

Limits in Sharī‘ah of Cooperating with Non- Muslims in National Politics

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Question

In the Name of Allāh, Most Merciful, Most Kind

Every household has become subject to conflict because of the [current] political predicament. Non-Muslims are watching on at the display while Muslim groups are in opposition to one another. The impact of this conflict and dispute is felt in every aspect of Muslim life, whether religion, social interaction, economics or national politics.

A Muslim unaffiliated with any political party who wishes to pass his life in isolation is pulled from all directions. In such circumstances, some of us Muslims are perplexed. Therefore, in turning to the respected ‘ulamā’, we seek guidance towards the right course of action: from a purely religious standpoint, what is the ruling of Allāh (Exalted is He) and Allāh’s Messenger (Allāh bless him and grant him peace)?

In view of the present circumstances, therefore, some questions are being posed. Clarify and be rewarded!

The circumstances are as follows. Every community in Hindustan, whether Muslims, Hindus, Sikhs, Achuts, and so on, appear to be in agreement on working towards the independence of Hindustan. There are numerous groups working towards achieving independence, from which two groups are largest in terms of numbers: Congress and Muslim League. For parties apart from these two, either their objective is not primarily or directly the independence of India or they are included and part of one of these two groups, or are so small that no community would, according to present perceptions, consider them to be representatives of Muslims. Therefore, to achieve independence or national rights, only these two groups are worth mentioning.

Congress’s vision is that those who inhabit Hindustan, no matter their religion or ethnicity, join Congress unconditionally and demand independence together as a united national Hindustani people. Congress will represent everyone and the independence or rights of government that are received will belong to Congress, and subsequently everyone will use them collectively. However, the great majority of [the people in] Hindustan are Hindus. If every last Muslim joined Congress, even then they will not amount to more than a quarter. Thus, Muslims will always remain a weak minority within Congress, and since Congress’s system is democratic, where the government will belong to the majority, the minority must always submit to them. Thus, it is inevitable that Muslims will be subordinate to the Hindus. In fact, according to Mawlānā Abu l-Kalām Āzād, president of Congress, and Acharya Kripalani, secretary of Congress, it is necessary and paramount to accept the leadership of Gandhiji and to follow his methods.

See the presidential address of Mawlānā Abu l-Kalām at the Congress meeting in Ramgarh held in 1940, the words of which are: “Having full faith in the leadership, direction and authority of Mr. Gandhi is one amongst three conditions of success.” Acharya Kripalani said: “All workings of Congress will be in accordance with Gandhi’s philosophy, and it is not possible that we put into operation the principles of another philosophy of life for any reformatory work – this Gandhian philosophy of life cannot be subject to any other philosophy of life.” See [the newspapers] *Madīnah Bijnor*, 17 August, 1939; *Amrita Bazar Patrika*, Kolkata, date: 18 August, 1939.

The second party is Muslim League. This is an exclusively Muslim party. Its vision is for all Muslims to join under its banner and make a separate arrangement for themselves and, as an organisation, take part in the war of freedom by forming an alliance with the Hindus. The Muslims will have a separate and independent share from the rights of independence. Their demand is that Muslims acquire independence and self-governance within Muslim-dominated regions. This is called the “demand for Pakistan.”

However, religious people complain about the main heads of the party that they do not uphold the Sharī‘ah. There is a danger that after acquiring government and power they will enforce laws against Sharī‘ah and carelessness and negligence in religious matters will only increase because of them.

Now, the questions are as follows:

1. In such conditions, where the majority of Congress are Hindus and Muslims can never expect to attain a majority, is it permissible for Muslims to join it unconditionally and take its help to strive to achieve independence?
2. In such conditions, is it permissible to strive for independence with support from, and in participation with, Muslim League and under its banner?
3. What is the Shar‘ī status of Muslim League’s demand for Pakistan, meaning independence and self-governance within Muslim-dominated regions?

Clarify, and be rewarded.

The lowly, Maḥmūd Rānderī
Aḥmad ‘Abdullāh Kāthyāwārī
Yūsuf Muchlā (Rander)
‘Abd al-Raḥmān ‘Umarjī
Ismā‘īl Abū Bakr (Mumbai)
Members of Majlis Da‘wat al-Ḥaqq, Bombay

Answer

In the name of Allāh, Most Merciful, Most Kind

All praise belongs to Allāh and He suffices. Peace be upon His slaves that He has chosen.

The political predicament of Hindustan and its stormy tides have, for a long time, been producing various kinds of political and religious questions amongst Muslims. It is not hidden to people of understanding that giving fatwās in the manner [given for] small matters or very specific disagreements, making them a plaything in political debates, is in no way appropriate. Apart from various kinds of negligence, excess and violations of the limits of Sharī'ah resulting from this, the trust and respect towards fatwās themselves will be severely diminished.

However, the questions that have been posed function, to some extent, as broad principles on which the national and political struggles of the Muslims can be based, and the truth or otherwise of which would have an impact on all aspects of life – in particular, they would have most impact on religion and the symbols of religion. Questions and queries from religious Muslims have been coming here in large numbers from all directions and places. To write a full response to each one individually will be difficult. Thus, it was deemed suitable to present a full study upon conducting a detailed investigation into these matters, from which the recurring questions will be answered. Allāh is in control of guidance!

Answer to the First Question

It is obvious that a Muslim's happenstance meet-up or being in the company of a disbeliever, in that they get together in the market, railway, vehicle and courts, is neither an agreement nor working together, and nor is the discussion over its permissibility or otherwise. Nor is the question related to this. Similarly, there is no discussion here about permissible transactions: buying, selling, leasing/employment etc.¹

The discussion/question here is of Muslims and non-Muslims, having agreed with each other on some political and organisational issue, proceed to work together.

In the present circumstances, this has three scenarios:

First, between two groups of Muslims and disbelievers there is only an agreement related to peace, business transactions and so on. There is no taking of assistance or help [in matters of religion or politics], nor working together.

Second, the Muslim group, maintaining its own organisational system and independence, work together [with disbelievers] in mutual agreement to combat some third group or to form a government system and so on.

Third, individual Muslims, without any condition or agreement, work together with a disbelieving party.

[The First Scenario]

A mere peace-agreement without taking assistance, which in fiqh parlance is also called "agreement" (*muwāda'ah*), is permissible when there is some advantage to Muslims in the peace-agreement, the benefit of Islām is kept in view and the conditions of the peace-agreement are not opposed to the Sharī'ah. (*Sharḥ al-Siyar*, 4:66) This verse is sufficient to prove this:

وَإِنْ جَنَحُوا لِلسَّلْمِ فَاجْنَحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ

"If they incline towards peace, you incline towards it and trust in Allāh." (8:61)

There may be doubt of apparent conflict with the verse:

فَأَقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ

"Kill the idolaters wherever you find them." (9:5)

The majority of mufasssīrīn and fuqahā' have resolved [the apparent conflict]. Thus, Imām Abū Bakr al-Jaṣṣāṣ states in *Aḥkām al-Qur'ān*:

وما ذكر من الأمر بالمسالمة إذا مال المشركون فحكم ثابت أيضا وإنما اختلف حكم الآيتين لاختلاف الحالين فالحال التي أمر فيها بالمسالمة هي حال قلة عدد المسلمين وكثرة عدوهم، والحال التي أمر فيها بقتل المشركين وبقتال أهل الكتاب حتى

¹ The discussion also does not include working with non-Muslims/non-Muslim organisations in purely communal activities that are unrelated to matters of political leadership, state administration or dīn, like healthcare or cleaning. Similarly, as hinted at below, it does not include working with non-Muslim organisations to lobby the government for some rights or changes to policy. These are in principle permissible unless they entail something impermissible. The discussion is strictly related to matters of political leadership, state administration or dīn. (Translator)

يعطوا الجزية هي حال كثرة المسلمين وقوتهم على عدوهم وقد قال تعالى: فلا تمنوا وتدعوا إلى السلم وأنتم الأعلون والله معكم، فمنه عن المسالمة عند القوة على قهر العدو وقتلهم وكذلك قال أصحابنا (أحكام القرآن، ج ٣ ص ٨٦)

“What has been mentioned of the command to make peace when the idolaters incline [towards it] is also a ruling that is in force. The command in the two verses only differ because they [refer to] two different situations. The situation in which peace is commanded is the situation of Muslims being few in number and their enemies being many, while the situation in which killing the idolaters and fighting the Ahl al-Kitāb until they give jizyah are commanded is the situation of Muslims and their strength being in excess of the enemy. Allāh (Exalted is He) said: ‘Do not become humiliated and call for peace when you are supreme, and Allāh will be with you.’ (Qur’ān, 47:35) Thus, He has forbidden making peace when there is power to suppress the enemy and kill them. Thus have our imāms [Abū Ḥanīfah and his disciples] opined.” (*Aḥkām al-Qur’ān*)

In support of this, he earlier mentioned:

وقد كان النبي صلى الله عليه وسلم عاهد حين قدم المدينة أصنافا من المشركين [هكذا في الأصل، ولعل الصحيح: اليهود؛ منه] منهم النضير وبنو قينقاع وقريظة وعاهد قبائل من المشركين ثم كانت بينه وبين قريش هدنة الحديبية... ولم يختلف نقله السير والمغازي في ذلك وذلك قبل أن يكثر أهل الاسلام ويقوى أهله (أحكام القرآن، ج ٣ ص ٨٦)

“The Prophet (Allāh bless him and grant him peace) entered into a treaty with groups of the Jews, including Naḍīr, Banū Qaynuqā’ and Qurayzah, and entered into a treaty with tribes of idolaters, and then the ceasefire of Ḥudaybiyyah took place between him and Quraysh... Transmitters of historical accounts and campaigns have not differed over this. This was before the adherents of Islām became many and its adherents became powerful.” (*Aḥkām al-Qur’ān*)

The greatness and fewness of numbers which in Jaṣṣāṣ’s statement is made the pivot of the ruling appear to be given as examples in view of the circumstances of revelation. The original objective is catering for the interests of the Muslims, just as in *Hidāyah* and other [texts], the unqualified expression of “the interest of the Muslims” is found. It states in *al-Mabsūt*:

إن الإمام نصب ناظرا، ومن النظر حفظ قوة المسلمين أولا، وربما يكون ذلك في المودعة إذا كانت للمشركين شوكة

“The ruler has been appointed as caretaker, and part of caretaking is to first secure the strength of the Muslims. That may be in making peace, when the idolaters have strength.”

It states in *al-Hidāyah*:

إذا رأى الإمام أن يصالح أهل الحرب أو فريقا منهم وكان ذلك مصلحة للمسلمين فلا بأس به

“When the ruler makes a judgement to make peace with the Ahl al-Ḥarb or a group of them, and that will be beneficial for the Muslims, there is no harm in that.”

