

Muslims Living in Non-Muslim Lands: Contesting Muhammad Saeed Al-Qahtani's Argument on Hijrah- Al-Walā' wal Barā' Nexus

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Abstract

This paper examines Muhammad Saeed Al-Qahtani's argument on the nexus between the notion of hijrah (emigration) and the Salafi concept of Al-Walā' wal Barā' (loyalty and disavowal) referred to here as WB. Al-Qahtani's works on WB asserts that Muslims who live in a non-Muslim land and under non-Islamic political system that is solely based on Shari'ah law must emigrate or perform hijrah to Muslim lands. He added that Muslims who willingly accept the rule of non-Muslims and live under any rule other than the Shari'ah are committing acts that nullifies their faith and tantamount to violation of the creed of WB. This paper challenges Al-Qahtani's argument on the obligation of hijrah in the contemporary period. It will also discuss the position of hijrah from the Islamic viewpoint and examine the concept of dār al-Islām and dār al-harb (land of Islam and land of war) as counter arguments to the claims made by Al-Qahtani.

Keywords: Al-Walā' wal Barā', hijrah, loyalty, disavowal, migration.

Brief Profile of Al-Qahtani

Muhammad Bin Saeed Bin Salim Al-Qahtani was born in 1956 in Sarat Ubaida (city of the Qahtan tribe), Saudi Arabia. (Adviceforparadise.com, not dated) His seminal work on relationship between Muslim and religious others entitled Al-Wala' wal Bara' According to the Aqeedah of the Salaf was originally submitted in the form of Master's degree dissertation at Ummul Qura University, Saudi Arabia. He passed with an excellent grade in June 1981. (Al-Qahtani, Al-Wala' Wa'l-Bara' According to the 'Aqeedah of the Salaf Part 1, 1992, p. 3). He obtained his doctorate from the same university in 1984. (Islamway, not dated) Upon graduation, Al-Qahtani served as an Assistant Professor in the Faculty of Theology and Missionary where he is also the head of the Department of Qiraāt (Science of Quranic Recitation) at the university. (Adviceforparadise.com, not dated) Al-Qahtani is also a Shari'ah lawyer. Other than Saudi Arabia he also visited Qatar, Holland and Britain to deliver lectures (Ibid.)

Al-Qahtani's Works on WB

In the introduction of his book Al-Wala' Wa'l-Bara' According to the 'Aqeedah of the Salaf Part 1, Al-Qahtani emphasised that the subject matter of WB is of paramount importance for two major reasons. Firstly, WB is closely related to the monotheistic creed. Walā' is understood as sincere love for God, his prophets and the Muslims. Barā' is an expression of enmity and hatred towards falsehood and its adherents. Both are evidence of iman (faith).” (Al-Qahtani, Al-Wala' Wa'l-Bara' According to the 'Aqeedah of the Salaf Part 1, p. 16). In part two of the book he affirmed that the subject matter is written at a period when the distinctions, according to him are blurred such that some Muslims are no longer aware of those qualities which distinguish them from the non-Muslim. He alleges that “their faith has become so weak that the Muslims have adopted patterns of behaviour that are absolutely repugnant to a sincere believer; they have taken the disbelievers as their friends, while displaying enmity towards many of the believers by disparaging their character and degrading them.” (Al-Qahtani, Al-Wala' Wal Bara' According to the 'Aqeedah of the Salaf Part 2, p. 6) Al-Qahtani also raised several matters concerning socio-political climate surrounding Muslim life in modern world. For instance, he questioned the identity of party whom deserved a Muslim's trust, loyalty, allegiance or even hatred. (Al-Qahtani, Al-Wala' Wa'l-Bara' According to the 'Aqeedah of the Salaf Part 1, p. 16).

