THE *HIJRAH* (EMIGRATION), THE CONQUESTS, *DAR AL ISLAM* (THE TERRITORY OF ISLAM) AND THE CHANGING SITUATIONS

An Appraisal of the Belief System, *Fiqh* (Doctrine / Jurisprudence) and Political Geography

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A - The *Jama'ah* (Group / Community) and the *Hijrah* (Emigration)

According to Qatadah b. Di'amah al Sadusi (d 117 AH), for a period of time members of the Muslim community continued to "inherit during the *Hijrah*, while a Muslim desert Arab [who was not a member of that community] did not inherit anything from a *Muhajir* (Emigrant). Later, this was abrogated when Allah declared in the Holy Qur'an: 'But kindred by blood…'[1]."

After the Madinah Charter the Prophet sought to establish his new *Jama'ah* – or build ties between its members – based on two principles: firstly *Hijrah* and secondly *Mu'akhah* (contracts between individual Emigrants and residents of Madinah making them brothers in Islam). However, when *Mu'akhah* was

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[1] Al Tabari: *Tafsir*, 6/3a.

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replaced by the *Ummah* (Islamic Nation or Community), this did not initially lead to an abandonment of the principle of *Hijrah* as a basis for establishing the new Islamic *Jama'ah.* The Holy Qur'an says: "He who emigrates in the cause of Allah finds in the earth many a refuge, wide and spacious…" *(Al Nisa' 100)*; and "Do not take friends from their ranks until they emigrate in the way of Allah" *(Al Nisa' 89)*; and "As to those who believed but did not emigrate, ye owe no duty of protection to them until they emigrate; but if they seek your aid in religion, it is your duty to help and support them…" *(Al Anfal 72)*.

The first of these *ayat*s (verses) sees the *Hijrah* as a way for Muslims to escape from the tribulations, pressures, restrictions and constraints of their own land which was still dominated by *Kufr* (Unbelief). Although it does not specify where the *Hijrah*'s destination would be, it is understood that it should be to a country where a Believer will find relief from his troubles – which at that time was Madinah, since nowhere else was capable of providing the Believer with a refuge from oppression and duress.

The other two verses add a further meaning – or to be more precise, two new meanings or connotations: the connotations of "*wilayah*", or "taking friends", and "*nusrah*", or "help and support". "*Wilayah*" entails becoming a member of a *Jama'ah* with all the rights and duties that this involves. As Qatadah b. Di'amah al Sadusi observed, *Hijrah* "rights" included a *Muhajir*'s right to inherit from his *Mu'akhah* "brother" on the strength of his "act of emigrating". At the same time, going beyond that right and going back to the practice of giving priority to a blood relationship did not mean that a Muslim who wished to emigrate but was unable to do so would have no claims over his brothers in faith. If such a person were to ask the Muslims for help so that he could emigrate to Madinah, the Muslims would be under an obligation to assist him or fight on his behalf: "And why should ye not fight in the cause of Allah and of those who, being weak, are ill-treated? Men, women and children…" *(Al Nisa' 75)* Ibn Ishaq interprets this verse as follows: "I have made fighting lawful for you because they have been oppressed; and their only sin is that they worship Allah…"[1]

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[1]   Al Suhaili: *Al Rawdh al Unuf* 4/47.

Thus to be a member of the Muslim *Jama'ah* it was not merely enough for a person to believe in Allah and His Messenger; it was also his duty to take steps to move to Madinah or the *Dar al Hijrah* (the territory to which Muslims emigrate). There were several reasons for this. One of them was political; at that time (around 624 CE) the Prophet (PBUH) changed the city of Yathrib's name to Madinah. Commentators and linguists are uncertain about the origin of this name – that is to say, whether it was derived from the verb "*dana*" (meaning "he ruled" or "he dominated") or the verb "*madana*" ("he resided in a settlement"). As far as *Hijrah* is concerned, in the Sabaean language the verb "*hajara*" is known to convey the meaning of residence rather than migration. However, the Northern Arabs are thought to have understood it to mean migration for the purpose of residence.

