

Is Hindustan Dār al-Ḥarb?

Mawlānā Rashīd Aḥmad Gangohī (1244-1323 H/1829-1905 CE)

Introduction by Muftī Muḥammad Shafi'

Since in terms of its residents, government and power, Hindustan [now] consists of Muslims and non-Muslims, and many rules of Islām would change based on this transformation, whether Hindustan is Dār al-Islām or Dār al-Ḥarb has been a question under scrutiny for some time. Thus, today the fatwā of Quṭb-e-‘Ālam Junayd-e-Zamān Abū-Ḥanīfah-e-Waqt Ḥaḍrat Mawlānā Rashīd Aḥmad Ṣāhib (Allāh have mercy on him) will be published, which he wrote in full and in detail in response to a question of some of his learned students regarding Hindustan being Dār al-Ḥarb, a copy of which the aforementioned Ḥaḍrat’s son, Ḥaḍrat ‘Allāmah Mawlānā Ḥakīm Mas‘ūd Aḥmad Ṣāhib (Allāh have mercy on him), gave to this lowly one, and copies of which can be found with other relatives and students of Ḥaḍrat.

It will not be hidden to those who have some connection with Fiqh and Fatāwā that in nearly all topics of Fiqh: Ṣalāh, Ṣawm, Ḥajj, Zakāt, marriage, divorce, and in particular buying and selling, hiring/renting and other financial dealings, many issues of Sharī‘ah take one form in Dār al-Islām and another in Dār al-Ḥarb. Thus, it would be completely correct to say that one implementing a great portion of Sharī‘i rulings is dependent on first specifying whether the land he is staying in is Dār al-Islām or Dār al-Ḥarb. Hence, for a long time this matter had been under scrutiny in Hindustan. Quṭb-e-‘Ālam Ḥaḍrat Mawlānā Rashīd Aḥmad Ṣāhib (his soul be sanctified) was also asked this question. Seeing the need of the time, Ḥaḍrat uncharacteristically wrote the answer with full detail and explanation, which alḥamdulillāh became available to this lowly one, and the *Risālat al-Muftī* has acquired the privilege of publishing it.

Note: The original fatwā was in the Farsi language. Keeping in mind the benefit to elite and commoners, maintaining the original fatwā [as it is], I have written its translation alongside it in Urdu. May Allāh (Exalted is He) make it beneficial and accepted just like its original, āmīn.

Ḥaḍrat did not give a title to the original treatise. The lowly one has also kept its title as:

Fayṣalat al-A‘lām fī Dār al-Ḥarb wa l-Islām (The Decree of the Notables on Dār al-Ḥarb and Dār al-Islām)

The most worthless of creatures, the slave Muḥammad Shafi'
29 Rabī‘ al-Thānī, 1352 (July, 1933)

Question

It is submitted in the service of the respected noble ‘ulamā’ and the muftīs of Islām:

It is not hidden to the respected ‘ulamā’ that many rulings of Sharī‘ah are dependent on a distinction between Dār al-Islām and Dār al-Ḥarb. Thus, what do the respected ‘ulamā’ of the age say on the question over whether Hindustan, which today is in every way controlled and governed by Christians, will be considered Dār al-Ḥarb or Dār al-Islām in terms of Islāmic rulings? Explain and be rewarded.

Answer

It should first be understood that any land or town being Dār al-Islām or Dār al-Ḥarb hinges on whether power over it belongs to the adherents of Islām or to disbelievers.¹ Thus, a town under the governance of Muslims will be called “Dār al-Islām”, as stated in *Jāmi‘ al-Rumūz*:

¹ Footnote from Muftī Muḥammad Shaḥī‘:

It states in *Fatāwā ‘Azīzī* (Maṭbū‘ah Mujtabā‘ī, 1:16): It states in *al-Kāfī* (of al-Nasafī):

إن المراد ببلاد إسلام بلاد يجرى فيها حكم إمام المسلمين ويكون تحت قهره، وبلاد الحرب بلاد يجرى فيها أمر عظيمها ويكون تحت قهره

“The intent of ‘the lands of Islām’ are lands in which the rule of the imām of the Muslims is enforced and is under his control, and of ‘Dār al-Ḥarb’ is lands in which the command of its ruler is enforced and is under his control.”