Al Wala Wal Bara According to the 'Aqeedah of the Salafis divided into three parts. The first part discusses the declaration of faith or shahādah and its prerequisites and behaviours that negate the faith which is linked to the notion of love and hate in Islam. This first part ranks the status of WB as a central part of the Islamic faith in that devotion to and love of God and His Prophet, and hate towards heresy, transgression, and immorality are the desired core values Muslims should hold dear. The second part of the book examines the position of WB according to the Quran and Sunnah and the history of its literatures. It sets the stage for the categorisation of people namely the allies of God and the allies of Satan. This is where Al-Qahtani established the link between the proponent of religious innovations and heretics with the allies of Satan. Al-Qahtani then went onto describe twenty types of alliance with non-Muslims and concluded the second part of this book by describing the position of the Shiite and Kharijite with regards to the concept of WB. (Al-Qahtani, *Al Wala Wal Bara According to the 'Aqeedah of the Salaf Part 2*)

The final part of the book consists of seven chapters and discusses on prerequisites of WB, rights of Muslims with one another, jihād¹, hijrah (taken as emigration although Al-Qahtani interchangeably translated the concept as migration and emigration in many parts of the book), abandonment of heretics, severance of marriage and inheritance between Muslims and non-Muslims (due to nullification of the creed of WB), prohibition of imitating the non-Muslims and assertion of Islamic identity and finally ways on dealing with the non-Muslims. In his other book entitled *Al-Walā' wa al-Barā' fī al-Islām* (al-Walā' wa al-Barā' in Islam) Al-Qahtani examined the obligation of hijrah and jihād. He argues that the former is the essence of tawhid or monotheistic creed. Muslims should abandon all else and flee to God. He also acknowledges that there are physical and spiritual dimension to the concept. "The hijrah to Allah and his Messenger [spiritual] this is the real emigration, a physical emigration follows [the soul] and it entails "from" and "to" hence he performs emigration of his heart from loving other than Allah to loving Him, and from worshipping other than Him to worshipping Him, and from being afraid and placing hope and relying on other than him to being afraid and hope and rely on Him." (al hijratu ilā Allāh wa rasūlihī fahādhihī hiya al hijratu al haqīqiyyatu, wa hijratu al jasad tābi 'atun lahā wa hiya hijratun tataḍammanu "min" wa "ilā" fayuhājiru bi qalbihī min mahabbati ghair Allāh ilā mahabbatihi, wa min 'ubudiyati ghairih ilā 'ubudiyatihi, wa min khawfi ghairih wa rajā'ihī wa at tawakkul 'alaihi ilā khawfi Allāh wa rajā'ihīwa at tawakkul 'alaihi). (Al-Qahtani, *Al-Walā' wa al-Barā' fī al-Islām*, 1992, p. 282).

Al-Qahtani and the Notion of Hijrah

Analysing the concept of hijrah (emigration) as proposed by Al-Qahtani is an important step towards a fuller understanding of Al-Qahtani's preconceptions of WB. Al-Qahtani readily admits, "That is because hijrah is related to al-Walā' wa al-Barā', in fact it is among its [WB] most important obligations." (dhālika anna al hijrata murtabiṭatun bi al walā' wa al barā', bal hiya min ahammi takālīfihā). (Ibid., p. 270). What he was explicitly referring to was the hijrah and subsequent establishment of the city-state of Medina by the Prophet Muhammad and his followers after enduring persecution in Mecca from those opposed to the new Islamic faith. What he was alluding to is the emigration to a 'Islam friendly' land "where the Shari'ah is the supreme law and the Muslims hold political power." (Al-Qahtani, *Al-Walā' Wa'l-Barā' According to the 'Aqeedah of the Salaf Part 3*, p. 11). To a certain degree it implies hijrah is part of the solution for the ills and problems the Muslims face today.

In advancing his argument on the need for hijrah Al-Qahtani affirmed the urgency from psycho-sociological standpoint. He debated that "Muslim's presence amidst them (non-Muslim) makes him feel lonely and weak and it develops in him the sense of exploitation and stagnation, and it could influence him to do good (to them) and follow (their) footsteps (iqāmatuhu bainahum tash'uru hubi al wahdati waadḍa' fī waturabbī fihī rūh al istikhdhā' wa al istikānah, wa qad tad'uhu ilā al muhāsanaḥ thumma al mutāba'ah). (Al-Qahtani, *Al-Walā' wa al-Barā' fī al-Islām*, 1992, p. 271).