On this basis, the word "*madinah*" carries the combined meaning of an urban settlement and a place where the government and ruling authority are located. This would mean that the Qur'an's aim was to bring the Muslims together in the city where they would be in a dominant position and have a ruling authority. However, Abu 'Ubaid al Qasim bin Sallam (d 224 AH) maintained that the obligation to emigrate before the Battle of Badr also had a bearing on the situation of the Muslims themselves in Yathrib, who were in a weak position and needed to reinforce their numbers with the Muslims who migrated to them.[1] Thus there were two reasons for *Hijrah*: escape from the oppression of *Dar al Kufr* (the territory of Unbelief), and reinforcement of the Muslim side by joining them and adding to their numbers. This latter aspect was particularly important because half the Arabs in Madinah had not yet embraced Islam and the Jews were the dominant community there; therefore it was essential to establish a balance by increasing the size of the Muslim population so that they would no longer be in the minority.

Ahmad bin Hanbal (d 241 AH) and al Nasa'i (d 275 AH) saw a link between *Hijrah*, *Bay'ah* (the pledge of allegiance), "hearing and obeying" and the *Jama'ah*, so that the *Muhajir*'s ultimate allegiance would not just be to the religion of the *Jama'ah*, but to the *Jama'ah*'s social and political

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[1]   *Kitab al Amwal*, pp. 296-297.

unity.[1] Hence Believers were expected to emigrate wherever they might be – even if they were in a place where they did not suffer oppression – in order to join the *Jama'ah* and play their part in establishing it and defending it. Thus a man like Sa'd bin Khawla fought at Badr (which means that he had emigrated) but, as he happened to die in Makkah, this meant he was an unfortunate man for no other reason than the fact that "no-one can enter Paradise but one who has emigrated".[2] The early Muslims regarded emigration as being such a virtuous act that they conceived the possibility there might have been "*Muhajir*s" from among the *Ansar* (Muslims who were original inhabitants of Madinah), since Yathrib was originally in the *Dar al Shirk* (polytheist territory) category.[3]

"Emigration to Madinah" does not necessarily mean that the emigrants came from Makkah. After the Battle of Badr there were Bedouin Arabs from the desert near Madinah who embraced Islam, and the Bedouin were unwilling to live in settled communities or move too far from their flocks and pastures. Nor were they prepared to tolerate the hard life of Madinah. Even so, the command to emigrate included them too.

Today we have more evidence from that period than we have from the earlier time of the Emigration from Makkah, and this is why the term *al madinah* (settlement/city/Madinah) is understood to be the antithesis of *al tabaddi* (desert life) or *al ta'arrub* (Bedouin life) in the same way as *Dar al Iman* (territory of the Faith) is the antithesis of *Dar al Shirk*.

It is recorded in the Hadith that Buraidah bin al Husaib said to Salamah bin al Akwa'[4], a Companion of the Prophet who had returned to the desert: "You have relapsed; you have become a Bedouin again." Salamah replied: "I take refuge in Allah! By Allah, I am acting with permission from Allah's Messenger." There is also a Hadith stating that

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1 *Musnad Ahmad*, 4/130 – Al Nasa'i: Sunan, 7/137-154.

2 Ibn 'Abdul Barr: *Al Isti'ab*, 2/587-588.

3 Al Nasa'i: *Sunan*, 7/1401: "…and there were *Muhajir*s from among the *Ansar*, because Madinah was *Dar al Shirk*. So they came to the Messenger of Allah (PBUH) on the night of al Aqabah…" Compare with Ridwan al Sayyid: *Mina'l Shu'ub wa'l Qaba'il ila'l Ummah* (*From Peoples and Tribes to Ummah*), in *Al Ummah wa'l Jama'ah wa'l Sultah*, 5th impression, 2010, pp. 67-73.