In *Radd al-Muḥtār*, vol 3, *Bāb al-Musta‘man*, p. 381, it states:

المراد بالدار: الإقليم المختص بقهر ملك إسلام أو كفر لا ما يشمل دار السكنى

“The meaning of ‘dār’ is a region exclusively controlled by an Islāmic or disbelieving sovereignty, and does not include the [the meaning of the] ‘dār’ of residence.”

It states in *Fatāwā ‘Alamgīrī*, vol 6 *Kitāb al-Farā‘iḍ*, *al-Bāb al-Khāmis fi l-Mawānī*, p 632, Maṭbū‘a Kalkutta:

والدار إنما تختلف باختلاف المنعة، أي: الجيش والملك، لانقطاع العصمة فيما بينهم

“The abode (*dār*) only changes by a change in force, i.e. army and sovereignty, because of the cessation of protection from one to the other.”

It states in *Badā‘ī al-Ṣanā‘ī*, vol 7, *Kitāb al-Siyar*, *Faṣl Bayān al-Aḥkām allatī Takhtalif*, p. 131:

إن المقصود من إضافة الدار إلى الإسلام والكفر ليس هو عين الإسلام والكفر وإنما المقصود هو الإمن والخوف ومعناه أن الأمان إن كان للمسلمين على الإطلاق والخوف للكفرة على الإطلاق فهي دار الإسلام وإن كان الأمان فيها للكفرة على الإطلاق والخوف للمسلمين على الإطلاق فهي دار الكفر والأحكام مبنية على الأمان والخوف لا على الإسلام والكفر

“The aim of linking ‘Dār’ (abode) to ‘Islām’ and ‘Kufr’ is not the very essence of Islām and Kufr, but rather the aim is security and fear. The meaning of this is that if security belongs to the Muslims in an absolute sense and insecurity to disbelievers in an absolute sense, it is Dār al-Islām; if security

دار الاسلام ما يجري فيه حكم إمام المسلمين وكانوا فيه آمنين ودار الحرب ما خافوا فيه من الكافرين انتهى

“Dār al-Islām is where the rule of the imām of Muslims is enforced and they are secure therein. Dār al-Ḥarb is where they fear from the disbelievers.”

It states in *Radd al-Muḥtār*:

سئل قارئ الهداية عن البحر الملح أ من دار الحرب أو الإسلام؟ أجاب إنه ليس من أحد القبيلين لأنه لا قهر لأحد عليه

“Qāri’ al-Hidāyah was asked about the ocean, is it included in Dār al-Ḥarb or Dār al-Islām? He answered that it is not included in either as neither have control over it.”

Our aim in presenting this passage is to demonstrate that for a land to be Dār al-Islām or Dār al-Ḥarb hinges only on the dominance of Islām or disbelief – although the stronger view about the ocean is that it is included in Dār al-Ḥarb. However, every area that is controlled equally by Islām and disbelief will be regarded as Dār al-Islām as dictated by the famous principle:

الإسلام يعلو ولا يعلى عليه

“Islām ascends and is not overtaken.”

However, such a region can only be called Dār al-Islām with the aforementioned condition, namely that control and sovereignty belongs to some rulers of Islām in that region. Otherwise, based only on the fact that Muslims live in that land, or that they can perform some salient aspects of Islām with the permission of disbelievers, the land cannot be called Dār al-Islām, because Muslims merely residing in a land or being able to perform some salient aspects of Islām by permission of disbelievers has no consideration.² Similarly, disbelievers residing in a land, and openly conducting salient aspects of disbelief by the Muslims’ permission or neglect, creates no difference to the land being Dār al-Islām. This is because in both cases, dominance does not belong to them, while the status [of a land] hinges on dominance, not mere presence or appearance.