Al-Qahtani also argues that living in a non-Muslim land is not permissible in Islam as Muslim will have to live under non-Islamic conditions. Thus, hijrah is necessary and obligatory. (Ibid.) He added that Muslims who willingly accept the rule of non-Muslims and live under any rule other than the Shari'ah (Islamic law) are committing acts that will nullify their faith. This is so as loyalty and sovereignty can only be given to and by God and Islam is the only way of life for Muslims. (Ibid.) To make his case Al-Qahtani cited a Quranic verse commonly used by proponents of hijrah to 'Islamic' land: "When angels take the souls of those who die in sin against their souls, they say: "In what (plight) Were ye?" They reply: "Weak and oppressed Were we in the earth." They say: "Was not the earth of Allah spacious enough for you to move yourselves away (From evil)?"

¹ Here Al-Qahtani refers jihad to arm struggle.

Such men will find their abode in Hell,-What an evil refuge! - Except those who are (really) weak and oppressed - men, women, and children - who have no means in their power, nor (a guide-post) to their way. For these, there is hope that Allah will forgive: For Allah doth blot (sins) and forgive again and again.”² The verses are an assertion to relocate to places where Islam is not greeted with enmity neither discrimination. Similar opinion is observed among traditional scholars of Quranic exegesis such as Al-Baiḍāwiy (Al-Baiḍāwiy, 1998, p. 92) and Ibn Kathīr (Kathīr, 1999, p. 391). In his commentary on the concerned verses Sayyid Qutb, a contemporary Muslim scholar whose works commonly cited by Islamist militant groups noted that in light of religious discrimination in Mecca hijrah was prescribed upon Muslims specifically after the establishment of *dār al-Islām* (Qutb, 2004, p. 743), referring to Medina. This very verse embodies the Maqāṣid Ash-Sharī‘ah that “seeks to identify the wisdom of Sharī‘ah law which is to preserve public interest.” (Sudiman, 2017, pp. 67-68). As far as hijrah and maqāṣid are concerned, the emigration was a response to uphold three of the five necessities in maqāṣid when it was first formulated in the early days: the preservation of faith, honour and life.³ With regard to the preservation of faith hijrah was relevant to safeguard Islam’s survival. It is important to note that hijrah to Medina came about upon the intensification of pagan Meccan’s violent behaviour towards Muslims and after the discovery of assassination plot that targeted Prophet Muhammad. (Hisham, 1990, pp. 121-124). Accordingly, Islam would not have survived if the prophet himself and the early generation of Muslims chose to remain in Mecca. It is noteworthy that both destinations of hijrah, the Christian-ruled Ethiopia and Medina offered freedom of religious practice to its people.⁴

Hijrah was also a solution to free Muslims from economic and social boycott against them. This is evident in the case of Abu Jahl, Prophet Muhammad’s paternal pagan uncle who forbade the Quraysh clan from any marriage and trade with Muslims. (Armstrong, 2002, pp. 12-13). From this standpoint hijrah was a reflection of the second necessity in maqāṣid which is the preservation of honour. The early days of Islam witnessed life-threatening physical torture carried out by pagan Meccans against Muslims. Forced conversion was initiated to revert Muslim to his old faith. A slave by the name of Bilal was laid in the hot sun with a huge rock placed on his chest in an attempt to force him to abandon Islam. (Forward, 1997, p. 14). In another instance ‘Ammār bin Yāsir and his family experienced a severe amount of torture that resulted the death of his mother and his wife, Sumayya. (Hisham, 1990, pp. 346-347). Hijrah paved the way to achieve the third necessity of maqāṣid which is the preservation of life. In other words, Quran, 4:97-99 are implying that it is an injustice for one to accept living under conditions of humiliation while being able to relocate to another area that offers freedom, security and the means of a dignified life. The only people excused from this judgment are those who possess neither such power nor means of deciding such matters. Thus, hijrah is permissible, in fact compulsory, if the destination upholds the very essence of Maqāṣid Ash-Sharī‘ah more than the land of origin could offer.