It is established from the aforementioned texts that if the interests of Muslims are best served by a peace-agreement, then it is permissible to make a peace-agreement. Furthermore, it is realised that in making a peace-agreement it is not a condition that Muslims are dominant although some fuqahā’ and mufasssīrīn have put the condition that a peace-agreement will only be permissible when the adherents of Islām are weak.

However, this ruling is only for a peace-agreement, which is not the same as taking help and aid and working together with disbelieving people. When working together and taking help, the ruling will fall under the second scenario.

[The Second Scenario]

When taking help and working together alongside a peace-agreement, the condition for it being permissible is that Muslims are dominant and the disbelievers subordinate, and the disbelievers take part in fighting etc. under the banner of the Muslims – in which case, it is permissible. When the disbelievers are dominant or equal it is not permissible.

Verses of Qur’ān:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا بِطَانَةً مِّن دُونِكُمْ لَا يَأْلُونَكُمْ خَبَالًا

“O you who believe, do not take any besides yourselves as intimates. They will not spare you in ruin.” (3:118)

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا الْيَهُودَ وَالنَّصَارَىٰ أَوْلِيَاءَ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ وَمَن يَتَوَلَّهُمْ مِنكُمْ فَإِنَّهُ مِنهٖم

“O you who believe, do not take the Jews and Christians as allies. They are allies of each other. Whoever amongst you takes them as allies is one of them.” (5:51)

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا الَّذِينَ اتَّخَذُوا دِينَكُمْ هُزُورًا وَلَعِبًا مِّنَ الَّذِينَ أُوتُوا الْكِتَابَ مِن قَبْلِكُمْ وَالْكَافِرَ أَوْلِيَاءَ

“O you who believe, do not take those who make a mockery and game out of your religion – amongst those given the scripture before you and [other] disbelievers – as allies.” (5:57)

بَشِّرِ الْمُنَافِقِينَ بِأَنَّ لَهُمْ عَذَابًا أَلِيمًا الَّذِينَ يَتَّخِذُونَ الْكَافِرِينَ أَوْلِيَاءَ مِن دُونِ الْمُؤْمِنِينَ

“Warn the hypocrites that they will have a painful punishment – those who take the disbelievers as allies apart from the believers.” (4:138-9)

According to the clear exposition of the mufasssīrīn – whose statements will be cited below – many other verses support the concept: that it is not permissible to take help from disbelievers. However, from the practice and guidance of the Noble Prophet (Allāh bless him and grant him peace), only enough scope is established to take help and work together with disbelievers when they are subdued, subordinate and under the banner of Muslims.

A clear reference to both sides of the issue is found in the guidance and practice of the Noble Prophet (Allāh bless him and grant him peace). The Prophet (Allāh bless him and grant him peace) gave permission for some tribes of disbelievers, Banū Qaynuqā‘ and others, to take part in jihād, while he prevented the allies of Ibn Ubayy from participating in Uḥud with the words:

إنا لا نستعين بمن ليس على ديننا

“Indeed, we do not take help from those not upon our religion.”

The reason for this [discrepancy] is that Banū Qaynuqā‘ and the others were under the banner of, and subordinate to, Islām, while the allies of Ibn Ubayy were not prepared to submit to the Muslims and make jihād under their banner, as explained clearly in the coming citations from *Sharḥ al-Siyar*.

Imām Abū Bakr al-Jaṣṣāṣ's (Allāh have mercy on him) comments in *Aḥkām al-Qur'ān* under the aforementioned verses are as follows:

قال تعالى: يا أيها الذين آمنوا لا تتخذوا بطانة من دونكم، وقال: لا تتخذوا اليهود والنصارى أولياء بعضهم أولياء بعض ومن يتولهم منكم فإنه منهم، فنهى في هذه الآيات عن موالاة الكفار وإكرامهم، وأمر بإهانتهم وإذلالهم، ونهى عن الاستعانة بهم في أمور المسلمين لما فيه من العز وعلو اليد، وكذلك كتب عمر إلى أبي موسى ينهاه أن يستعين بأحد من المشركين في كتابة، وتلا: لا تتخذوا بطانة من دونكم لا يألونكم خبالا (أحكام القرآن، ج ٣ ص ١٢٣)

“Allāh (Exalted is He) said: ‘O you who believe, do not take any besides yourselves as intimates’ and He said: ‘O you who believe, do not take the Jews and Christians as allies. They are allies of each other. Whoever amongst you takes them as allies is one of them.’ Thus, He has forbidden in these verses making allegiance with the disbelievers and honouring them, and has commanded humiliating them and debasing them, and He has forbidden taking help from them in the affairs of the Muslims, due to what this entails of superiority and having an upper hand. Thus, ‘Umar wrote to Abū Mūsā forbidding him from taking help from any of the idolaters in writing [official decrees], and he recited: ‘O you who believe, do not take any besides yourselves as intimates. They will not spare you in ruin’.” (*Aḥkām al-Qur'ān*)

Similarly, under the aforementioned verses, it states in *Aḥkām al-Qur'ān* (2:44):

وفي هذه الآية دلالة على أنه لا تجوز الاستعانة بأهل الذمة في أمور المسلمين من العمالات والكتابة

“There is proof in this verse that it is not permissible to take help from the Ahl al-Dhimmah in the affairs of Muslims, like state administrators and [official] scribes.”

And under the verse, “O you who believe, do not take those who make a mockery and game out of your religion – amongst those given the scripture before you and [other] disbelievers – as allies” (5:57), it is mentioned:

فيه نهي عن الاستنصار بالمشركين لأن الأولياء هم الأنصار (إلى قوله) وقال أصحابنا: لا بأس بالاستعانة بالمشركين على قتال غيرهم من المشركين إذا كانوا متى ظهروا كان حكم الإسلام هو الظاهر، فأما إذا كانوا لو ظهروا كان حكم الشرك هو الغالب فلا ينبغي للمسلمين أن يقاتلوا معهم (أحكام القرآن، ج ٢ ص ٥٤٤)

“[There is evidence] in this [verse] of the prohibition of taking help from idolaters because allies are helpers... Our imāms have said: There is no problem with taking help from idolaters to fight other idolaters when, if they are victorious, the rule of Islām will be dominant, but if it is such that if they were to be victorious the rule of disbelief will be dominant, then it is not allowed for Muslims to fight with them.” (*Aḥkām al-Qur'ān*)

Similarly, he said in the explanation of the noble verse, “Warn the hypocrites that they will have a painful punishment – those who take the disbelievers as allies apart from the believers” (4:138-9):

وهذا يدل على أنه غير جائز للمؤمنين الاستنصار بالكفار على غيرهم من الكفار إذا كانوا متى غلبوا كان حكم الكفر هو الغالب وبذلك قال أصحابنا (أحكام القرآن، ج ٢ ص ٣٥٢)

“This [verse] proves that it is not permissible for believers to take help from disbelievers against other disbelievers when, if they are victorious, the rule of disbelief will be dominant. This is what our imāms have opined.” (*Aḥkām al-Qur'ān*)

Similarly, he said in the explanation of the noble verse: “do they seek honour with them?” (4:239):

فتضمنت هذه الآية النهي عن اتخاذ الكفار أولياء وأنصارا والاعتزاز بهم والإلتجاء إليهم

“This verse entails it is prohibited to take the disbelievers as allies and helpers, becoming strengthened by them and taking recourse in them.” (*Aḥkām al-Qur’ān*)

It is also stated clearly in the first and second citations from Imām Abū Bakr al-Jaṣṣāṣ that this ruling is not limited only to jihād and combat. Rather, the communal activities and religious matters of Muslims are all included in this – in that, it is not permissible to take help from idolaters and disbelievers in them.

The great exegete, Abu l-Su‘ūd, explained this in the commentary of the verse: “Believers are not to take disbelievers as allies” (3:28), the words of which are:

نحو عن موالاتهم... أو عن الاستعانة بهم في الغزو وسائر الأمور الدينية (تفسير أبو السعود، ج ١ ص ٢٢٦)

“They have been forbidden from making them allies... or taking help from them in combat and all religious matters.” (*Tafsīr Abu l-Su‘ūd*, 1:226)

From this, the [following] question is answered: Participating with Congress at this time does not amount to jihād or combat in its true sense, so, if the [impermissible] aid taken from idolaters is taking help in jihād, how can it be said to be impermissible? According to the clear statements of Imām al-Jaṣṣāṣ and Abu l-Su‘ūd, this ruling includes jihād, all communal affairs of Muslims and religious affairs.

In Ḥaḍrat Imām Muḥammad ibn al-Ḥasan’s (Allāh have mercy on him) *Kitāb al-Siyar* and its commentary by Shams al-A‘immah, there are two separate chapters on the topic. The first chapter is titled: *al-Isti‘ānah bi Ahl al-Shirk wa Isti‘ānat al-Mushrikīn bi l-Muslimīn* (Taking Help from Idolaters and Idolaters Taking Help from Muslims). Under this chapter, they state:

ولا بأس بأن يستعين بأهل الشرك على أهل الشرك إذا كان حكم الإسلام هو الظاهر عليهم. «لأن رسول الله - صلى الله عليه وآله وسلم -، استعان بيهود بني قينقاع على بني قريظة»، «ولأن من لم يسلم من أهل مكة كانوا خرجوا مع رسول الله - صلى الله عليه وآله وسلم - ركبانا ومشاة إلى خيبر... فعرفنا أنه لا بأس بالاستعانة بأهل الشرك وما ذلك إلا نظير الاستعانة بالكلاب، على قتال المشركين، وإلى ذلك أشار رسول الله - صلى الله عليه وآله وسلم - بقوله: «إن الله تعالى ليؤيد هذا الدين بأقوام لا خلاق لهم في الآخرة»، والذي روي «أن النبي - صلى الله عليه وآله وسلم -، يوم أحد رأى كتيبة حسناء قال: من هؤلاء؟ فقيل: يهود بني فلان، حلفاء ابن أبي فقال: إنا لا نستعين بمن ليس على ديننا» تأويله أنهم كانوا أهل منعة، وكانوا لا يقاتلون تحت راية رسول الله - صلى الله عليه وآله وسلم - وعندنا إذا كانوا بهذه الصفة يكره الاستعانة بهم. (شرح السير الكبير، ج ٣ ص ١٨٦)

“There is no harm with taking help from idolaters against idolaters when the rule of Islām is dominant over them because the Messenger of Allāh (Allāh bless him and grant him peace) took help from the Jews of Banū Qaynuqā‘ against Banū Qurayzah and because those who did not accept Islām from the people of Makkah came out with the Messenger of Allāh (Allāh bless him and grant him peace), both riding and walking, to Khaybar... Thus we realise that there is no problem with taking help from idolaters, and that is analogous to taking help from dogs to fight idolaters. The Messenger of Allāh (Allāh bless him and grant him peace) alluded to this by saying: ‘Indeed Allāh aids this religion with

people having no share in the next life.’ That which was narrated that the Prophet (Allāh bless him and grant him peace) saw a nice battalion on the day of Uḥud and asked, ‘Who are they?’ and he was told, ‘The Jews of such-and-such tribe, allies to Ibn Ubayy,’ upon which he said: ‘We do not take help from those not upon our religion’; the explanation of this is that they were people of military strength and would not fight under the banner of the Messenger of Allāh (Allāh bless him and grant him peace). And when they are of such description, it is reprehensible according to us to take help from them.” (*Sharḥ al-Siyar*)

Note: It becomes clear from the aforementioned citation of *Sharḥ al-Siyar* that it is permissible to take help from a disbelieving people when they do not possess such military power that causes Muslims concern. Moreover, it is also a condition that they take part in jihād under our banner and have no independent banner.