This is the reason that the disbelievers of Ahl al-Dhimmah would live in Dār al-Islām with permission of the Muslims and even openly conduct salient aspects [of their religion], but Dār al-Islām remained Dār al-Islām just as it was. Similarly, Muslims would travel to Dār al-Ḥarb and even openly conduct salient

belongs to the disbelievers in an absolute sense and insecurity to the Muslims in an absolute sense, it is Dār al-Kufr. The rules are predicated on security and insecurity not on Islām and disbelief.”

It is clear from the above citations that a region being Dār al-Islām or not depends on dominion and control, just as the author has written.

² In a footnote, Muftī Muḥammad Shafī quotes *Fatāwā ‘Azīzī*, 1:17, which explains that in the time of the Prophet (ṣallallāhu ‘alayhi wasallam) and khulafā’ there were lands that were considered Dār al-Ḥarb despite some of the salient aspects of Islām being conducted by the Muslims residing there.

aspects of Islām, but merely because of this the land would not stop being Dār al-Ḥarb.

Do you not observe that before the conquest of Makkah, when Makkah Mukarramah was Dār al-Ḥarb, the Pride of the World (Allāh bless him and grant him peace) came to Makkah Mu‘azzamah for ‘Umrat al-Qaḍā’ with a great multitude of the noble ṣaḥābah, and openly performed congregation, ṣalāh, ‘umrah and other salient aspects of Islām, and there was such a large group of the ṣaḥābah with him that they could have subjugated and subordinated the disbelievers? Thus, before the ‘Umrat al-Qaḍā’, with such large an army, a firm resolve was made to attack Makkah Mu‘azzamah in Ghazwa Ḥudaybiyyah. (But later when the events were investigated and the report of Ḥaḍrat ‘Uthmān’s murder was found to be erroneous, the resolve was abandoned). However, since entering Makkah and openly conducting salient aspects of Islām was by permission of disbelievers, Makkah was not considered in these three days to be in the ruling of Dār al-Islām but remained Dār al-Ḥarb just as it was – because the [short] stay in Makkah and openly conducting aspects of Islām was premised on permission not power.

In short, the general principle on this is that Dār al-Ḥarb is that which is controlled by disbelievers while Dār al-Islām is that which is controlled by the adherents of Islām, even if the people of one abode reside in the other abode without power and control. The land in which both groups are in power will also be considered Dār al-Islām. This principle should be firmly kept in mind because all related rulings derive from this principle and all minutiae on this topic hinge on this general rule.

Moreover, another matter should be considered. All scholars agree in relation to a land that was originally Dār al-Ḥarb & Dār al-Kufr, and subsequently Muslims gained power over it and enforced rulings of Islām therein, that the land has now become Dār al-Islām, because the control and power of Muslims is established therein. If the power of disbelievers also remains in some form, even still based on the principle that “Islām ascends and is not overtaken” the land will be Dār al-Islām by agreement, as was clarified earlier.

Furthermore, it is also necessary to make it clear that if Muslims entering and enforcing the rules of Islām in the land is not accompanied by power, then no difference will be created to it being Dār al-Ḥarb. Otherwise, Germany, Russia, France, China etc. which are controlled by Christians or idolaters are all deserving of being referred to as Dār al-Islām, and no trace of Dār al-Ḥarb will remain in the world because Muslims are implementing rules of Islām in all disbelieving nations by permission of disbelievers. It is obvious that to consider the whole world as Dār al-Islām in the present conditions is completely absurd.

If in a land or town that was Dār al-Islām, disbelievers gained power over it and the power of Islām is completely removed, it now assumes the status of Dār al-Ḥarb, but if the disbelievers have gained control over it but from some angles

the power of Islām still remains, it will still be called Dār al-Islām not Dār al-Ḥarb. All imāms agree on this. But there is disagreement over when the power of Islām has been completely removed.