4 Al Bukhari: *Sahih (Fitan/10)* and Muslim: *Sahih (Imarah/82).*

it is one of the *kaba'ir* (major sins) to become a Bedouin again after emigrating[1]. And when al Hajjaj first arrived in Iraq to be its *Wali*, he quoted a verse in the *rajaz* metre from the *minbar* (pulpit) in Kufa which included the words[2]: "A *Muhajir* is not a Bedouin." (The poem was not composed by al Hajjaj, and neither he nor his father emigrated to Madinah.)

So the word "*Hijrah*" carried the meaning of "intending to settle in an urban environment and abandon the desert life". Thus the change of Yathrib's name to Madinah was an expression of this contrast between Madinah (the city – i.e. the urban settlement with a law and a ruling authority) and the desert. As well as urging Muslims to adopt a settled existence, which they see as being essentially linked to the Faith, the scriptures also show that in the early days of Islam the desert Arabs were a highly disreputable class. Indeed, this is stated overtly in several verses of the Qur'an.[3] Moreover, the Prophet (PBUH) had some bad experiences with them, since they were generally unreceptive to Islam. They allied themselves with Quraish and the Jews and were guilty of treachery and killing large numbers of Believers, despite sometimes pretending to be Muslims.[4]

However, when there were no longer any problems with Quraish and the Jews, the desert Arabs were less able to form alliances against the Muslims and the Qur'an adopted a somewhat more indulgent tone towards them: "But some of the desert Arabs believe in Allah and the Last Day" (Al Tawbah 99). It is also recorded that the Prophet (PBUH) felt goodwill towards them and called them "*badiyyat al hadhirah*" (urban Bedouins)[5]. Even so, when he (PBUH) died their rebellious nature reasserted itself and they rose up in what became known as the Wars of Apostasy, which Abu Bakr suppressed by force.

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1   Ibn Sallam: *Tabaqat Fuhul al Shu'ara'*, 1/127.

2   Compare with al Hajjaj's *khutbah* (sermon) in *Al Muwaffaqiyyat*, pp. 94-98 and *Al Bayan wa'l Tabyin*, 2/307-308.

3   *Surat al Tawbah*, 90, 98, 120.

4   Compare with Ibn Hisham's *Sirah*, 2/317-319 and al Waqidi's *Al Maghazi*, 1/347.

5   *Musnad Ahmad*, 6/133.

The dialectics of the relationship between the growing *Jama'ah* and the reality of its situation (which led its leadership to abandon the principle of *Muwakhah* that had been one of its basic elements) resulted in a softer attitude towards the desert Arabs and, after the Conquest of Makkah, to the abandonment of the principle of *Hijrah*. A Hadith states: "No *Hijrah* after the Conquest" (or "after the Conquest of Makkah"), "but jihad and *niyyah* (intention)." Other Hadiths say: "No *Hijrah* after the Messenger of Allah," and "No *Hijrah* today"[1] – that is, no *Hijrah*; not at the present time nor in the future.

The *Hijrah* was of vital importance to the *Jama'ah* when *Dar al Iman* was synonymous with Madinah, though this ceased to be the case when *Dar al Kufr* shrank significantly in the Arabian Peninsula and that region became almost totally transformed into *Dar al Islam*. From then on – according to the *fuqaha* (scholars of jurisprudence/doctrine) – *Hijrah* to the community was no longer obligatory; however, a different kind of *Hijrah* was ordained instead; an "inbound migration" to reinforce ties within the *Ummah*, and an "outbound migration" in the form of jihad in order to establish the "universal *Ummah*".

B - The *Jamā'ah* and *Dār al Islam*

So according to the Hadiths there is a link between the Conquest of Makkah and the annulment of the obligation to emigrate. Though *Hijrah* still continued to be seen as a desirable act, those who emigrated after the Conquest did not enjoy the same status as those who had done so before it. Accordingly, although large numbers of Makkans who had become Muslims on the day of the Conquest joined the community in Madinah and the Messenger of Allah (PBUH) when he returned there after Hunain, not one of them was entitled to be called a *Muhajir*. Even so, there were just as many wars between Islam and its polytheistic opponents after the Conquest of Makkah as there had been before – and just as many Muslim losses. Moreover, the Muslims suffered two defeats during this latter period and retreated on several occasions, though it was after the Conquest (according to the most reliable reports) that the Messenger of Allah (PBUH)