Muḥaqqiq Ibn al-Humām stated this in *Fath al-Qadīr* in the following words:

ولا بأس بأن يستعان بالمشركين على قتال المشركين إذا خرجوا طوعا ويرضح لهم ولا يسهم لهم ولا يكون لهم راية تخصهم
(فتح القدير، ج ٤ ص ٣٢٨)

“There is no harm in taking help from the idolaters to fight idolaters when they come out willingly. They will be given gifts but no share [of the booty] will be assigned them, and nor are they to have a banner exclusive to them.”

The second chapter in *Sharḥ al-Siyar* related to this topic is titled *Qitāl Ahl al-Islām Ahl al-Shirk ma’a Ahl al-Shirk* (Adherents of Islām Fighting Idolaters together with Idolaters). They state under this chapter:

لا ينبغي للمسلمين أن يقاتلوا أهل الشرك مع أهل الشرك، لأن الفئتين حزب الشيطان، وحزب الشيطان هم الخاسرون فلا ينبغي للمسلم أن ينضم إلى إحدى الفئتين فيكثر سوادهم ويقاوم دفعاً عنهم، وهذا؛ لأن حكم الشرك هو الظاهر، والمسلم إنما يقاتل لنصرة أهل الحق، لا لإظهار حكم الشرك. ولا ينبغي أن يقاتل أحد من أهل العدل أحداً من الخوارج، مع قوم آخرين من الخوارج، إذا كان حكم الخوارج هو الظاهر (شرح السير، ج ٣ ص ٢٤١)

“It is not correct² for Muslims to fight idolaters together with idolaters because both parties are the party of the devil and the devil’s party are losers. Thus, it is not correct for a Muslim to join one of the two parties, increasing their numbers and fighting in their defence. This is because the rule of disbelief is dominant, while a Muslim only fights to support the people of truth not to make the rule of disbelief dominant. And it is not correct for those loyal [to the Islāmic government] to fight against rebels together with other rebels when rebel rule is dominant.” (*Sharḥ al-Siyar*)

It states in the *Mushkil al-Āthār* of the famous imām of ḥadīth and fiqh, al-Ṭaḥāwī (Allāh have mercy on him):

² The phrase “it is not correct” (*lā yanbaghī*) in the aforementioned citation should not create doubt in the people of knowledge of there being flexibility in this matter because, having used the word “permissible” in contrast to it, it is clear the phrase “it is not correct” has been used in the meaning of “it is not permissible.” (Muftī Muḥammad Shafī‘)

هكذا حكمهم إلى الآن عند كثير من أهل العلم، منهم أبو حنيفة وأصحابه، يقولون: لا بأس بالاستعانة بأهل الكتاب في قتال من سواهم إذا كان حكمنا هو الغالب، ويكرهون ما سوى ذلك إذا كانت أحكامنا بخلاف ذلك، ونعوذ بالله من تلك الحال (شرح مشكل الآثار، ج ٣ ص ٢٤٠)

“Thus is the ruling up until now according to many of the experts of sacred knowledge, including Abū Ḥanīfah and his disciples. They state: There is no harm in taking help from the Ahl al-Kitāb in fighting other than them when our rule is dominant, and they considered anything besides that detestable, when our rule is other than that – we ask protection from such a condition!” (*Sharh al-Mushkil*)

Enough clear passages – Qur’ānic verses and narrations of ḥadīth – on the topic under discussion have been cited, and along with this, the clear statements of the mujtahid imāms and the scholars of the Ummah have also been mentioned.

Now, we will present the fatwā of Imām A‘zam Abū Ḥanīfah (Allāh have mercy on him) himself in connection with this topic, which was said in response to the question of Imām Muḥammad ibn al-Ḥasan. The first codifier of the Ḥanafī madhhab, Ḥaḍrat Imām Muḥammad ibn al-Ḥasan (Allāh have mercy on him), said, “I asked my teacher Imām Abū Ḥanīfah whether Muslims can take help from idolaters against the Ahl al-Ḥarb?” He said: “There is no harm in that on condition the rule of Islām is dominant because fighting in this manner against the Ahl al-Ḥarb is to strengthen the religion, and taking help from idolaters against them is like taking help from dogs in war.”

Shams al-A‘immah al-Sarakhsī transmitted this question of Imām Muḥammad (Allāh have mercy on him) and the answer of Imām A‘zam (Allāh have mercy on him) in his *al-Mabsūṭ* from *al-Siyar al-Ṣaghīr* in the following words:

وسألته عن المسلمين يستعينون بأهل الشرك على أهل الحرب، قال: لا بأس بذلك إذا كان حكم الاسلام هو الظاهر الغالب لأن قتالهم بهذه الصفة لإعزاز الدين والاستعانة عليهم بأهل الشرك كالاستعانة بالكلاب (المبسوط، ج ١٠ ص ١٣٨)

“I asked him about Muslims taking help from idolaters against the Ahl al-Ḥarb. He said: There is no harm in that when the rule of Islām is dominant because fighting them in this situation is to strengthen the religion and taking help against them from the idolaters is like taking help from dogs.” (*al-Mabsūṭ*)

The principle student of the imām of the abode of Hijrah, Imām Mālik (Allāh have mercy on him), who is the first codifier of the Mālikī madhhab said in his famous work *al-Mudawwanat al-Kubrā*:

قلت: هل كان مالك يكره أن يستعين المسلمون بالمشركين في حروبهم؟ قال: سمعت مالكا يقول: بلغني أن رسول الله صلى الله عليه وسلم قال: لن أستعين بمشرك، قال: ولم أسمعته يقول في ذلك شيئا، قال ابن القاسم: ولا أرى أن يستعينوا بهم يقاتلون معهم إلا أن يكونوا نواتية أو خداما فلا أرى بذلك بأسا (المدونة، ج ١ ص ٤٠)

“I said: Would Mālik consider it reprehensible for Muslims to take help from idolaters in their battles? [Ibn al-Qāsim] said: I heard Mālik say: It has reached me that the Messenger of Allāh (Allāh bless him and grant him peace) said: ‘I will never take help from an idolater.’ He said: I did not hear him say anything [more] about that. Ibn al-Qāsim said: I do not regard [it to be correct] to take help from

them, fighting together with them, unless [the situation] is that they are sailors or attendants, then I see no problem with that.” (*al-Mudawwanah*)

It is evident from the aforementioned citation that Imām Ibn al-Qāsim has given permission to take help from idolaters with the condition that has passed from the statement of Imām A‘zam, that is, the disbelievers are subdued and suppressed, and tag along like attendants, in which case it is permissible and otherwise it will not be permissible.

From the senior jurists of the Ḥanafīs, the author of *Badā’i‘ al-Ṣanā’i‘* said on this topic:

ولا ينبغي للمسلمين أن يستعينوا بالكفار على قتال الكفار لأنه لا يؤمن غدرهم إذ العداوة الدينية تحملهم عليه إلا إذا اضطروا إليهم (بدائع الصنائع، ج ٧ ص ١٠١)

“It is not correct for Muslims to take help from disbelievers to fight disbelievers because there is no assurance that they would not be treacherous as religious hostility may drive them to that, unless [Muslims] are forced to [take help from] them.”

It is further realised from the statement of the author of *Badā’i‘* that if at any time, God forbid, Muslims are forced to take help from disbelievers then they may take help even without the condition of Islām’s dominance. However, “being forced” (*iḍṭirār*) is a technical term of Sharī‘ah. It cannot be generalised by interpreting it according to journalistic conventions. “Being forced” has no meaning besides there being no other means to saving the lives of Muslims. In such conditions, according to explicit pronouncements of the Noble Qur’ān, many prohibitions become permissible – even wine and swine. The author of *Badā’i‘* has given permission in such a circumstance to take help from disbelievers without the condition of Islām’s dominance. Apart from general principles, this explanation of “being forced” is also clear from other rulings of fiqh.

Thus, Shams al-A‘immah al-Sarakhsī (Allāh have mercy on him) has given permission to Muslims who are held captive in the hands of disbelievers to fight other disbelievers with those holding them captive in order to save their own lives.³ Shams al-A‘immah himself explained the reason for this permissibility:

لأنهم يدفعون الآن شر القتل عن أنفسهم، وقتل أولئك المشركين لهم حلال ولا بأس بالإقدام على ما هو حلال عند الضرورة بسبب الإكراه، وربما يجب ذلك كما في تناول الميتة وشرب الخمر (شرح السير، ج ٣ ص ٢٤٢)

“Because they are now warding off the evil of being killing from themselves, and killing those idolaters is permissible for them, and there is no problem with proceeding to what is permissible in dire cases on account of being compelled, and sometimes that is obligatory like eating carrion and drinking wine.” (*Sharḥ al-Siyar*)

Similarly, he said afterwards on the rulings of a prisoner:

وإن كانوا في ضرر وبلاء يخافون على أنفسهم الهلاك فلا بأس بأن يقاتلوا معهم المشركين إذا قالوا نخرجكم من ذلك (شرح السير، ص ٢٤٣)

“And if they are in distress and misfortune, fearing annihilation for themselves, then there is no problem with fighting [other] idolaters with them when they say: ‘We will remove you [from this tribulation].’”

³ That is, when the captors say, “Fight with us or we will kill you”, as Imām al-Sarakhsī clarifies. (Translator)

Moreover, at the end of the aforementioned chapter, he said in very clear words that the meaning of “being forced” and “dire need” is saving lives. His words are:

لا ينبغي لهم أن يقاتلوا على هذا إلا عند تحقق الضرورة بأن يخافوهم على أنفسهم (شرح السير، ج ٣ ص ٣٤٨)

“It is not correct for them to fight in this way unless dire need is realised, in that they fear for their lives.”

And since the reason for the permissibility of this fighting is risk of life, in the situation that there is no danger to the captive Muslims, such fighting is not permissible. Thus, it states in this very place of *Sharḥ al-Siyar*:

ولو قال أهل الحرب لأسراء فيهم: قاتلوا معنا عدونا من المشركين، وهم لا يخافونهم على أنفسهم إن لم يفعلوا فليس ينبغي أن يقاتلوهم معهم لأن في هذا القتال إظهار الشرك، والمقاتل يخاطر بنفسه فلا رخصة في ذلك إلا على قصد إعزاز الدين، أو الدفع عن نفسه (شرح السير، ج ٣ ص ٢٤٢)

“If the Ahl al-Ḥarb said to captives amongst them: ‘Fight with us our enemy from the idolaters’, while they do not fear for their lives if they don’t do [that], it is not correct for them to fight them with them, because this fighting entails making idolatry dominant, and the fighter is putting his life at risk so does not have dispensation to do that except with the purpose of strengthening religion or defending oneself.” (*Sharḥ al-Siyar*)

The meaning of “being forced” becomes clear from the reasoning contained in the aforementioned statements of Shams al-A’immah. Besides saving lives there is no other scenario [of being forced].