A close study of these verses would also suggest that living in other territory (Muslim and non-Muslim ruled countries alike) is preferred if that could distance one from oppression due to his religious orientation and to a certain degree any form of injustices. Contemporary Muslim scholars were also observed to hold this opinion. Shaykh Gad Al-Haq, a former Grand Mufti of Egypt in his fatwa underlined the importance of one’s freedom to profess his creed in choosing his land of settlement. “If a Muslim feels that his religion is safe and he is able to practice it freely in a country that essentially has no religion or it accommodates religion other than Islam, it is allowable for him to stay. If he fears for his religion, morals, property or self-worth, then it is obligatory for him to move to a country where he can be safe.” (Tubuliyak, 1997)

²See Quran, 4:97-99. Unless otherwise indicated, all translations of the Qur’an are from A. Yusuf Ali, The Holy Qur-an (Sh. Muhammad Ashraf, 1982).

³In the early days of its formulation maqāṣid was categorized into three core categories: the *ḍarūriyyāt* (necessities), the *ḥājjiyyāt* (needs) and the *taḥsīniyyāt* (improvements). Please see Al-Juwayni’s *Al-Burhān Fi Uṣūl al-Fiqh* (A. A.-A. Ad-Diyab Ed.), Qatar. Al-Ghazali then deliberated the necessities and sub-categorised it into five fundamental preservations namely preservation of faith, soul, mind, offspring and wealth. Please see *al-Mustasfa min Ilm al-Uṣul* (Vol. 1), Beirut: Dar Ehia Al-Tourath Al-Arabi.

⁴There were two accounts of hijrah during the time of Prophet Muhammad in Mecca. The first was to Ethiopia followed by the second and also the last to Medina.

While Al-Qahtani agrees that the main criterion for Muslims to remain in non-Muslim countries is the ability to freely practice their religion, there is a divergence in the meaning of “freely practice their religion.” According to Al-Qahtani, those who are qualified to remain are those who can “assert his Islamic identity”(an yuḏhira Islāmahu)(Al-Qahtani, 1992, p. 271). He further qualifies this by saying that “asserting one’s religion does not mean that you simply leave people to worship whatever they please without comment...It means you must clearly and plainly disapprove of what they worship and show enmity towards the disbelievers, failing which there is no assertion of Islam.”(Ibid., pp. 277-278). This ‘assertion’ runs against the message of freedom of belief and tolerance of religious pluralism that Islam advocates from its very inception. “Let there be no compulsion in religion: Truth stands out clear from error: whoever rejects evil and believes in Allah hath grasped the most trustworthy hand-hold that never breaks. And Allah heareth and knoweth all things.”⁵ Nowhere in the Quran is there any permission for any humans to punish others for rejecting faith or those who have different interpretations. Instead, this is the exclusive domain of God alone. “But those who reject Faith after they accepted it, and then go on adding to their defiance of Faith, - never will their repentance be accepted; for they are those who have (of set purpose) gone astray.”⁶ Earlier paragraph has demonstrated that Al-Qahtani acknowledges the fact that hijrah can be manifested in physical and spiritual form. Thus, the question that begs an answer is whether it is possible to do a spiritual migration without involving a physical one? Is dār al-Islām a physical geographical reality or are Muslims justified in upholding dār al-Islām within their own selves and circle of influence only?