Thus, Ṣāhibayn – Imām Abū Yūsuf and Imām Muḥammad (Allāh have mercy on them) – state that when the disbelievers openly enforce laws of disbelief and Muslims cannot enforce the rules of Islām without the permission of disbelievers, the control of Islām has been completely eliminated and the land will assume the status of Dār al-Ḥarb. However, if both groups, the adherents of Islām and the disbelievers, openly enforce their respective laws based on their respective power and control, then the control of Islām has not yet been fully removed and the land will not be called Dār al-Ḥarb. When disbelievers openly enforce their laws with power and control while Muslims maintain no ability to openly put their laws into practice without their permission, the power of Islām has been completely removed and eliminated. Logic (*qiyās*) dictates what Ṣāhibayn said because once the disbelievers have gained such control that based on their power they can openly enforce the rules of disbelievers, while the adherents of Islām are so powerless and subjugated that they are not able to enforce their own laws and nor are they able to remove the laws of disbelief – which are a shame and disgrace to Islām –, what kind of Islām now remains that such a land can be called Dār al-Islām? In such a case, disbelievers have reached the peak of power and control, and the land has in actuality become Dār al-Ḥarb. Whatever is destined to happen in future will happen but at the present there is no doubt over it being Dār al-Ḥarb and in the control of disbelievers; and just like the ancient Dār al-Ḥarb, it is now controlled and subjugated by disbelievers as is completely evident.

However, Imām A‘zam Abū Ḥanīfah, based on his subtle insight, and by way of a principled overriding of strict logic (*istiḥsān*), said that for as long as any trace of the control of Islām is found, or such weakness is sensed in the control of disbelievers that Muslims will have no difficulty in removing them, up to that time the land should not be assumed to be Dār al-Kufr. Based on this, Imām A‘zam made two further conditions for the land to be Dār al-Ḥarb. The first condition is that the Dār al-Islām that the disbelievers overtook is contiguous with Dār al-Ḥarb – there is no land or city of Dār al-Islām between it and Dār al-Ḥarb. This is because by being contiguous in this way to Dār al-Ḥarb and broken off from Dār al-Islām, it will become clear that the land has come into full control of disbelievers, and their power and sovereignty has been solidified, and to liberate it from their grip will be difficult.

This is analogous to that of disbelievers gaining control and dominance over the wealth of Muslims, which has two scenarios. One is that they take the wealth to their land and enjoy full power. In such a case, the wealth enters into their ownership. The second scenario is that they have not yet taken the wealth into their land, and complete security and control have not been realised. In such a case, its ownership will not cease from its owner and it will not enter into the

ownership of the disbelievers. This ruling has been mentioned in all books of Fiqh. It states in *al-Hidāyah*:

وإذا غلبوا على أموالنا وأحزروها بدارهم ملكوها، انتهى

“When they gain power over our property and secure it in their abode they gain ownership of it.”

And it states:

غير أن الاستيلاء لا يتحقق إلا بالإحراز بالدرار لأنه عبارة عن الاقتدار على المحل حالا ومآلا

“However, dominance is not realised except with securing [it] in their abode, because ‘dominance’ is an expression about having control over a subject-matter in present and in future.”

Thus, in this manner, if the dominance and complete control of the disbelievers over some land or city becomes such that it is secured within Dār al-Ḥarb – and security for a land can be that it is contiguous with Dār al-Ḥarb and broken off from Dār al-Islām –, then in this situation the land is completely in the control of disbelievers; and when this is not so, the dominance of the adherents of Islām remains albeit in a weak form – and based on the principle of “Islām ascends and is not overtaken”, the outcome will be that the land will remain Dār al-Islām. Thus, the outcome of this condition is also the very same power of disbelievers and subjugation of the adherents of Islām which at the beginning was specified as the general principle.

The second condition according to Imām A‘zam is that the amnesty that the Islāmic ruler had given to Muslims by virtue of them being Muslim and to the disbelieving residents by virtue of being Dhimmī is removed, such that no individual is secure in his life and property based on the previous amnesty – meaning, just like earlier everyone was secure and no one had the scope to violate another’s life or property based on the Muslim ruler giving amnesty. It is evident that such amnesty cannot be achieved without the power, strength and supremacy of the Muslim ruler. Thus, [the condition is that] this amnesty does not remain anymore but has become obsolete, and the cause of security is only the amnesty that the ruling disbelievers grant based on their law. It is clear that for as long as fear of harm is removed because of the amnesty of the Muslim ruler, power and strength will be considered to remain with him. When none of this remains, and the amnesty of the ruling disbelievers is looked to, the earlier amnesty has been removed.