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[1] Al Bukhari: *Sahih*, 6/28-29 and al *Nasa'i*, Sunan, 7/144.

sent his letters to the emirs of Arabia and the kings beyond Arabia's borders.[1]

Thus Yathrib – later renamed Madinah – was a safe haven and a fortress for the Believers before the Conquest of Makkah, while after the Conquest it became the new capital of the *Ummah*, Islam and the Muslims. Not all Believers necessarily understood that the Messenger of Allah regarded the Conquest as marking the establishment of a new state in Madinah; after all, many of them would have believed that it dated from the Madinah Charter between the *Muhajir*s of Makkah, Khazraj and Aws in Madinah and the Jews. The Charter's political character was made abundantly clear in its first paragraph, which stated that the different tribes and faiths formed "one *Ummah*, to the exclusion of all other people"[2] The historian Fred Donner maintains that the *Ummah* referred to in the Madinah Charter is the Community of Believers, not a political community. However, my view is that the Charter clearly has a political aspect, though this became more prominent – indeed, the dominant feature – after the Conquest. When the *Ansar* saw the generous way in which the Messenger of Allah treated his own people and how he forgave their leaders after the Conquest, they concluded that he wanted to see stability in Makkah, since he was now its ruler. For his part, he strongly denied this and said: "Rather, blood is blood and destruction is destruction. I am of you and you are of me."[3]

As its new name indicates, Madinah was to be the capital of the new state – or the capital of *Dar al Islam* – regardless of factors such as geographical location or Makkah's religious status as the location of the Ka'bah of Abraham and Ishmael (Peace be upon them). Polytheism and its associated nomadic desert culture came to an end, a new ethos – one of trade and exchange – spread across the land, and *Dar al Islam* was established. (This was the name given to the new state by all Arabs in the Year of Deputations, when tribal chiefs came to Madinah from as far afield as the extreme south of Arabia to pledge allegiance to its leader

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[1] *Sirat Ibn Hisham*, 3/113-114 and *Tarikh al Tabari*, 1/2421-2422; compare with Ibn Sa'd' *Tabaqat*, 1/208.

[2] *Sirat Ibn Hisham*, 2/501-504, Abu 'Ubaid: *Kitab al Amwal*, pp. 290-297, and Ibn Sa'd's *Tabaqat*, 1/198.

[3] *Sirat Ibn Hisham*, 3/128-130.

– not just out of loyalty to Islam, but also as a commitment to "hear and obey" the ruler.)

The Messenger of Allah (PBUH) then proceeded to appoint or confirm the *Wali*s in the rest of the Arabian Peninsula and to send military expeditions to the neighbouring regions ruled by the Byzantines and the Persians; here his primary purpose was not conquest but to raise the *Ummah*'s profile and, in principle, to establish the borders of the new state. Consequently, *Dar al Kufr*, *Dar al Harb* (territory of war), *Dar al Muhadanah* (territory of truce), *Dar al Da'wah* ("territory of proselytisation"), *Dar al 'Ahd* (territory of treaty/contract) and *Dar al Muwada'ah* (territory of mutual peace) – all of them essentially political terms – came into being as categories outside *Dar al Islam*. The intention was to open up channels of communication and extend the *Ummah*'s reach to the outside world through jihad, proselytising, treaties or contracts of mutual peace – in contrast to the *Hijrah* to Yathrib, which was ordained so that Muslims could take refuge in that city and reinforce the Muslim community there.

Until recently it was my opinion that the Traditions on "ending *Hijrah*" proliferated after the death of the Messenger of Allah when the conquests began. Interestingly, after the first two years following the death of the Messenger of Allah (PBUH), Abu Bakr and 'Umar did not muster the armies in Madinah from across Arabia so that they could be sent to Iraq and the Levant; instead, they assembled in the most convenient locations, as ordered by the Caliph, whence they would be sent directly into battle; in this connection, we never heard of anyone protesting that the "Virtuous Act of *Hijrah*" had not been fulfilled on the grounds that they had not been sent to Madinah first.