It is also realised that by “defending oneself” is not meant the “defence” of journalistic conventions like one of the people of knowledge misunderstood in his review on a write-up by Mawlānā Zafar Aḥmad Ṣāḥib Thānawī, and then generalised these rulings to all Muslims regardless of being captive or non-captive. This is mistaken for several reasons:

First, general defence cannot be taken as the intent here because the word “oneself” is found – meaning defending one’s own life –, and in the preceding and succeeding passages Shams al-A’immah himself has clarified this meaning using words like “repelling”, “killing” and “annihilation”, leaving no room for the slightest doubt.

Second, this ruling is only for prisoners whose lives are constantly in danger, thus the qualification of “prisoners” is mentioned in this ruling.

Third, if this ruling is generalised to prisoner and non-prisoner there would be a clear contradiction between the two passages of *Sharḥ al-Siyar* mentioned on the same page, in that initially it determined the rule of Islām being dominant as a condition for taking help and fighting with disbelievers, and then in the very same page mentions this ruling in contradiction to it!

Fourth, the issue which the writer of the review wanted to prove by arguing from these rulings, namely that it is permissible for Muslims to fight a third party alongside Hindus, remains unproven, because even if while turning a blind eye to reality the hundred million Muslims of Hindustan are referred to as “prisoners”, they would be prisoners of the English, not of the Hindus. In fact, in this scenario, the Hindus too will be prisoners just like the Muslims. So what effect will the threat or

warning/promise of one prisoner have on another prisoner based on which the rulings of Shari‘ah will change?!⁴

Fifth, apart from the qualification of “prisoner” mentioned in these rulings, Shams al-A‘immah himself stated clearly and separately, two pages later, that these rulings are for the prisoner and do not apply to a Muslim who enters a disbelieving jurisdiction with their permission, who in fiqh parlance is called “Musta‘man” (one granted amnesty).

Shams al-A‘immah’s words are as follows:

وهذا خلاف ما إذا جاءهم قوم من المسلمين ليدخلوا دار الحرب فقال لهم أهل الحرب: ادخلوا وأنتم آمنون، فدخلوا ولم يشترطوا لهم شيئاً، لأن هناك مجيئهم على سبيل الاستيمان بمنزلة التصريح بالاشتراط على أنفسهم أن لا يغدروا بهم ولا يوجد هذا المعنى في حق الأسراء لأنهم كانوا مقهورين في أيديهم لا مستأمنين (شرح السير، ج ٣ ص ٢٤٥)

“This is different to [the situation] that a group of Muslims come to them to enter Dār al-Ḥarb and the residents say: ‘Enter while you are secure,’ and they enter without putting any conditions on them, because here coming with amnesty is equal to explicitly verbalising a condition upon themselves to not be treacherous [i.e. not take or assist in taking their lives, or their properties without permission], while this factor is not found with respect to prisoners as they are restrained in their hands and not granted amnesty.”⁵

From this citation of *Sharḥ al-Siyar* the objection is also answered that Muslims of Hindustan have no agreement with the present government based on which they can be said to be Musta‘man because it is realised from the aforementioned citation that entering the jurisdiction of any disbelieving nation with their permission, even if no agreement is mentioned, is an effective agreement or granting of amnesty, and one who enters in this way is Musta‘man; and it is evident that after disbelievers gain complete sovereignty in a country, remaining under their jurisdiction and authority, referring to them for all matters and needs and taking refuge with them in times of fear whether willingly or unwillingly – this too is an effective granting of amnesty.

In sum, the second scenario of Muslim and non-Muslim cooperation, that is working together and taking help, is permissible on condition that dominance belongs to Islām and Muslims; if disbelievers are dominant or equal, then it is not permissible. Only cases of compulsion, like when captives are faced with fear [for their lives], are excluded from this condition.

[The Third Scenario]

All scenarios of working together with disbelieving people [in matters of religion or politics] besides the aforementioned two scenarios, that is peace-agreement and taking help on condition of the rule of Islām being dominant, are all included in this third scenario. Based on the clear statements of Qur‘ān, ḥadīth and Ijmā‘ of Salaf and Khalaf, these are all prohibited, although the degrees of prohibition, from the perspective of impermissibility and reprehensibility, differ.

⁴ In other words, the scenario al-Sarakhsī mentioned refers to the captors demanding the prisoners, with threat of death, to fight with them – so they do so for fear of their own lives. Accepting for the sake of argument that the English are “captors” in India and its people are “prisoners”, it is not the English asking the Muslims to fight the Hindus but the Hindus asking the Muslims to fight the English; hence, it is “prisoners” asking “prisoners”, which is not at all the scenario under discussion. (Translator)

⁵ That is, the scenario that disbelievers promise to rescue Muslim prisoners and it being subsequently permissible to acquire their help against their non-Muslim captors does not apply to Muslims entering a non-Muslim territory with amnesty. In the latter case, it is not permissible for Muslims to take the lives of the non-Muslim residents of those lands, nor assist others in doing so. (Translator)

The principle is that hatred, enmity and showing opposition to disbelief and disbelievers is from the important objectives of Islām. In contrast to this, following, close friendship and friendly relationships are explicitly forbidden, and resemblance, assimilation and so on are forbidden and impermissible. There is permission only for the two scenarios of peace-agreement and working together when the rule of Islām is dominant or financial dealings, leasing/employing and business. All other kinds of intermingling and association with disbelievers is forbidden and impermissible.

The clear texts of Qur’ān and ḥadīths on this are so many that if they were gathered, they would become a large book. Thus, the imām of ḥadīth, Ḥāfiẓ Ibn Taymiyya (Allāh have mercy on him), has written a separate book on the topic, *Iqtidā’ al-Ṣirāṭ al-Mustaqīm fī Mukhālafat Aṣḥāb al-Jahīm*, which consists of more than 200 pages of small writing. Here some verses and ḥadīths will be sufficed on by way of example.

Allāh (Glorious and Exalted is He) said:

قَدْ كَانَتْ لَكُمْ أُسْوَةٌ حَسَنَةٌ فِي إِبْرَاهِيمَ وَالَّذِينَ مَعَهُ إِذْ قَالُوا لِقَوْمِهِمْ إِنَّا بُرَءُؤُا مِنْكُمْ وَمِمَّا تَعْبُدُونَ مِنْ دُونِ اللَّهِ كَفَرْنَا بِكُمْ وَبَدَا بَيْنَنَا وَبَيْنَكُمُ الْعَدَاوَةُ وَالْبَغْضَاءُ أَبَدًا حَتَّى تُؤْمِنُوا بِاللَّهِ وَخَدُّهُ

“You have an excellent example in Ibrāhīm and those with him when they said to their people: ‘We disown you and all that you worship apart from Allāh; we reject you and there will be enmity and hatred between us and you forever unless you adopt belief in Allāh alone.’” (60:4)

This verse also makes it clear that the distinction between disbelief and Islām is such that those who were previously ethnically one nation, this distinction made them into two separate nations, even if a conception is made of the separate Muslim people forming a composite nation by joining with disbelievers.

And He (Blessed and Exalted is He) said:

وَلَا تَرْكَنُوا إِلَى الَّذِينَ ظَلَمُوا فَتَمَسَّكُمُ النَّارُ وَمَا لَكُمْ مِنْ دُونِ اللَّهِ مِنْ أَوْلِيَاءَ ثُمَّ لَا تُنصَرُونَ

“Do not incline towards those who do wrong thus causing the Fire to afflict you for you have no protector besides Allāh; then you will not be helped.” (11:113)

And He (Exalted is He) said:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا بِطَانَةَ مَنْ دُونِكُمْ لَا يَأْلُونَكُمْ خَبَالًا

“O you who believe, do not take any besides yourselves as intimates. They will not spare you in ruin.” (3:118)

And He (Exalted is He) said:

وَمَنْ يَشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعْ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ نُوَلِّهِ مَا تَوَلَّىٰ وَنُصَلِّهِ جَهَنَّمَ وَسَاءَتْ مَصِيرًا

“Anyone who opposes the Messenger after the guidance has become clear to him, and follows other than the path of the believers, We will turn him over to whatever he has turned to, and We will roast him in Hell. What an evil destination!” (4:115)

And He (Exalted is He) said:

وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَنْ يَفْتَنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ

“Do not follow their whims and beware of them lest they lure you away from some of what Allāh has sent down on you.” (5:49)

And He (Exalted is He) said:

لئن أتيت الذين أوتوا الكتاب بكل آية ما تبعوا قبلتك وما أنت بتابع قبلتهم... ولئن اتبعت أهواءهم من بعد ما جاءك من العلم إنك إذا لمن الظالمين

“If you were to bring every sign to those given the Book, they still would not follow your direction. Nor do you follow their direction...If you followed their whims after the knowledge that has come to you, you would then be one of the wrongdoers.” (2:45)

From the authentic and reliable ḥadīths, the Prophet (Allāh bless him and grant him peace) said:

من تشبه بقوم فهو منهم (رواه أبو داود، قال ابن تيمية: أسناده جيد، الاقتضاء، ص ٣٩)

“Whoever resembles a people is one of them”

أنا بريء من كل مسلم مقيم بين أظهر المشركين

“I am free of every Muslim living amidst idolaters.”

إن اليهود والنصارى لا يصبغون فخالقوهم (البخاري ومسلم)

“Jews and Christians do not dye [their hair], so oppose them.”

خالقوا المشركين، أحفوا الشوارب وأعفوا اللحى (البخاري ومسلم)

“Oppose the idolaters, trim closely the moustaches and let the beards grow.”

خالقوا اليهود فإنهم لا يصلون في نعالهم وخفافهم (أبو داود)

“Oppose the Jews for they do not pray in their sandals and leather socks.”

لا يزال الدين ظاهرا ما عجل الناس الفطر لأن اليهود والنصارى يؤخرون (أبو داود)

“The religion will always remain dominant for as long as people hasten the breaking [of the fast] because the Jews and Christians would cause delay.”

In the aforementioned verses and ḥadīths, and the many like them, it has been ruled impermissible to intermingle, copy, participate and follow the general disbelievers and idolaters, and opposition to disbelief and the upholders of disbelief has been stated as an important objective. Actions of apparent allegiance or imitation are forbidden. Most mufasssīrīn and fuqahā’ have also included under these verses and narrations actions that are suggestive of allegiance, following and imitation of disbelievers, or that are a cause of friendly relationships or of intermingling and associating.