The upshot is that according to Imām A‘zam (Allāh have mercy on him), if after openly enforcing laws of disbelief, these two conditions are also found, then the power of disbelievers from all dimensions can be conceded, and the power of the adherents of Islām can be considered to have been removed and eliminated. At this time, there will be no option but to rule the land to be Dār al-Ḥarb.

People of intellect will also understand from this that this view also hinges only on control and power, which was clarified at the beginning while outlining the general principle.³

Now, transmissions and statements of the Fuqahā' should be considered from some of which evidence will be derived for the aforementioned explanation of

³ Abū Bakr al-Jaṣṣāṣ (305 – 370) also explains this point in his *Sharḥ Mukhtaṣar al-Ṭahāwī*:

Al-Ṭahāwī says: “When the people of a town apostatise and their rule is enforced, it becomes Dār al-Ḥarb, whether contiguous with Dār al-Ḥarb or not, according to Abū Yūsuf and Muḥammad.”

Al-Jaṣṣāṣ comments: “According to Abū Ḥanīfah it does not become Dār al-Ḥarb until three things come together therein: it being contiguous with Dār al-Ḥarb & nothing of Dār al-Islām exists between it and Dār al-Ḥarb; second, the rule of the people of disbelief is enforced therein; and third, that no Muslim or Dhimmī remains secure there [based on the amnesty granted by Muslim powers]. When these three things come together therein, it becomes Dār al-Ḥarb, and when any one condition falls short it will not be Dār al-Ḥarb.”

Al-Jaṣṣāṣ then says: “This is like the town of al-Qirmiṭī. In the view of [Abū Yūsuf and Muḥammad], it is Dār al-Ḥarb despite being surrounded by Dār al-Islām because the rule of disbelief has become manifest therein, since they manifest the religion of Zoroastrians, fire-worship and insulting the Messenger Muḥammad (Allāh bless him and grant him peace).” Al-Jaṣṣāṣ continues: “The reasoning behind this view is that **the status of an abode only relates to power and dominance** and the enforcement of the rule of the religion therein. The proof for the soundness of this is that when we gain power over Dār al-Ḥarb and enforce our laws therein it becomes Dār al-Islām, whether contiguous with Dār al-Islām or not; the same is therefore the case with a town from Dār al-Islām, when disbelievers overpower it and their rule is enforced therein, it must be Dār al-Ḥarb, and there is no sense to giving consideration to a Dhimmī or Muslim remaining secure over his life because a Muslim may be secure in Dār al-Ḥarb and that will not stop it from being Dār al-Ḥarb and will not necessitate it being Dār al-Islām.”

Then explaining Abū Ḥanīfah's position, he says: “As for the reasoning of Abū Ḥanīfah's view in giving consideration to the three things that we described, it is that when it is not contiguous with Dār al-Ḥarb and there is Dār al-Islām surrounding it, the dominance has no ruling because it still comes under the force of the Muslims so is like an army of people from Dār al-Ḥarb resorting to a Muslim fort with the Muslim armies surrounding them – their acquisition of the fort would not convert the fort into Dār al-Ḥarb while the Muslim armies surround them. Similar is a city the residents of which apostatise or its residents overpower it while there are Islāmic cities surrounding it – it is obvious that the force of Islām remains there because they surround them. He also considered the enforcement of laws because the place which an army has acquired from the plots of Dār al-Islām, even if contiguous with Dār al-Ḥarb, will not become Dār al-Ḥarb because they are unable to enforce their rule. Similar is the Muslim army when it enters Dār al-Ḥarb – the plot they acquire will not become Dār al-Islām for as long as they are not able to enforce their rules. He also considered that there not remain a Muslim or Dhimmī secure over his life because being secure over his life makes the place remain in the ruling of Dār al-Islām as it was, and that would prevent it from changing into the ruling of Dār al-Ḥarb.”