However, my present view – based on the same Traditions and the Messenger of Allah (PBUH)'s Farewell *Khutbah* (address) in the tenth year of the *Hijrah* – is that a major strategic change occurred during the eighth year of the *Hijrah* and this led to the emergence of *Dar al Islam*, in which the *Ummah* established itself as the antithesis of the other types of *Dar* which were already in existence. In this respect, creed and propagation were inseparable:-"to proclaim it over all religion" *(Al Tawbah 33)* and "when

comes the help of Allah and victory" *(Al Nasr 1)*. (This is also reflected in Zahrah bin Hawiyyah's words to Rustam at the Battle of al Qadisiyyah: "Allah sent us, and Allah brought us so that we could release mankind from worshipping Man in order to worship the Lord and Cherisher of Man, and from the narrowness of the world to its spaciousness, and from the injustice of [other] religions to the justice of Islam.")[1]

The geo-political or strategic character of the new situation was reflected in the fact that the great powers of the day found themselves confronting a single state in the Arabian Peninsula during the first quarter of the 17th century CE. This does not mean that Byzantium, Persia and the pleasure-loving peoples of Mesopotamia had never before suffered from raids on their territories by Arabian Bedouin; indeed, this was something they were quite familiar with and they had sometimes responded by pursuing them as far as their homelands in the north and south of the Peninsula. However, in the face of this new Arabian threat, the first reaction was a feeling that it represented a wave of Divine Wrath as a consequence of the sins of the Byzantines and Persians, their religious and sectarian disputes and the titanic conflicts that had taken place between those two great states on the borders of Arabia, which had weakened them both and released the fury of the "savage nomads".

During the first two decades of the Conquests they realised that they were facing a power that was full of zeal and imbued with a sense of mission to an extent that they had never before witnessed from their Arab neighbours. From the fourth century CE they had set up buffer statelets to protect themselves from the anarchic semi-Arab and Arab tribes, but these now melted away as soon as the "new Arabs" (no longer the nomadic Arabs of yore) appeared on their doorstep. Abu Bakr (may Allah be pleased with him) did not send desert Bedouin on military expeditions – particularly those who had taken part in the Wars of Apostasy – though this policy changed during 'Umar's reign. Even so, whatever else might have changed, the vast majority of the leaders were always either *Muhajir*s or *Ansar* – that is to say, men who had been steeped in the new Mission being propagated

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1   **T**arikh al Tabari: 1/2116-2117.

by the new state, which called itself a *Khilafah* (Caliphate) in order to distinguish itself from the Persian and Byzantine imperial systems of government.

C - The relationship between *fiqh* (doctrine/jurisprudence) and geopolitics

Although the different *fiqh* (doctrine/jurisprudence) systems did not appear on the scene until after the 3rd century AH, *fuqaha* (scholars of doctrine/jurisprudence) and ascetics were writing about jihad, *siyar* (issues of war and peace), *kharaj* (land tax) and property as early as the second century AH. This was relatively late, because the Islamic state was already well on the way to becoming a mature institution by the second half of the 1st century AH, so it was actually the chroniclers and historians who recorded the geostrategic developments.

By the time the *fuqaha* were beginning to write about *siyar*, the Persian Empire had already fallen, while the Byzantine Empire had seen its territory shrink until it only held sway over the Levant, Egypt, North Africa, Sicily and Spain. These were of course favourable developments as far as the new state was concerned.