Sayyidī Ḥaḍrat Shaykh al-Hind (Allāh sanctify his spirit) has stated this very thing in the presidential address of Jamiat Ulama with the following words:

The question remains that allegiance/close friendship (*muwālāt*) is one thing and dealing is another. The verse prohibits *muwālāt* not dealings. Thus, I say that there is certainly a difference between the meanings of *muwālāt* and dealings, but from a linguistic perspective,

associations that create nearness, closeness and connections of helping and assisting each other are included in the meaning of *muwālāt*. Thus, all such dealings as a result of which mixing, connection and unification increases with the enemy, such dealings which add to their hostile power, such associations (e.g. working with the army) that contribute to destroying Muslims and eliminating Muslim power, such connections that give them the opportunity to argue for Muslim approval, such functions from which love and joining with them are publicised, are included directly or indirectly within the forbidden and prohibited *muwālāt*. (Presidential Address, 1920)

These acts and dealings are such that they are not permissible for Muslims with any disbelieving community. Even those with whom there is an agreement of peace or assistance/taking help in any specific matter, the alliance and participation is allowed only within the remit of the agreement; in other matters, they will assume the ruling of all disbelievers. It is mentioned in *Sharḥ al-Siyar al-Kabīr* regarding such people who are in agreement with the Muslims:

لأنهم في حكم المحاربين وإن تركوا القتال بسبب المودعة إلى مدة (شرح السير، ج ٣ ص ٢٨٢)

“Since they too assume the ruling of Ahl al-Ḥarb even though they have abandoned fighting to a term because of the agreement.”

The summary is that for Muslims, it is allowed to join with disbelievers in only two scenarios. One is a peace-agreement and an accord without working together. This is permissible on the condition that the interests of the Muslims are kept in view and none of the conditions of the agreement are against the Shari‘ah. The second is taking help and working together. This is permissible on the condition that the rule of Islām is dominant and the disbelievers tag along as mere subordinates. In other than these two scenarios, there is no [third] scenario where it is allowed to intermingle and engage in joint union, whether this is called “following”, “resembling”, “allegiance”, “love” or anything else.

Muslim Cooperation with Congress

After recognising the Shar‘ī rulings of the afore-described three scenarios, it must be inspected which scenario Muslim participation with Congress falls under. Presently, this is the most crucial matter. It is evident to those who have observed the different stages of Muslims and Congress working together, and those who see and hear of the circumstances and events as they unfold, that Muslim participation with Congress falls under different scenarios in its different phases. It was not one scenario from beginning to end.

The initial phase of the present movements, when the Khilafat Committee was proceeding at the height of strength and supremacy, the Hindu people followed the adherents of Islām. The condition at that time was either included in the first scenario i.e. a peace-agreement or, at most, in the second scenario, of taking help. And without doubt the condition of taking help from disbelievers, i.e. the dominance of Islām, was realised at that time. The banner of the war of independence was in the hands of the Muslims and the Hindus followed.

This reality is very clearly evident from the final speech of the aforementioned Ḥaḍrat [Shaykh al-Hind] which he delivered only nine days before passing away. At the end of his presidential address in the second annual meeting of Jamiat Ulama Hind, which occurred in 1339/1920 CE under the leadership of Shaykh al-‘Arab wa l-‘Ajam [Shaykh al-Hind] (Allāh sanctify his soul) in Delhi, he said:

There is no doubt that Allāh (Exalted is His Majesty) has made our co-residents and the majority community of Hindustan – the Hindus – in one way or other supporters in achieving this pure objective. I regard the agreement and harmony of these two communities to be very beneficial and fruitful. Keeping in mind the sensitivity of the circumstances, I have great regard in my heart for the endeavours that the leaders of both communities have made and are making because I know that if the situation were different it would make the freedom of Hindustan forever impossible. The government is daily tightening its iron fist, and even if a feint trace of Islāmic power remains, because of our evil deeds, even that is being erased from the page of existence like a mistaken letter. Thus, uniting these two elements of Hindustan’s residents, in fact the fighting people of the Sikhs as well, if all three remain in peace and harmony, then I do not see how any fourth group, no matter how powerful, can defeat the united purpose of all these communities merely with their force and dictatorship.

Yes, I have said this before, and will repeat it today: if you want to see the internal peace and harmony of these communities to be pleasing and durable, then truly imbibe the limits. The limits are that there is no obstacle to the boundaries established by Allāh, which is nothing but for the nearness created by this harmony and peace-agreement not resulting in the smallest of the two communities’ religious matters being touched, while no method is adopted in worldly dealings which would be perceived as offensive to either group. I say with grief that in many places the practice is the opposite. In religious matters, in order to show unity, many go beyond the boundaries of their religion, but in courts and means of earning each run after harming the other!

Presently, I am not addressing the public, but this plea of mine is towards the leaders of both communities. They should not be deceived by the large number of those who raise their hands in their gatherings and give verbal support, as this is the way of shallow people. They should assess the fanatical competitions between Hindus and Muslims in their internal dealings and the government courts. If you find that a Hindu does not drink from a Muslim’s vessel or a Muslim does not assist in [the Hindu ritual] Aarti, then this is not damaging to these two [communities]. However, the trials of the adversarial battles between the two [communities], and one inflicting harm on the other and making such effort in making [the other] appear low

– which in the eyes of the English will reduce the consideration of both communities – are fatal poisons to unity. I hope that you will not pass over this brief advice of mine and will practically put an end to these things.” (Khuṭbah e Ṣadārat, p. 18)

This insightful lecture of Sayyidī Ḥaḍrat Shaykh al-Hind (Allāh have mercy on him) is truly a powerful constitution for Muslims, containing an effective solution to all their political and religious conflicts. Read the underlined sentences again carefully in which the following are clearly stated:

1. The original flagbearers of the independence of India were Muslims. Then the Hindus began to help.
2. Based on the need of the time, this support and protection was considered an advantage.
3. Based on the abovementioned need, an alliance was made between both communities.
4. The following were the conditions for the alliance to be permissible:
 - a. There would be no obstacle to remaining in God’s established boundaries because of the alliance.
 - b. Even the smallest of religious matters of the two communities is not to be touched.
 - c. In worldly dealings, make peace, conformity and tolerance your path.
 - d. In internal dealings and government courts, avoid fanatical competitions and the trials of adversarial conflict.

And since in opposition to the aforementioned conditions of the respected Ḥaḍrat, it appears some Muslims went beyond the boundaries of religion, he condemned this strongly in this speech and advised that the durability of peace and harmony depends on not laying a hand on the boundaries of religion.

In short, if the reality of that time is examined, [it would be found that] Muslims were not participating with Congress but the Congress Hindus stood together in solidarity with Muslims, and an alliance was created between the two communities to present the joint demand of Indian independence, the conditions of which were in conformity with Sharī‘ah and fully adequate for maintaining the boundaries of religion.

Thus, this alliance between Muslims and idolaters is included in the first scenario from the three aforementioned scenarios, i.e. a peace-agreement. Thereafter, when both communities worked together in gatherings, meetings and demonstrations, at most it can be said to be included in the second scenario, i.e. taking help, but the primary flagbearers of demanding independence and those who got the work going were the Muslims; thus, they were dominant and the condition for the permissibility of taking help [from idolaters] was found.

Anyhow, this first phase of uniting and cooperating with Hindus, from the perspective of its foundation and basis, was permissible and correct according to the limits of Sharī‘ah. Thus, from the ‘ulamā’ of Ahl al-Ḥaqq (people of truth), no one at the time disagreed with the basic ruling, and those actions that anyone disapproved of were actions that Ḥaḍrat Shaykh al-Hind (Allāh have mercy on him) and other ‘ulamā’ and leaders of the movement also disapproved. [The disagreement of] the respected ones who disagreed with the movement was not on account of disagreeing with the basic ruling but over whether this movement would be beneficial and productive in empowering Muslims.

The reasoning of Sayyidī Ḥaḍrat Ḥakīm al-Ummah Mawlānā Ashraf ‘Alī Thānawī (his soul be sanctified) who disagreed with the movement is that published at the end of his treatise *Shaqq al-Ghayn*:

Issue 4. From the supporters of Congress, some think that their [current] participation is in imitation of my teacher, Ḥaḍrat Mawlānā Deobandī [i.e. Shaykh al-Hind], and some think this disagreement to be like the disagreement of Ḥanafī-Shāfi‘ī. In my view, both these assumptions are pure error.

Ḥaḍrat Mawlānā’s participation was one of peace-agreement not following (*mutāba‘at*). That is, at the time, the Khilafat Movement was at the peak of power and thus Ḥaḍrat Mawlānā’s strong hope was that the rule of Islām will become dominant, while our [i.e. Mawlānā Thānawī’s] feeling and intuition was the opposite. Thus, the disagreement was only a different perspective, and like the disagreement of Ḥanafī-Shāfi‘ī was one based on judgement. In this participation, there wasn’t the supposition of even a trace of following. Thus, if there was the slightest doubt of any Islāmic symbol being weakened or any disbelieving symbol being elevated it would be strongly condemned. Mass-transmitted observation is testimony to this.

This is distinguished from the situation today, now that because of Congress’s power the rule of disbelief and idolatry is dominant. Every decision of theirs is agreed to and accepted in a cowardly fashion. The assimilative participation at this time is entirely “following” (*mutāba‘at*). Since this is impermissible, Muslims must empower themselves and make their own organisation so that the participation that occurs thereafter is a peace-agreement not following. The upshot is that “participation” is a homonym, and its two types – peace-agreement and following – have two different rulings. Thus, after a true delineation [between peace-agreement and following], there should be no confusion because of the semantic “participation”. (*Bawādir al-Nawādir*, p. 966)

In brief, it is clearly established from the clear statements of Ḥaḍrat Shaykh al-Hind and Ḥaḍrat Ḥakīm al-Ummah (Allāh make us enjoy both their effluences) that in its initial phase, Muslim participation with Congress was in the form of the permissible peace-treaty, on the intrinsic permissibility of which no one disagreed. Similarly, there was also no disagreement that something which weakens or harms Islām and the adherents of Islām must be stayed clear of. Thus, after the incidents of the Shuddhi/Sanghatan [movement]⁶ and the Nehru Report⁷, the adherents of Islām in general and the scholars and leaders in particular retreated and were put-off from Congress.

However, after the incidents of the Shuddhi/Sanghatan [movement], when Congress took on a new life in Lahore, the founder and flagbearer of the movement [for independence] were Hindus. The Muslims had just sensed the betrayal and treachery of Hindus and the bitterness of the tragic incidents of Shuddhi/Sanghatan. Thus, they hesitated in taking part with the Hindus in this movement. Some Muslims then gradually began to join them. At this time, since the full hold and dominance of the movement belonged to Hindus, instead of a purely political movement they shaped the movement on pure Hindu thought, Hindu ideas and style, and they decreed that anyone who joins Congress will join as an individual: Congress will not take in anyone functioning as a representative of a group. The idea behind this was that Muslims will not be accepted in the capacity of an independent community and group within Congress, rather anyone who joins Congress will only become a part of Congress as a Hindustani. The natural result of this was that Muslims would remain an extremely weak minority in Congress and would be subordinate and subservient to the Hindu majority – as dictated by the well-known democratic system of India.