The Context of Dār al-Islām and Dār al-kufr

The discussion on hijrah requires a parallel examination of the definition of dār al-Islām (land of Islam) and dār al-kufr (land of disbelief) or sometimes known as dār al-harb (land of war) as a major bulk of the arguments is with regards to what constitutes dār al-Islām and dār al-kufr. Al-Qahtani aligns his opinion in this matter with those of Abdur rahmān as-Sa‘dī⁷. As-Sa‘dī opines that dār al-Islām is land that is ruled by Muslims, its operation is based on Islamic law which has influence over Muslims even if the majority of the populations are non-believers. (dār al-Islām hiya al latī yahkumuhā al muslimūn, watajri fihā al-ahkām al-islāmiyyah wayakūnu an-nufūdh fihā lil muslimīn walaw kāna jumhūru ahlihā kuffāran) (Ibid., p. 270). On the other hand, dār al-kufr is land ruled by non-believers, its operation is based on the laws of the non-believers which have influence over the non-believers. These lands may be of two types. One which is at war with the Muslims and the other enjoys a truce with them. The determining factor is that it is ruled by the laws of non-believers, for it is the “land of disbelief” (dār al-kufr), even if the majority of the people living in there are Muslims. (Ibid.).

While Al-Qahtani is very clear that Muslims are obliged to move away from Islamophobic environment, he seems to falter on the permissibility to live under Muslim-friendly non-believers’ rule. In one instance, he says, “Muslim is forbidden to remain in country where Islam is of no account, except when he is able to freely practice his religion and to observe it without fear his presence there could result in his own ‘fitna’ [fall into worldly temptation].”(Ibid., p. 271). Yet, in his summary, he said that, “emigration from the lands of disbelievers to the lands of the Muslims is mandatory till judgement day”(Ibid., p. 286) and “it is obligatory to leave a place where forbidden practices are rife since it is mandatory for Muslims to demand observance of the law.” (Ibid., p. 287) The challenge to interpret and understand the complexity of the definition of “oppression” as mentioned in the Quran is impounded by Khaled Abou El Fadl’s observation, “What does the Quran mean by those who “were oppressed” and is oppression synonymous with living in Muslim lands? What if a Muslim encounters oppression in an Islamic land and the only haven is non-Islamic territory...?”(Fadl, 1994, p. 144). Indeed, the discourse on dār al-Islām and dār al-kufr has created debates with no conclusive opinion in sight. There appeared a variety of definition of the two classifications as Muslim Sunni scholars aimed to interpret their context and to implement certain Islamic laws, of which the application differed, depending on the country where Muslims lived. Ad-Dusūqī, from the Māliki school of thought stated that dār al-Islām must be owned by Muslims and the Islamic law functions as the system of governance (even if non-Muslims take over it). (Ad-Dusūqī, not dated, p. 188). With regard to dār al-harb the Hanafī school of thought place their emphasis on the very specific situation by pointing at Muslim’s safety in practising his faith. His Islamic identity should earn him protection from falling victim to discrimination.

⁵ Quran, 2:256

⁶ Quran, 3:90.

⁷ Abdur rahmān ibn Nasir ibn ‘Abdillāh as-Sa‘dī was born on the 12th of Muharram 1307H (8 September 1889) in the town of ‘Unaizat in the province of Qusaym, Saudi Arabia. He was a well-known Salafī Saudi scholar. He died on 23 January 1957. See *al-Ajwibah As-Sa‘diyyah ‘an Al-Masāil Al-Kumaitiyyah*, 2002, Kuwait Centre for Research and Studies.

As stated by As-Sarkhasī, according to Abu Hanifa the condition for *dār al-Islām* is where Muslims are safe and are not persecuted because of their religion. *Dār al-harb* prevails if the condition above is not met. (As-Sarkhasī, not dated, p. 114). Instead of looking at the debate of *dār al-silm* (of peace) and *dār al-harb* through a binary perspective, Hanbalite scholar Ibn Taimiyya (d. 728/1328) in his fatwa regarding the then Tatar ruled city of Mardin declined to conclusively designate the city in the conventional manner. He coined the term *murakkab* or compound to describe Mardin. Ibn Taimiyya clarified that as for Mardin being either the land of war or peace, it is a compound [and] it carries two [type of] understandings: it does not hold the status of the land of peace which is governed by the Islamic laws and the fact that its military is represented by Muslims, and [it] does not hold the status of the land of war which the inhabitants are the disbeliever, rather, it [Mardin] fell into the third category, its Muslim inhabitants are treated according to its right and those who turn his back on Islamic law is treated according to his right. (‘*Ammā kawnuhā dāra harbin aw silmin fahiya murakkabatun fihā al ma‘nayāni: laisat bi manzilati dār assilmi allatī yajrī‘ alaihā ahkāmual-islām, likawni junduhā muslimīn, wa lā bi manzilati dār Alharbi allatī ahlukā kuffārun, bal hiya qismun thālithun yu‘āmalu almuslimu fihā bimā yastahiqquhu, wayu‘āmalu alkhārijū‘ ansharī‘ati al-islām bimā yastahiqquhu.*)(Taimiyya, 1987, pp. 532-533)