In their writings on *siyar*, the *fuqaha* also described how the conquered lands were governed and administered, as well as the rules of warfare and relations with other communities in times of war and peace. Other themes such as matters of belief, allegories and the propagation of the Islamic Message were to be found in the introductions to their books, alongside explanations of the virtues of jihad. The best-known writers on *siyar* include Mohammad bin al Hasan al Shaybani (d 189 AH), a pupil of Abu Hanifah, while his older colleague Abu Yusuf (d 182 AH) wrote a book on *kharaj*. We know that where *siyar* were concerned al Shaybani was a "follower", not an "initiator" since he was preceded by al Awza'iy (d 157 AH), the *faqih* (singular of *fuqaha*) of the people of Greater Syria, whose writings provided source material for 'Abdullah bin al Mubarak and Abu Ishaq al Fazari. A couple of decades ago I discovered that the oldest known books on *siyar* were written by Mohammad bin al Hasan bin al Hasan (d 145 AH) – known as *"al Nafs al Zakiyyah"* (the Pure Soul) – and al Tha'ir 'Ali al Mansur.

I am interested in the history of the books on *siyar*, because they give a clear picture of the Two *Dar*s – i.e. *Dar al Islam* and *Dar al Harb* – which means that they show how the state came into being in the Islamic world. That is why modern scholars such as Majid Khadduri class them as the oldest known writings on International Law.[1]

Unfortunately, although I have managed to collect several fragments of *al Nafs al Zakiyyah*'s book from various works on Zaidi *fiqh*, I have been unable to locate its introduction (if indeed it ever had an introduction). However, the thesis of the Two *Dar*s does occur in the versions that I have found. At the same time – as has already been pointed out – apart from the introductions to some of the works on *siyar* and a number of early letters on the virtues of jihad, the *fiqh* aspect of this thesis always focuses on legal matters as opposed to political questions or missionary work.

Abu Hanifah (d 150 AH) defines *Dar al Islam* as a territory in which the jurisdiction of Islam prevails, which has common frontiers with other Muslim territory and in which Muslims and *Dhimmi*s (non Muslims under Muslim protection) can enjoy peace and security.[2] Thus his definition of *Dar al Islam* comprises three elements: the imposition of Islamic authority, a large Muslim population, and the existence of a legal situation which guarantees the security of both Muslims and *Dhimmi*s.

In the Shafi'i view, a territory will continue to maintain its status as *Dar al Islam* as long as it is under the rule of a Muslim imam, even if its population does not include a single Muslim! The Maliki position is the same, in that they see the political authority in the *Dar* as being more significant than its social composition.[3]

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1   Majid Khadduri: *Al Harb wa'l Salam fi Shir'at al Islam*, pp. 228-232.

2   Al Shaybani: *Sharh al Siyar al Kabir*, 3/81-82. Compare with Wahbeh al Zuhaili: *Athar al Harb fi'l Fiqh al Islami*, p. 153, and Abdul Karim Zaydan: *Ahkam al Dhimmiyyin wa'l Musta'minin*, p. 18.

3   Zaydan: *Ahkam al Dhimmiyyin wa'l Musta'minin*, p. 19; the Zaidi position is discussed in *Al Bahr al Zakhkhar,* 3/301 and the Ibadhi position in *Sharh al Nail*, 10/405. Compare with Ridwan al Sayyid: *Al Dar wa'l Hijrah wa Ahkamuha 'inda Ibn al Murtadha*, in *Al Ijtihad* magazine, No. 12, 1991, pp. 213-240.

These theoretical definitions were put to the test when conquered Islamic regions such as Sicily and parts of Andalusia – and later the Levant – began to fall into enemy hands after the 5th century AH. The Hanafis took the view that a *Dar* would remain *Dar al Islam* as long as Muslim worship still took place there and judicial rulings continued to be implemented – that is, for as long as it had a proper social *Jama'ah*. The essential difference here between them and the Shafi'is and Malikis was that the latter two schools insisted that *Hijrah* from territories that had ceased to be under Muslim political control was obligatory, while the Hanafis maintained that it was not obligatory unless Muslims were unable to perform their acts of worship there. In the Hanafi view, priority consideration should be given to the *Jama'ah* – or *Ummah* – since political control was reversible, while as long as there was a *Jama'ah* (or *Ummah*), matters would resolve themselves in due course. The practical results of these differences over whether *Hijrah* was obligatory or permissible (depending on the identity of the *Dar* or its ruler) gradually became apparent in Sicily, Andalusia and India, then Algeria. When the Mogul Sultan's power waned in India, the Hanafi *fuqaha* issued a *fatwa* declaring that Hijrah was obligatory, despite the fact that they did not define the Sultan's identity as being either Islamic or non-Islamic, because in their opinion Muslims could no longer continue to perform their acts of worship in freedom and security. This was also true with regard to guaranteeing security and religious freedoms for *Dhimmi*s or non-Muslims.[1]

