution for fatawa [known as *Darul Ifta*], which is headed by a mufti or scholar (6 Nov. 2007). The Professor noted that several inquiries are made every day and that people line up waiting to present their questions (6 Nov. 2007). In most cases, a ruling is not made on the spot; people generally return at a later time for their fatwa (Professor of Islamic Studies 6 Nov. 2007).

According to the Professor, in smaller villages or rural areas, there is usually an Imam or mufti who is known by everyone, and who likely gives more personal fatawa or rulings (ibid.).

Influence of a fatwa

The influence of a fatwa reportedly depends on the stature of the person who issues it (*The Christian Science Monitor* 18 Apr. 2006; Jahangir 6 Sept. 2002). It is also said to depend on the popularity and/or the practicality of the fatwa (*The Christian Science Monitor* 18 Apr. 2006; see also BBC 10 Apr. 2007).

According to the Professor of Islamic Studies, a person who asks for a fatwa can follow the interpretation or ruling, but is not obligated to do so; he or she may go to another mufti for a different ruling (6 Nov. 2007). The University of Toronto Professor of Law similarly indicated that a fatwa is an opinion with no legal standing and that it is up to an individual to decide whether he or she wants to ignore it or take it seriously (2 Nov. 2007; see also *IHT* 10 Apr. 2007). When asked whether it is possible for a fatwa to be retracted once it has been issued, the Professor of Law stated that

[a] fatwa is an opinion and the person who gives it can retract it. However, this is irrelevant, because it doesn't mean that the person's earlier opinions aren't persuasive. ... A fatwa stays out there. (2 Nov. 2007)

Whether fatawa are outlawed or still being issued

Information on whether fatawa are outlawed in Pakistan could not be found among the sources consulted by the Research Directorate. Two sources consulted indicate that the government has attempted to influence religious scholars in their issuance of fatawa (APP 20 July 2007; ICG 18 Apr. 2005, 29). For example, in 2004, following several sectarian attacks in Pakistan, the country's president, Pervez Musharraf, asked religious clergy of major Islamic sects to issue a fatwa stating that suicide attacks were "not an Islamic means of waging jihad" (ibid.). In 2007, Pakistan's Minister for Religious Affairs similarly asked Muslim clergy to declare a fatwa against suicide bombings (APP 20 July 2007).

According to the Professor of Islamic Studies at Emory University, when a fatwa runs against the interests of government, then it can be declared invalid by the state (e.g., if a fatwa is issued by an "extremist" group) (6 Nov. 2007). He noted that certain fatawa are resisted by the government because they are found to be "unhelpful for political leaders" (Professor of Islamic Studies 6 Nov. 2007). However, the Professor stated that

[g]enerally, a fatwa represents the interest of a specific group (e.g., a moderate or "extremist" group). Even though a fatwa may not be recognized by the government, the group that issued it takes it seriously. In such a case, a fatwa issued against an individual can be just as dangerous as if it were government action against the individual. (ibid.)

Sources consulted by the Research Directorate provide examples of fatawa issued in Pakistan in 2006 and 2007 (RSF 19 June 2007; *IHT* 10 Apr. 2007; BBC 10 Apr. 2007; AP 17 Feb. 2006; *The Christian Science Monitor* 18 Apr. 2006). In February 2006, a Pakistani cleric issued a fatwa offering a bounty for killing one of the cartoonists responsible for a caricature of the prophet Mohammed that was published in a Danish newspaper in September 2005 (ibid.; AP 17 Feb. 2006). In 2006 and 2007, there were reportedly fatawa issued against non-governmental organizations (NGOs) working in Pakistan (IPS 22 Aug. 2007; *Daily Times* 17 Aug. 2007).

In April 2007, clerics at a "radical" mosque in Islamabad issued a fatwa against the country's female minister of tourism, Nilofar Bakhtiar (AP 10 Apr. 2007; BBC 16 Apr. 2007; ibid. 10 Apr. 2007; *IHT* 10 Apr. 2007). The clerics issued the fatwa after Pakistani newspapers published a photograph of Bakhtiar hugging a man following a parachute jump in France (ibid.; AP 10 Apr. 2007; BBC 16 Apr. 2007; ibid. 10 Apr. 2007).

In June 2007, a Pakistani cleric issued a fatwa ordering the death of the senior staff of a magazine that allegedly printed "objectionable" pictures of Adam and Eve (*The Times of India* 17 June 2007; RSF 19 June 2007). The Pakistani authorities subsequently banned the sale of the controversial issue of the magazine (ibid.; *The Times of India* 17 June 2007).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: A professor at the Institute of Islamic Studies at McGill University provided names of other academics with knowledge of the issuance of fatawa. The Council of Islamic Ideology in Islamabad did not provide information within the time constraints of this Response.

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