Also, not all Sunni scholars divide states according to that binary perspective. The Shāfi‘ī school of law introduced a third category called *dār al-amn* (land of peace). It referred to non-Islamic countries, which had signed peace agreements or treaties with one or more Islamic countries, be it a temporary or definitive agreement. (Ramadan, 2013, p. 128). Qualitatively, *dār al-Islām* could be equivalent to *dār al-harb* if corrupt beliefs and practices are widespread, but in the absence of the land of true faith Muslims may continue to reside in corrupt territories as long as they can practise their religion. (Lambton, 1981, p. 261)

Various factors influenced the definitions of these concepts. The Hanafites’ rationale of adopting the binary classification was motivated by the question of security and protection and not a strict question of Islam and *kufr* (non-acceptance of Islam). Furthermore, the existence of *dār al-harb* does not necessarily translate into a state of war between the two opposing factions. It need not be an indication of it and would not produce hostility and animosity against non-Muslims.

What noteworthy is that the tradition of classifying a locality according to the creed of inhabitants has no traces from the Quran. ‘Atiya Saqr, former head of Al-Azhar Fatwa Committee stated in the book *Bayān li an-Nās* (A Clarification for People) issued by Al Azhar that the concept of categorizing countries as *dār al-Kufr* and *dār al-Islām* is *ijtihadi* in nature or a result of independent judgment made by earlier generation of learned scholars. The discussion on this concept notably absent in both the Quran and the Sunnah. (Saqr, not dated). Therefore, an *ijtihād* is a religious response to development that takes place in a setting that requires religious dimension. Revision to the *ijtihād* will only occur to respond to a new development that forces a review of the earlier opinion. Hence, *ijtihād* is never a permanent solution. The abovementioned concepts were the product of *ijtihād* that was slanted towards religious security and was meant for a specific period.

The Obligation of Hijrah and living in non-Muslim land

Hijrah has a special place in the history of Islam and the Muslims for two reasons. First, hijrah is an evident of the sacrifice that the Prophet endured to ensure the survival of Islam and to save earlier generation of Muslims from religiously discriminated against. Secondly, the second emigration to Medina marked the beginning of Islamic calendar known as *hijriy*. With regards to the former the Prophet and the early Muslims’ practice of Islam in Mecca had exposed them to social discrimination and for some, persecution. The Prophet himself was targeted in an assassination attempt. This was the turning point leading to the emigration to Medina. It is this emigration in the history of Islam that is usually known as the ‘*hijrah*’. Thereafter the word *hijrah* denotes leaving one’s homeland in search for security and freedom from persecution or oppression due to difference in religious belief. Self-proclaimed Islamist groups such as Al-Qaeda, Jemaah Islamiyah and the Islamic State, however, gave a fresh reinterpretation that implants the obligatory of *hijrah*. Al-Qahtani is not an exception. Al-Qahtani summarizes the obligation of *hijrah* for Muslims as follows (Al-Qahtani, Al-Walā’ wa al-Barā’ fi al-Islām, 1992, pp. 286-288):

- 1- Hijrah from the lands of non-believers to the lands of Muslim was mandatory during the period of the Prophet, and it is still obligatory till the Day of Judgment. The obligation which the prophet lifted after the conquest of Mecca was that of taking up residence near him.