Al-Jaṣṣāṣ then concludes: “**I believe that Abū Ḥanīfah only said this based on the conditions that existed in his time when Muslims fought idolaters. It was not possible according to him that a Dār al-Ḥarb could exist in the middle of the abode of Muslims, where the inhabitants apostatise and despite the armies of the sultan surrounding them remain strong and have loyal subjects. Had he seen what has happened in this time, where people are negligent of Jihād and betray one another and those in leadership are engaged in corruption and show enmity to Islām and its adherents and belittle the command of Jihād and its due, he would say the same thing as Abū Yūsuf and Muḥammad about a town like al-Qirmiṭī, and in fact many towns like it which we dislike to mention here.**” (*Sharḥ Mukhtaṣar al-Ṭahāwī*, 7:215-8)

this slave and from some the true meaning of the citations related to this ruling will become clear.

It states in ‘*Ālamgīrī*’:

قال محمد في الزيادات: إنما يصير دار الإسلام دار الحرب عند أبي حنيفة بوجوه: إحداها إجراء أحكام الكفر على سبيل الاشتهار وأن لا يحكم فيها بحكم الإسلام، والثاني: أن تكون متصلة بدار الحرب لا يتخلل بينهما بلد من بلاد الإسلام، والثالث: أن لا يبقى فيها مسلم أو ذمي آمنًا بأمانه الأول الذي كان ثابتًا قبل استيلاء الكفار للمسلم بإسلامه وللذمي بعقد الذمة، وصورة المسألة على ثلاثة أوجه إما أن يغلب أهل الحرب على دار من دورنا أو ارتد أهل مصر وغلبوا وأجروا أحكام الكفر أو نقض أهل الذمة العهد، وتغلبوا على دارهم، ففي كل من هذه الصور لا تصير دار حرب إلا بثلاثة شروط، وقال أبو يوسف ومحمد بشرط واحد لا غير، وهو إظهار أحكام الكفر وهو القياس، انتهى

“Muḥammad said in *al-Ziyādāt*: Dār al-Islām only becomes Dār al-Ḥarb according to Abū Ḥanīfah with [three] conditions. One is the enforcement of the laws of disbelief openly and that the law of Islām is not enforced therein. Second, that it is contiguous with Dār al-Ḥarb, with no city from the cities of Islām between them. Third, that no Muslim or Dhimmī remains secure there under the previous amnesty that was established before the dominance of the disbelievers – for the Muslim based on him being Muslim and for the Dhimmī based on the contract of Dhimmah. The materialisation of this situation can be in three ways: either the residents of Dār al-Ḥarb gain power over a land from our lands, or the people of a town apostatise and gain power and enforce rules of disbelief, or the people of Dhimmah break the contract and gain power over their land. In all cases, it will not become Dār al-Ḥarb except with the three conditions. Abū Yūsuf and Muḥammad said [it will become Dār al-Ḥarb] with one condition alone, which is the manifestation of the laws of disbelief; and that is [the dictate of strict] logic.”⁴

It states in *Jāmi‘ al-Rumūz*:

فأما صيرورتها دار الحرب فعنده بشرائط: إحداها: إجراء أحكام الكفر اشتهاً بأن يحكم الحاكم بحكمهم ولا يرجعون إلى قضاة المسلمين كما في البحر، والثاني: اتصال بدار الحرب بحيث لا يكون بينهما بلدة من بلاد الإسلام ما يلحقهم المدد منها إلخ

“As for it becoming Dār al-Ḥarb, according to [Abū Ḥanīfah] it has conditions. First, the enforcement of the laws of disbelief openly, in that the ruler rules by their law, and they do not refer to Muslim judges, as mentioned in *al-Baḥr*. Second, it being contiguous with Dār al-Ḥarb such that there is no city from the towns of Islām between them via whom assistance can reach them.”

⁴ Muftī Shafī notes that ‘Atābī in his commentary on *Ziyādāt* mentioned that Abū Ḥanīfah “made these conditions as evidence of complete domination and control” (شروط هذه الشرائط ليكون علماً على تمام القهر) (والاستيلاء).