⁶ A Hindu proselytising movement that took full force in the 1920s

⁷ A memorandum drafted by Congress leadership in the late 1920s which disadvantaged the Muslims

This is why there was disagreement amongst Congress Muslims themselves. One group of scholars and leaders felt this kind of unconditional joining of Congress was harmful to Muslims from a religious and political perspective, and many Muslim political experts distanced themselves from Congress. The Muslims that remain in Congress are now in an even greater minority and state of weakness, and from the political battleground of Congress, Hindus have acquired an opportunity to assert their exclusively Hindu ideas and conceptions and to impose them on all of Hindustan. For example, the Hindu-style salute on the Congress flags and the idolatrous Vande Mataram anthem became part of the constitution and salient features of Congress.

Such laws were enforced in the whole of Hindustan under the names of the “Wardha Scheme”, “Vidya Mandir Scheme” and “Dihat Sudhar Scheme”⁸ which had no connection with politics and demanding independence. Rather, the outcome of all of them was nothing besides every community in India, Muslim and non-Muslim, being coloured by a Hindu colouring, and the normalisation of the Hindu style of social interaction, idolatrous customs and practices, to the extent that continuous efforts were made to change Hindustan’s language from Urdu to Hindi, and the official written language had in many places already been altered.

All groups of Muslims strongly protested this. Like all Islāmic groups, Jamiat Ulama Hind too protested, having declared these schemes to be eradicating Islāmic features, destroying Islāmic foundations and equivalent to drawing Muslims into Hinduism, but Congress was not affected in the least by these protests of disagreement.

The scholars and leaders who joined with Congress and some who are still joined with them have made the reality of these schemes clear: that they are extremely harmful to Islām and the symbols of Islām. The words of some of them are presented below from which the realities and circumstances will become completely clear.

In its session dated March 1939, Jamiat Ulama Hind passed a lengthy resolution, in which it declared:

We are saddened that principle four of the Wardha Scheme the explanation of which was presented by Dr Zakir Husain leader of the Wardha Committee himself in his report, Urdu edition, Risālah Jāmiyah, p. 111, 118, 119, is something completely different [to purely secular or political needs]. He wrote that the final goal of this scheme is to create a group of educated people whose culture, beliefs and behaviours are similar, who will maintain the belief about all religions that they are true and not dissimilar to one another; moreover, there must be faith and practice in the truth of ahimsa (the doctrine of nonviolence).

It is evident that these principles are neither correct nor practical because they completely ignore the fact that the residents of India have different religions and inclinations. It is impossible for Muslims to leave their Islāmic culture and adopt some nationalistic [culture], and not accept any difference between Islāmic and non-Islāmic culture. Muslims are ready: Muslims are prepared to adopt the attitude of tolerance towards other religions. But in opposition to this attitude, a contrived nationalism is being taught which is destructive to the distinctions of Islāmic civilisation. Thus, this policy is not only superficial but also a cause of destruction in future. (Report, Jamiat Ulama Session, p. 5, 6)

Mawlānā Abu l-Maḥāsīn Muḥammad Sajjād Ṣāḥib, Naib Amir Shariat in the Bihar province, head of Independent Muslim Party and executive member of Jamiat Ulama Hind, sent a letter of protest against the Dihat Sudhar Scheme from the office of Imarat Shariah, Phulwari Sharif, Patna, to Honourable Dr. Mahmud, minister of Bihar, in which he wrote:

⁸ Schemes of compulsory education for children

The subjects that are taught in these two institutes (Madhubani Ashram and Phulwari Sharif Camp Jail) are as follows: history of the town's panchayat, village life, satyagraha (truth) and ahimsa (the doctrine of nonviolence), the autobiography of Mahatma Gandhi *Talashe Haqq*, the teachings of Mahatma Gandhi etc. By means of this letter, I am turning your attention to the terrible failures of this scheme, and I am demanding from you to announce that these objectionable subjects are removed. You and your government have made ahimsa, dharm (moral duty), the biography of Gandhiji with his specific teachings compulsory for every community and religion.

How can this be permissible? Ahimsa, dharm, and the teachings of Gandhiji – which at most reflect his particular religious beliefs, ideas and efforts to search for truth – can be captivating for, and insightful to, Hindus. But they destroy Muslims' religious, ethical and social foundations. This is why Muslims cannot tolerate even for a moment this kind of education and upbringing. It is evident in this scheme that Muslim religious and communal norms are being eliminated. Instead of spreading Islāmic ideology amongst Muslims the intent is to spread Hindu ideology. (*Aṣre Jadīd*, Calcutta, 3 September, 1938)

Akhbar-e-Madina, Bijnor, wrote under the title *Gandhism and the Muslim* in 17 September 1938:

Mawlānā Sajjād sent a copy of this letter to Mawlānā Abu l-Kalām, so that keeping his special responsibilities in mind he turns his attention towards it and makes use of his powers to attempt to remove the objectionable parts of the curriculum. Until now we still do not know what answer these two powerful and honourable personalities [Dr. Maḥmūd and Mawlānā Abu l-Kalām] have given, and whether they have even taken the trouble of replying...

Further, this newspaper published and wrote a review of the write-up of the greatest commentator of Gandhi's ideology Acharya Kripalani, which is regarding the present reality of Congress, some sentences of which were quoted in the question. This too is worthy of attention.

Mawlānā Aḥmad Sa'īd Sāhib, previous administrator (nazim) of Jamiat Ulama Hind, published an article about the Simon Commission during his office as nazim, which was published on 14th January 1938 in *Aṣre Jadīd*, Calcutta. Some of its sentences are as follows: "The meaning of acquiring rights from the English is that in place of the English, those rights which at present the English possess are given to the Hindus." Further he said: "The fate of saluting this 'swāraj' (self-rule) and submitting to this 'independence' will be subservience to Hindu rule." Further he said: "Hindu barbarism and oppression, in Muslim view, has been conflated with the notion of independence." He further said: "Muslim feeling is that that which is called 'independence' is in reality subservience to the Hindus and that which is called 'swāraj' (self-rule) is 'sāmraj' (dictatorship)."

There are many such clarifications from those who work with Congress which have been published. But it is unfortunate and astonishing that this communal demand and protest has not had the slightest impact on the Hindus of Congress and they have not changed one bit of these schemes, and yet these individuals are in the same manner working together with Congress, are calling Muslims towards it and are passionate supporters of it! It is evident that such condemnation, by the explicit clarification of ḥadīth, does not make them innocent before Allāh. The ḥadīth of Ḥaḍrat 'Abdullāh ibn Masūd (Allāh be pleased with him) is cited in *Tirmidhī* and *Abū Dāwūd*:

قال رسول الله صلى الله عليه وسلم: لما وقعت بنو إسرائيل في المعاصي تهنّتهم علماءهم فلم ينتهوا فجالسوهم في مجالسهم وأكلوهم وشاربوهم فضرب الله قلوب بعضهم ببعض فلعنهم على لسان داود وعيسى بن مريم، ذلك بما عصوا وكانوا يعتدون، الحديث (المشكوة)

The Messenger of Allāh (Allāh bless him and grant him peace) said: “When the Israelites fell into sins, their scholars forbade them but they did not stop, yet they sat together with them in their gatherings, and ate and drank together with them. Thus, Allāh mixed their hearts with each other, and then He cursed them on the tongue of Dāwūd and ‘Īsā son of Maryam. This is because they rebelled and would transgress...”

A Comparison between the First and Second Phases of Cooperation with Congress

First Phase:

1. The flagbearers of independence and those who held sway over the movement were Muslims. Hindus were following.
2. Muslims had their own organisation in the form of the Khilafat Committee, and as an organisation, leaders of the Khilafat made an alliance with the Hindus.
3. The most important part of the alliance at the time was being united in a political demand, the independence of Hindustan, and not to lay a hand on even the smallest of religious matters of the two communities.
4. Because of joining Congress, no Muslim was compelled to do anything against the Sharī‘ah, rather anti-Sharī‘ah actions that occurred were the personal acts of individuals. For example, applying qashfa (a mark on the head) was not a resolution/decision of Congress, and when Muslims were warned of it being against Sharī‘ah they desisted.

Second Phase:

1. The flagbearers of independence and those who held full sway over the movement were Hindus, while Muslims were following.
2. In the present Congress, the independent nationhood of Muslims is not recognised, and nor can any demand be heard on Congress’s platform in the capacity of a [Muslim] nation or religious [community]. Entry into Congress is done individually and unconditionally.
3. Congress do not only wish to intervene in religious, communal and social matters of Muslims, but are making continuous efforts to eliminate Islāmic symbols by force and enforce a Hindu colouring.
4. Such matters are included in Congress’s constitution and decrees which are not only sins but are clearly contrary to the foundations of Sharī‘ah and the symbols of Islām, like the Hindu-style salute on the flags and the schemes of idolatrous and Hindu education. As a minority, Muslims do not have the option of making any change in them from a legal route.

Just as it is established from the aforementioned details that the first phase of cooperation with Congress – which occurred in the time of Shaykh al-Hind (Allāh have mercy on him) – was a kind of peace-agreement with the Hindus or [fell under] the permissible form of taking assistance, it is likewise clear that in its second phase the cooperation was nothing but subordination, and that too in matters that destroy the symbols of Islām which even those individuals have accepted in the aforementioned statements who not only say cooperating with Congress is permissible but would not avoid saying it is obligatory! The biggest deception is that this practice is attributed to Ḥaḍrat Shaykh al-Hind (his soul be sanctified), all the while it is realised from the previous statements that the present practice does not have even a distant connection with the practice of the aforementioned Ḥaḍrat, but there is clear conflict between them.

It is understood from the three kinds of cooperation with disbelievers detailed above that when dominance does not belong to Islām it is not even allowed to take help from them let alone joining a party of disbelievers individually & unconditionally and then remaining a part of them when they pass verdicts to manifest symbols of disbelief and eradicate symbols of Islām – which is from the worst example of the third type [of cooperation].⁹

The upshot is that at present, it is undoubtedly impermissible for Muslims to join Congress for several reasons:

First, Hindus are dominant in Congress and Muslims subdued, and in such a context even if it is assumed that Hindus work with tolerance and do not pass any verdicts against Islām, according to the aforementioned clear statements, it is not permissible to work together with them.

Second, because in the present circumstances, Muslims have to follow Hindus whether willingly or unwillingly.

Third, because this following and joining, according to the clear statements of the majority of mufassirīn, fuqahā' and Ḥadīrat Shaykh al-Hind (Allāh illuminate his grave), is included within the definition of close friendship (*muwālāt*) with disbelievers, as has been mentioned with reference to the presidential address in the Jamiat Ulama gathering in Delhi.