As a result of the reverses suffered by *Dar al Islam* in recent centuries, Maliki Muslims did not follow *Asna al Matajir fiman Ghalaba 'ala Watanihi al Nasara wa Lam Yuhajir* by the 9th century AH scholar al Wansharishi, which stated that it was obligatory to emigrate from a territory that had become *Dar al Kufr*.[2] Instead, they went back to the sources on which its advice was based, particularly *Ahkam al Qur'an* by Abu Bakr Ibn al 'Arabi

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[1] Compare with Ridwan al Sayyid: *Dar al Islam wa'l Nidham al Duwaliy*, in *Siyasat al Islam al Mu'asir*, 1997, pp. 84-89.

[2] See Mohammad bin 'Abdul Karim: *Hukm al Hijrah min Khilal Thalath Rasa'il Jaza'iriyyah*, Algiers, 1981, which comprises three letters – by Husam al Din, al Wansharishi and Ibn Shahid (Mufti of Algeria during the French invasion). Two of these maintain that *Hijrah* is obligatory, while the third, by Ibn Shahid - a Hanafi - says that it is not.

(d. 543 AH). Ibn al 'Arabi had an unusual angle on the question, which he expressed as follows:[1]

"There are six categories of *Hijrah*: firstly, from *Dar al Harb* to *Dar al Islam*, which was obligatory at the time of the Prophet (PBUH) and will continue to be binding until the Day of Judgement; when it was suspended due to the Conquest, it was so that people could be with the Prophet (PBUH) wherever he might be; secondly, from the Land of *Bid'ah* (heresy); this was endorsed by Ibn al Qasim and disputed by Abu Bakr al Fihri; thirdly, from a land in which *Haram* (forbidden things and forbidden conduct) etc. prevails; fourthly, in order to flee out of fear of bodily harm; fifthly, for fear of sickness in a neighbouring territory; and sixthly, fleeing for fear of harm to property, since a Muslim's property is sacrosanct just as his blood is."

On the basis of Ibn al 'Arabi's analysis we need to examine three questions: When is Hijrah obligatory? When is it permissible or recommended? And what are the consequences of failing to emigrate from a "suspect *Dar*" such as a territory in which *Haram* prevails or one in which a person is harmed and subjected to oppression? To this we could add a fourth question: What would the ruling be in a case where a Muslim is able to worship freely in a territory not ruled by Muslims?

We know that the Malikis and Hanafis disagreed over the case of Algeria. The Malikis maintained that it was obligatory for Algerians to emigrate from their homes because the ruling authority was not in their hands, while the Hanafis called upon them to stay until matters improved, either as a result of jihad or due to other factors; this was because in their view the country was not in the *Dar al Kufr* category as long as Muslims were free to worship there (indeed, their judicial rulings are still in force to this day[2]); moreover, their continued presence there was fundamental to the territory's continued existence as *Dar al Islam*.

1   Ibn al 'Arabi: *Ahkam al Qur'an*, published in Egypt in 1967 by 'Ali Mohammad al Bajawi and 'Isa al Halabi, 1/484-486. Compare with al Qurtubi's *Tafsir*, 5/349-350, transcribed from Ibn al 'Arabi, and Ibn Rushd (grandfather)'s *Muqaddimat*, 2/285.

2   Compare with Ibn Shahid's letter in Mohammad bin 'Abdul Karim: *Hukm al Hijrah min Khilal Thalath Rasa'il Jaza'iriyyah*, Algiers, 1981, pp. 105-124.