Two matters become clear from this transmission of *Jāmi' al-Rumūz*. First, that the meaning of the rules of Islām being enforced is that the rules of Islām are enforced with power and strength, not in the general sense of performing congregation and Jumu'ah with the permission of disbelievers. The text of *Jāmi' al-Rumūz* is “rules by their law, and they do not refer to Muslim judges”; meaning, that the Muslim judges do not maintain any kind of strength or influence such that people can refer to them. Similar is [the case of] Muslims putting rules of Islām into practice in Dār al-Ḥarb. In this case, it can only become Dār al-Islām when this open enforcement of rules is by means of their power and control, as is completely clear.

Anyhow, the rule of Islām and the rule of disbelief are both considered in terms of power, not by mere open implementation.

The second thing that is derived from this passage of *Jāmi' al-Rumūz* is that the objective of the condition that is necessary according to Imām A'zam of it being contiguous with Dār al-Ḥarb is the very same [objective of] power and strength, because in the case of being contiguous with Dār al-Ḥarb the aid of Muslims cannot reach, as opposed to the case that they are separated from Dār al-Ḥarb when the assistance of Muslims reaching Dār al-Islām has a greater likelihood, which is why the strength of Islām will be considered as still remaining.

It states in *Khizānat al-Muftīn*:

دار الاسلام لا يصير دار الحرب إلا بإجراء أحكام الشرك فيها وأن تكون متصلا بدار الحرب لا يكون بينها وبين دار الحرب مصر للمسلمين وأن لا يبقى فيها مسلم أو ذمي آمنا بالأمان الأول وأن لا يبقى فيها مسلم أو ذمي آمنا على نفسه إلا بأمان المشركين إلخ

“Dār al-Islām does not become Dār al-Ḥarb until rules of idolatry are enforced therein and it is contiguous with Dār al-Ḥarb without any Muslim city between it and Dār al-Ḥarb, and no Muslim or Dhimmī remains there secure on account of the earlier amnesty, and no Muslim or Dhimmī remains secure there over his own life except by amnesty of the idolaters...”

It states in *Fatāwā Bazzāziyyah*:

قال السيد الإمام: والبلاد التي في أيدي الكفرة اليوم لا شك أنها بلاد الاسلام لأنه لم يظهر فيها أحكام الكفر بالقضاة المسلمون انتهى

“The lands that are in the grasp of the disbelievers today, there is no doubt that they are Dār al-Islām because the rules of disbelief have not manifested there, and in fact the judges are Muslims.”

It states in *Radd al-Muḥtār*:

في معراج الدراية عن المبسوط: البلاد التي في أيدي الكفار بلاد الإسلام لا بلاد الحرب لأنهم لم يظهروا فيها حكم الكفر بل القضاة، والولاة مسلمون يطيعونهم عن ضرورة أو بدونها، وكل مصر فيه وال من جهتهم يجوز له إقامة الجمع والأعياد والحد وتقليد القضاة لاستيلاء المسلم عليهم، فلو الولاة كفارا يجوز للمسلمين إقامة الجمعة ويصير القاضي قاضيا بتراضي المسلمين ويجب عليهم أن يلتمسوا واليا مسلما

“It states in *Mi'rāj al-Dirāyah* from *al-Mabsūt*: “The lands which are in the grasp of the disbelievers are *Dār al-Islām* not *Dār al-Ḥarb* because the rule of disbelief has not manifested there, and in fact the judges and governors are Muslims, following them out of need or otherwise. Every town in which there is a governor from the side [of the Muslims], it is permissible for him to establish the *Jumu'ahs*, *Īds*, *ḥadd* and appoint judges because Muslims have dominion over them. If the governors are disbelievers, Muslims can [themselves] establish *Jumu'ah* and a judge will become a judge by general agreement of the Muslims, although it is necessary for them to seek out a Muslim governor.”