And Allāh (Glorified is He) knows best.

⁹ This is equivalent to joining political parties in non-Muslim majority countries today. (Translator)

Answers to Doubts

Muslim Alliance with Romans in the End-Times

It is argued that it has been foretold in a ḥadīth about the end-time that Muslims will make a peace-agreement with the Roman disbelievers and, having joined with them, will confront a third group and be victorious. [It is argued that] permission to join with the Hindus unconditionally and confront the English can be derived from this.

This ḥadīth is narrated in *Abū Dāwūd*, Kitāb al-Fitan, from Ḥaḍrat Dhī Mikḥbar. Firstly, however, the kind of peace-agreement and the circumstances of the peace-agreement – whether the rule of Islām will be dominant or not – are not mentioned in the ḥadīth. The words of the ḥadīth are only:

ستصالحون الروم صلحا آمنا

“You will make a peace-agreement with Rome, a safe peace-agreement.”

Secondly, this is a prophecy related to incidents that will occur at the time of Fitan (end-time tribulations). It is not necessary that what Muslims do at that time will be correct and worthy of imitation. In fact, in the ḥadīths of Fitan generally those things are mentioned that are blameworthy in Sharīʿah. For example, it states in ḥadīth that there will be a lot of lying and false testimony in the end-time, flutes and instruments will become common and children will disobey parents. Just like lying, musical instruments and disobeying parents cannot be said to be permissible based on these ḥadīths, working together [with non-Muslims] cannot be said to be permissible unconditionally especially when in other authentic ḥadīths the condition of Muslims and Islām being dominant is mentioned.

At the end of the ḥadīth, it states that after the conquest there will again be internal infighting resulting in Muslims suffering martyrdom. It is understood from this that the latter jihād which occurs after breaking the peace-agreement is praiseworthy, but there can be no arguing for the permissibility of the earlier event from this. Moreover, the ḥadīth explicitly states that the Muslim group will make a peace-agreement with the Romans while maintaining their independence. There isn't even the suggestion of individually joining and merging with a group of disbelievers.

The Medinan Pact

It is argued that after migrating to Madīnah the Prophet (Allāh bless him and grant him peace) made a pact with some Jewish tribes in order for both communities to be united in opposition to others. Currently, working together with Hindus is argued for passionately from this. However, it is unfortunate that there is clear deception in the transmission of, and argument from, this incident. The very place and very book from which the incident is quoted also states the conditions based on which this unity and peace-agreement was permissible – namely, that the Muslims enjoyed strength and dominance and these Jewish tribes were loyal and subservient [to Muslims], and that too in the manner that the judgement of the Prophet (Allāh bless him and grant him peace) was accepted by both communities, Muslim and non-Muslim: if any internal dispute arose, both communities would have to submit to the judgement of the Prophet (Allāh bless him and grant him peace). The full incident and pact that has been written in connection to this [incident] is quoted with the following words in *Sīrah Ibn Hishām*:

هذا كتاب محمد النبي صلى الله عليه وسلم بين المؤمنين والمسلمين من قريش ويثرب ومن تبعهم فلحق بهم وجاهد معهم أنهم أمة واحدة من دون الناس (إلى أن قال) وأن المؤمنين بعضهم موالي بعض دون الناس وأنه من تبعنا من اليهود فإن له

النصر والأسوة غير مظلومين ولا متناصرين عليهم (ثم قال) وأنه ما كان بين أهل هذه الصحيفة من حديث واشتجار
يخاف فسادة فإن مرده إلى الله عز وجل وإلى محمد رسول الله صلى الله عليه وسلم

“This is a pact from Muḥammad, the Prophet (Allāh bless him and grant him peace), between believers and Muslims from Quraysh and Yathrib, and those subservient to them, joining with them and fighting with them, that they are one community apart from the people...and that the believers are friends of each other apart from the people, and that those who follow them from the Jews will enjoy support and equity, not being oppressed nor given support against...And that whatever occurs between the people under this pact, in terms of dispute or argumentation from which corruption is feared, it will be referred to Allāh and to Muḥammad, the Messenger of Allāh (Allāh bless him and grant him peace).”

Look carefully at the underlined passages of this honourable letter. It states clearly in two places that power and dominance belonged to the Muslims, whether their numbers were more as would be evident from the tribes of Aws and Khazraj entering into Islām, or their numbers were less, because dominance at that time was not based on numbers. Anyhow, the Jews followed in subordination, and were subservient to the point that they were compelled to accept the judgement of the Noble Prophet (Allāh bless him and grant him peace) in every disputed affair.

Are Congress subordinate in this manner and subservient to Muslims? Or will they submit to even the most senior Muslim’s judgement? Or is it the reverse: Congress Muslims are subservient to them, and they have, wilfully or unwilfully, made their leader, Gandhi, their arbiter? To not quote this incident fully, to present it as evidence of merging with Congress, and to argue from the term “one community” – which according to the clear explanation of *Lisān al-‘Arab* is used figuratively and metaphorically here – for the conventional “unified nation” of Congress is great injustice.

The Fatwā of Mawlānā Rashīd Aḥmad Gangohī

In their arguments, supporters of Congress present a fatwā of Quṭb ‘Ālam Ḥadrat Mawlānā Rashīd Aḥmad Gangohī (his soul be sanctified) on the permissibility of joining with Congress, but to refute their claim this fatwā alone is sufficient. After reading the question and answer fully, every sane person will understand that no conclusion can emerge but the impermissibility of working together with Congress at the present time & in the present fashion.

Thus, I will quote the question and answer so people of insight can make the judgement themselves about whether, despite the unconditional nature of joining Congress in the present time and the scores of things present therein against Muslim interest and Islāmic principles, it is still permissible to join it or not. (Quoted from *Nuṣrat al-Abrār*, p. 13):

Question 3: A national party called National Congress has been active for several years to remove harms and acquire worldly benefits for Hindus, Muslims and other residents of India, and its main principle is that it will work in matters that will be of benefit to all communities and avoid looking into matters that are harmful to any religion or go against the government. Is it permissible to join with such a party or not?

Question 4: Sayyid Aḥmad Khān, the naturalist, has founded a party, the [United Patriotic] Association, and has encouraged people [to join] by means of a printed announcement on 8th August 1888 [that states]: “Hindus of great stature like the Raja of Benaras, who are opposed to Congress, are members of my party. Each person who joins is asked to send 5 rupees monthly to myself in Aligarh or the Raja at Benaras...” Using these funds, members have established Associations in various cities under the name “Anjuman Islamia”. They try to force those who oppose them to join by employing various kinds of corruption and fitna.

Would it be correct for Muslims to join and support this party? And do the naturalists hold ill will against Islām or not?

Answer by Ḥaḍrat Gangohī: If Hindus and Muslims engage in partnership, buying, selling and trade internally in the manner that there is no shortcoming in dīn or any anti-Shar‘ī dealing, and no interest or impermissible sale occurs, it is permissible and allowed. There should be no connection with Sayyid Aḥmad, however, even if he takes the name of showing goodwill to the community, or truly does have goodwill; joining with him is a fatal poison to the work of Islām and Muslims. He serves a sweet poison from which no one can survive. He should not be worked with. To partner in dealing with Hindus [is permissible]; but if in partnering with Hindus or dealing with them anything against the Sharī‘ah is necessitated, or Muslims are humiliated or debased, or the Hindus ascend, that action is impermissible, as explained above. That is all. Rashīd Aḥmad Gangohī.

Read the underlined words of this question and answer repeatedly and ponder over the following points:

1. This fatwā was published in 1306 H (1889 CE) from which it is realised that the Congress which the question was regarding is the Congress from approximately 59 years ago when its foundations had just been erected at the hands of some Englishman and it was right in its early phases.
2. The goals and objectives of Congress at that time was nothing more than presenting demands before the government to remove harms from the residents of the country, or to acquire some specific benefit, just like Hindu and Muslim residents in an area today make joint petitions to the municipal board of the area about lighting, cleaning etc. It was not in opposition to the government, nor was the advancement or creation of a new form of government under discussion, nor was there a conflict between a minority and a majority. It is obvious that such petitions are nothing besides a kind of peace-agreement and dealing between Muslim and Hindu communities.
3. At the time, it was from the established principles of Congress that it will not look into any matter that will be harmful to any religion.
4. It was also from Congress’s principles at the time that it will not look into any matter that was against the government.
5. Ḥaḍrat Gangohī (his soul be sanctified) was asked about joining with this Congress, the qualities and description of which are understood from the above.
6. The aforementioned Ḥaḍrat only gave permission of partnering in a dealing with such a group – for example, buying, selling and so on are types of partnering –, not that the two communities unite and merge to form some composite nationalism. Even this partnering in a dealing was permitted with the following conditions:
 - a. This partnership and dealing does not necessitate anything against Sharī‘ah.
 - b. There is no humiliation and debasement of Muslims therein.
 - c. Hindus do not become strengthened and ascend because of this partnering.

If any of these conditions is missing, he has clearly stated that even this dealing is impermissible.

Now the question to people of insight is:

1. Is Congress still what it was 60 years ago? And does it still have those same goals and objectives, or is it, in light of its present constitution, the flagbearer of a legal battle to achieve independence from the present government, and is demanding a new form of government for which it is drafting such laws – for a unified Muslim and Hindu government – that will result in Muslims always remaining subordinate to the Hindus based on their minority?
2. And is it still the practice of Congress to not look into issues which do not harm a religion, and if this is so, then is not Muslim participation in the Wardha Education Scheme, Dihat Sudhar Scheme and Vidya Mandir Scheme, the idolatrous Vande Mataram and the idolatrous salute of the flags harmful to Islām and the Muslim people, which the Congress not only looked into but passed decisions upon and enforced, and despite protest from all Muslims are not prepared to change even a small part?
3. And is Congress still a loyal party which is not prepared to look into anything against the government?

If this description of Congress no longer remains, as clear to all with eyes, then is it not extremely deceptive to apply the aforementioned fatwā which says it is permissible to partner in a dealing with a group of the above description to today's Muslim-destroying and Islām-opposing Congress?

Having determined the three permissible/impermissible scenarios of Hindu-Muslim cooperation in this write-up and then asking the question about which scenario participation with Congress falls under, I have made it clear that no one has previously said that working together with Congress is unconditionally impermissible and nor does anyone say this today. Rather, there is detail to its ruling. At the level of a peace-agreement and dealing, which Ḥaḍrat Gangohī (Allāh have mercy on him) has described as a “partnering of dealing” in his fatwā, it is permissible with the aforementioned conditions. The impermissible scenario is the one in vogue today, where Congress wants to make a unified government of Muslims and non-Muslims in which the final decision will be in the hands of the majority while the minority will have no option but to submit to them. Further, based on its majority, Hindus have begun to pass such laws and principles that according to the deceased Mawlānā Sajjād Ṣāhib destroy the foundations of Islām and, in fact, are a prelude to destroying Islām altogether. We ask Allāh protection from this.