India's Muslim population, as we know, are all Hanafis. Although the British did not object to them practicing their religion, as we mentioned earlier some of their *'ulama* (religious scholars) issued *fatwa*s declaring that they should emigrate - the last of these was in 1920; accordingly, thousands of Muslims tried to leave for *Dar al Islam* in Afghanistan and were abducted by robbers and highwaymen on the way, with the result that none of them arrived at that remote destination.[1] We also know that most of the coastal population of the Levant (who were Shafi'is) left their homes when their country was occupied by the Crusaders, not because they were expelled or their land had become *Dar al Kufr*, but because they were fleeing from humiliation and servitude.[2] The most striking example was Andalusia, where the Maliki *fuqaha* tended to call upon Andalusians to leave their houses and lands whenever their town or village was occupied. In the end, Islam disappeared from the region altogether when the Muslims became divided into three groups: a third were killed fighting jihad or in rebellions, another third renounced Islam and the last third were expelled by force.[3]

This choice – voluntary or imposed – between *Hijrah* and jihad in the late Middle Ages is evidence of the critical situation in which the *Ummah* began to find itself with respect to its conceptual identity, status and geographical limits. Centuries later, the crisis was exemplified in its most extreme form with the abolition of the Caliphate in 1924, marking a fundamental change with the creation of a nation state in a new world order of nation states.

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The establishment of *Dar al Islam* was a geostrategic earthquake that turned the situation on its head in the region that has come to be known in modern times as the Middle East, as well as in vast areas of Asia, Africa and

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[1] Compare with Ridwan al Sayyid: *Dar al Islam wa'l Nidham al Duwaliy*, in *Siyasat al Islam al Mu'asir*, pp. 84-89.

[2] Wahbeh al Zuhaili: *Athar al Harb fi'l Fiqh al Islami*, pp. 216-219.

[3] According to al Wansharishi in *Asna al Matajir* (ub. Hussain Mu'nis, 1957), p. 152: "The obligation to emigrate still applies to those whose citadels and lands have been taken by the oppressors, unless they feel unable to do so in any circumstances. Neither country nor property [is an acceptable excuse for not emigrating]; all these things are null and void in the view of the Shariah…".

Europe. The Persian Empire collapsed, the Byzantine Empire shrank in size, and the conflict continued between the two sides for almost another thousand years until Byzantium fell to the Ottomans when its capital was occupied in 1453.

In the 20th century CE Libya was occupied by the Italians in 1911. However, because circumstances had changed fundamentally, nobody issued a *fatwa* ordering the Libyans (who are Malikis) to emigrate; instead, the people turned to jihad and lost hundreds of thousands of martyrs.[1] Eventually they were not liberated by *Hijrah* or jihad, but by Italy's defeat in the Second World War; after that the prime motivating force in the region was the ideology of anti-imperialist struggle.

After decades of armed struggle, the Palestinians are still seeking to achieve liberation and establish their state in Palestine, but through civil action. Half of them have left their country or been forcibly expelled, but when it was time to fight, it was the émigrés and expellees who initiated the struggle and the population living under occupation who responded. Now the Palestinian President is seeking international legitimacy and attempting to force the Occupier to withdraw so that an independent state can be set up.

Despite the fact that for the past two centuries the world order has not been based on religious entities or *Jama'ah*s, the Israelis established a state (or entity) in the land of Palestine and expelled over half its population in 1948 and 1967. So has the world order in this part of the world been established on the ruins of *Dar al Islam*? It is no longer possible to understand the situation in these terms, but Palestine is undeniably occupied territory and must be liberated. The world has now emerged from the imperialist era under the systems and arrangements put in place after the Second World War – apart, that is, from Palestine.

In the 20th century geopolitics was characterised primarily by power and legitimacy, while in the 21st century the same will be true of religion. After all, is Jerusalem not the city where the Holy Places of the three religions are to be found, and will it not also be the political capital of the post-independence Palestinian state?

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1   Compare with Ridwan al Sayyid: *Dar al Islam wa'l Nidham al Duwaliy*, in *Siyasat al Islam al Mu'asir*, p. 95.