It also states in it:

وبهذا ظهر أن ما في الشام من جبل تيم الله المسمى بجبل الدروز وبعض البلاد التابعة كلها دار إسلام لأنها وإن كانت لها حكام دروز أو نصارى، ولهم قضاة على دينهم وبعضهم يعلنون بشتم الإسلام والمسلمين لكنهم تحت حكم ولاية أمورنا وبلاد الإسلام محيطة ببلادهم من كل جانب وإذا أراد ولي الأمر تنفيذ أحكامنا فيهم نفذها

“I say: It is evident from this that Mount Taymullāh in Shām, called Jabal Druze, and subordinate cities are all *Dār al-Islām* because although the rulers are Druze or Christians and they have judges adhering to their religion, some even openly insulting *Islām* and Muslims, they are all subordinate to our Muslim rulers, and they are surrounded by *Dār al-Islām* from all sides, and when the [Muslim] governor wants to enforce any laws amongst them he can.”

It is clear from these two transmissions that the intent of the enforcement of the laws of *Islām*, which is a condition for a land to remain *Dār al-Islām* after the disbelievers gain power over it, is that the rules of *Islām* can be enforced by way of strength and power. Likewise, in *Dār al-Ḥarb*, enforcing laws of *Islām* can remove it from being *Dār al-Ḥarb* when it is by way of power and strength, not merely that the ruler of *Dār al-Ḥarb* allows the laws of *Islām* to be put into practice.

The outcome is that the objective of the three conditions according to Imām A'zam as well as the single condition of *Ṣāhibayn*, i.e. the enforcement of the rules of *Islām*, is the same: power/control, even if only from some angles. However, none of the scholars of *Islām* asserts that in the land of disbelievers if some person openly conducted some salient aspects of *Islām* based on their clear permission or based on them turning a blind eye then it becomes *Dār al-Islām*. This is extremely farfetched, and such an assumption is very far-removed from proper understanding (*tafaqquh*).

Now that the matter has been verified, ponder over the condition of Hindustan specifically. With how much strength and dominance do the Christian disbelievers enforce their laws? If even the least provincial ruler were to give the ruling that no congregation is to be performed in the masjids, no prince or pauper will have the power to perform it. Performing Jumu'ah, the two 'īds and implementing some Shar'ī laws – all that happens happens only on account of their law that each person is free to [practise] his religion and no one has the right to interfere.

No trace of the security that was granted to the residents by the sultans of Islām remains. Which person of understanding can claim that we are sitting with security today because of the very amnesty that Shāh 'Ālam had given? Rather, a new amnesty has been acquired from the disbelievers, and by virtue of this amnesty of the Christians, all subjects of Hindustan remain.

Being contiguous with Dār al-Ḥarb is not a condition for countries and vast regions, but is a condition for villages, cities etc., the objective of which is only that receiving help from [Dār al-Islām] is facilitated. If someone were to assert that if the ruler of Afghanistan or of Turkey was to send aid they could remove the disbelievers from Hindustan, this is very far removed [from reality] and completely incorrect. In fact, removing them from Hindustan is extremely difficult. A massive Jihād and huge amounts of war materials would be needed.

Anyhow, the control of the disbelievers over Hindustan is to the degree that at no time has the control of disbelievers over a Dār al-Ḥarb been greater. The salient aspects of Islām which the Muslims are putting into practice here is only by their permission. Or else there are no weaker subjects than Muslims. Hindus too possess some power in governance, but Muslims don't even have that. However, the rulers in the princely states of Tonk, Rampur, Bhopal etc., despite being controlled by disbelievers, continue to enforce their rulings – these can be said to be Dār al-Islām, as can be derived from earlier citations from *Radd al-Muḥtār* etc.

That is all.

Allāh (Glorified and Exalted is He) knows best.

The slave, Rashīd Aḥmad Gangohī

All praise and favours belong to Allāh for the completion of the Urdu translation of the treatise on Dār al-Ḥarb. May Allāh accept it along with its original, āmīn.

All praise belongs to Allāh by Whose might and glory good works come to completion.

The slave, Muḥammad Shaftī' Deobandī (may Allāh pardon him)

(*Jawāhir al-Fiqh*, 5:205-220; *Ta'lifāt Rashīdiyyah*, p. 654-668)