In short, every person of intelligence knows that a fatwā is based on the circumstances. If circumstances change, the fatwā too will change. Since Congress has now changed from head to toe, and instead of a lobby group has almost become sovereign itself and has come close to becoming an enemy of Islām, to present and argue from the aforementioned fatwā of Ḥaḍrat Gangohī (Allāh have mercy on him) for the Congress of this time is to violate justice and honesty. And not only this: each one of the conditions mentioned explicitly in the fatwā for the permissibility of working together [with Congress] is missing today, but the fatwā remains as it was! How far this is from intellect and honesty. The complaint is to Allāh, and Him I trust and to Him I turn.

Answer to the Second Question: **The Status of Congress and Muslim League**

It is evident from the circumstances of, and rulings about, Congress which have just been explained in answer to the first question that Hindus enjoy dominance and, in fact, full sway therein, which is why the religious and political rights of Muslims are being destroyed and Muslims joining them individually & unconditionally can never in any way guarantee protection of their rights. Based on this, it is necessary for an organised group of Muslims to foil such evil plans. Currently, apart from the Muslim League, there is no such organisation and powerful group wherein the power derives from a Muslim majority, and which the present government and neighbouring communities can accept.

Thus, for the movement of independence and to preserve their religious and political rights, Muslims have no alternative but to support Muslim League. The question remains that the members of Muslim League have no regard at times for Islāmic rulings in its legislative councils. It is obvious that rectification of this can be done by Muslims as a whole giving it attention and passionately drawing attention to it, as opposed to Congress – as Muslims hold no religious or communal sway in its constitution, so no demand of theirs can hold any weight, and this has been observed again and again.

Moreover, the imāms of Islām are agreed that there is no problem with supporting and helping fussāq, fujjār and those who are Muslims only by name against disbelievers, and it is permissible to take help from them and assist them in jihād and religious matters. It states in *Sharḥ al-Siyar al-Kabīr*:

ولا بأس بأن يقاتل المسلمون من العدل مع الخوارج المشركين من أهل الحرب لأنهم يقاتلون الآن لدفع فتنة الكفر، وإظهار الإسلام، فهذا قتال على الوجه المأمور به وهو إعلاء كلمة الله تعالى (شرح السير، ج ٣ ص ٢٤١)

“There is no problem with orthodox Muslims fighting idolaters from Ahl al-Ḥarb alongside the Khawārij because they are now fighting to repel the tribulation of disbelief and to make Islām dominant, and this is fighting in the manner that is instructed, which is to elevate Allāh’s word.”

وكذلك إن كان في بلاد الخوارج الذين أغار عليهم أهل الحرب قوم من أهل العدل لم يسعهم إلا أن يقاتلوا عن بيضة المسلمين وحرمتهم؛ لأن الخوارج مسلمون ففي القتال معهم إعزاز الدين، ولأنهم بهذا القتال يدفعون أهل الحرب عن المسلمين، ودفع أهل الحرب عن المسلمين واجب على كل من يقدر عليه فلهذا لم يسعهم إلا أن يقاتلواهم

“Likewise, if there are a group of orthodox Muslims in the lands of Khawārij which the Ahl al-Ḥarb have attacked, they have no option but to fight for the strength and sanctity of the Muslims, because the Khawārij are Muslims, and so fighting with them entails strengthening the dīn, and because by such fighting they repel Ahl al-Ḥarb from the Muslims, and repelling Ahl al-Ḥarb from Muslims is obligatory on all capable. Thus, they have no option but to fight them.”

In the aforementioned transmissions, it is considered permissible to support the Khawārij and work together with them against the disbelievers, while there is consensus of the Ummah on Khawārij being fāsiq, and in fact there are such words found in the ḥadīths about them from which it apparently seems they are disbelievers, which is why many scholars have made takfīr of them. However, according to the majority they are not disbelievers but Muslims even if Muslims only by name. Despite all of this, supporting and helping them against disbelievers has been declared permissible, while such dangers existed in the Khawārij that cannot be found in the freethinkers of the League. Anyhow, if a Muslim is Muslim by name, supporting him against disbelievers, and working together with him in some matters against the disbelievers, is undoubtedly permissible. In *Nayl al-Awtār*, ‘Allāmah Shawkānī related consensus on this. His words are:

وتجوز الاستعانة بالفساق على الكفار إجماعاً (نيل الأوطار، ج ٧ ص ٢٢٤)

“Taking help from fāsiqs against disbelievers is permissible by consensus.”

This is the reason that despite the anti-Sharī‘ah deeds and evil actions of the members of the last [Ottoman] sultanate, which are somewhat more than the evil deeds of Muslim League and its members as accepted by everyone, every class of Hindustan, including the Jamiat Ulama Hind and general Muslims, considered it necessary to support and help them against disbelievers, and have helped as much as possible.

The reason for permissibility is not that there is no danger in the religious failures of Muslims who are ignorant and careless of Sharī‘ah, but the reason is that in opposition to disbelievers, to not support them would be to bring weakness to Islām and the Muslim community, and after eliminating the dominance of disbelievers, reforming the Muslims and changing the leaders will be in the hands of the Muslim republic.

This is why Imām al-‘Aṣr Mujāhid al-Millah Ḥakīm al-Ummah Mawlānā Ashraf ‘Alī Ṣāhib Thānawī (his soul be sanctified), after inspecting all the present circumstances and thinking deeply about all the Sharī‘ah dimensions, advocated supporting Muslim League in the following words, which were published as *Tanzīm al-Muslimīn*¹⁰ in Ḥaḍrat’s lifetime:

There is no doubt that in the present context there is a great need for Muslims to be properly organised. The preservation of all their benefits and interests, and protection against all harms and evils, are dependent on such organisation. But along with this, it is also necessary for each Muslim to accept that such an organisation will, as far as possible, fully comply with rules of Sharī‘ah. Thus, if at present, an organised group with this characteristic was present or would soon be expected, the solution would be obvious. However, in the present circumstances, it is unfortunate and extremely sad that such a group is neither a reality nor expected soon.

Thus, there is no option but to join one of the present groups, and the failures of the principles of Sharī‘ah within them be rectified. If one [principle] can be easily rectified and another is difficult, then based on the rational and transmitted principle: ‘One who is tried with two trials must opt for the lighter of them,’ the one that can be easily rectified will be included within this [principle]. Assessing the present conditions of the two groups asked about [in the question], intense scrutiny has led us to conclude that it is [relatively] easy to eliminate the deficiencies of the Muslim League and difficult, in fact impossible, to reform Congress...And Allāh (Glorified and Exalted is He) knows best.

¹⁰ A copy of this fatwā can be found in *Jawāhir al-Fiqh*, 5:307-319

Answer to the Third Question:

The Shar‘ī Status of the Demand for Pakistan

The third question is regarding the demand for Pakistan. It is obvious that if Hindustan remains one centre, because of their numerical superiority, Hindus will acquire government over the whole of Hindustan. Although after much effort and toil, the rights of Muslims can be maintained to some degree – on which, based on present and past circumstances, there can be no certainty –, it is accepted that voluntarily demanding non-Muslim sovereignty over oneself, or accepting it, can in no way be permissible.

In the scenario of two centres, Muslim and non-Muslim, the government in the Muslim centre will belong to Muslims wherein they will acquire the power to apply a constitution and system in accordance with Islāmic principles. Further, this powerful government will be able to fully protect and oversee the rights of Muslims in other provinces which would [otherwise] not at all be conceivable because of the minority status and dispersed power of the Muslims.

This is why it is necessary for Muslims to make two demands: one, an independent centre for themselves which is being referred to as “Pakistan”, and two, a proper agreement in unambiguous terms on the protection of the rights of Muslims in provinces where Muslims are a minority, the oversight of which will be included within the obligations and powers of the Islāmic centre.

After this clarification, the status of Pakistan is completely clear: Hindustan has been a Dār al-Islām for centuries, and now for some time a non-Muslim government has sovereignty over it, many laws contrary to the Sharī‘ah are being enforced and the rights of Muslims are being trampled over. It is thus incumbent on Muslims that they do not fall short in [utilising] the methods by which the removal or reduction of this sovereignty can be attained in whatever part of the country. This is also part of securing Dār al-Islām. The efforts to maintain the rights of Muslims in the other parts should also continue since this is included within “supporting the downtrodden” (*nuṣrat al-mustaḍ‘ifīn*).

O Allāh, show us the truth as truth and grant us obedience to it and show us falsehood as false and grant us avoidance of it. We seek refuge with You from external and internal tribulations. O Allāh, [grant us] protection like the protection of a new-born. May Allāh (Exalted is He) bless the best of His creation and the choicest of His messengers, as well as his progeny and all his companions, and send blessings and peace, plentifully and abundantly.

The most worthless of creation, the slave Muḥammad Shafī‘ Deobandī, Allāh pardon him and keep him safe and make him as He loves and approves.

Endorsements

“I have read this fatwā thoroughly. *Mā shā Allāh!* The matter has been made completely clear. No room has been left for people of knowledge and insight. All sides and dimensions have been brought forth with clarity. May Allāh (Exalted is He) give the best rewards to Muftī Ṣāhib.”

Shabbīr Aḥmad ‘Uthmānī, Deoband, 18/12/1364 (November 1945)

“After praising [Allāh] and sending blessing [on the Prophet], this lowly one has also read the aforementioned fatwā, word for word. May Allāh (Exalted is He) give the best rewards to Mawlānā Muftī Muḥammad Shafī‘ Ṣāhib, for he has brilliantly clarified the Shar‘ī ruling on present-day politics, and with great effort and after a [complete] study, has gathered the detailed rulings from Qur’ān, ḥadīth and fiqh. It is hoped that after this fatwā, there will remain no need for [any other] fatwā about the present-day [political] issues. Such is the fortitude of men and the resolve of heroes, Allāh increase their likes amongst us. Wassalām.”

Ẓafar Aḥmad Thānawī, Allāh pardon him
3/1/1365 (December 1945)

“The details which the respected answerer has written with regards to the three levels of assistance and taking aid from disbelievers according to the statements of the fuqahā’ (Allāh, Most Exalted, have mercy on them) are correct.”

The ignoramus, Sayyid Sulaymān Nadwī

“According to this lowly one also, the content [of the fatwā] is completely sound. It is, as if, a clarification and commentary of the teachings of Ḥaḍrat Ḥakīm al-Ummah Mujaddid al-Millah al-Thānawī (Allāh sanctify his soul). May Allāh bless the effusions of the respected answerer.”

Jamīl Aḥmad Thānawī
Servant of Dār al-Iftā, Khānaqāh Ashrafiyyah, Tahānabhon, District Muzaffarnagar
4/1/1365 (December 1945)

(*Jawāhir al-Fiqh*, 5:363-427)