- 2- It is obligatory for Muslims to leave the lands of bid'ah (innovation).
- 3- It is obligatory for Muslims to leave a place where forbidden practices are widespread since it is mandatory for Muslims to demand observance of Shari'ah law.
- 4- One must flee persecution and oppression. This is regarded as one of the many blessings of God given to whoever fears for himself and his own safety to leave and find sanctuary for himself.
- 5- In times of epidemic, people are required to leave the city and remain in the vicinity until the threat of the disease has ceased away. The exception to this is in times of plague.
- 6- If one fears the safety of his family or the security of his property, then he must also flee since security of one's possession is like the safety of one's person.

In the discipline of *uṣūl al-fiqh* or the principles of Islamic jurisprudence, there are notable processes established by jurists to interpret God's revelation in which it eventually derives into several categories. These sources could generally categorise into two: *qat'iy* or definitive and the other is *ẓanniy* or speculative. It is worth noting that no *qat'iy* ruling as well as consensus from Muslim jurists on the obligation of *hijrah* to a Muslim land. Abou El Fadl observed variations of jurists' opinions in this regard. "Some jurists argued that Islam and *dār al-Islām* are inseparable and that Muslims therefore may not reside in non-Muslim lands under any circumstances. Other jurists conceived *hijra* as a dynamic concept that requires Muslims to be in constant search for lands in which they can attain greater religious fulfilment; some of these jurists argued that it may be recommended or even obligatory for a Muslim to reside among non-believers." (Fadl, 1994, p. 145) For example, most of the Māliki and Hanafi jurists ruled that living in a non-Muslim land is not permissible. It is an opposing view that of Shāfi'ie's and Hanbali's. However, their ruling is conditional on the extent that the religion, as well as the self-worth of Muslims, may be placed in jeopardy by doing so. To the Shāfi'ies and Hanafis, Islam and *dār al-Islām* are not synonymous; if Muslims are able to practice their religion in a territory, they may reside in it regardless of the formal categorization of the territory. However, these Muslim minorities are subject to the universal enforcement jurisdiction of *dār al-Islām*. (Fadl, 1994, p. 26) Some of the Shāfi'ie jurists even view that it is recommended to reside in non-Muslim country. Al-Mawardi⁸ said "If a Muslim is unable to manifest his religion in one of the believer's countries, this country becomes a part of *dār al-Islām*. Hence, residing in it is better than migrating because it is hoped that others will convert to Islam (due to his Islamic conduct)". (An-Nawawi, not dated, p. 264)

Al-Qahtani backed his argument on the obligation of *hijrah* by referencing verse 97-99 of *An-Nisā'*.⁹ (Al-Qahtani, *Al-Walā' wa al-Barā' fī al-Islām*, 1992, p. 285). Quranic exegetes agreed that the verses require Muslim to perform emigration from a non-Muslim country if he is unable to practice Islam freely and thus subjected to ill-treatment. The concerned verses, however, cannot be used as absolute proof that Muslim must only live in a Muslim country. At-Ṭabari¹⁰ explained that these verses refer to a specific group of Meccan who converted to Islam and refused to join the Prophet in Medina. The Prophet required them to emigrate to Medina because they were unable to worship freely in Mecca. Hence, the operative cause (*'illat al-hukm*) here is the inability to practice Islam. (At-Tabari, 1986, pp. 147-151) Khaled Abou El Fadl argued that this Quranic injunction "did not necessarily lead to a consistent result. What did the Quran mean by those who "were oppressed", and is oppression synonymous with living in non-Muslim lands? What if Muslim encounters oppression in an Islamic land and the only haven is non-Islamic territory; and how is one to govern by what God has decreed if one escapes to non-Muslim territory?" (Fadl, 1994, p. 144) The former Grand Mufti of Egypt Sheikh Gad al-Haq Ali Gad al-Haq issued a religious edict, "A Muslim can live in non-Muslim country if he can practise Islam peacefully and freely there. It only becomes compulsory for him to emigrate if he fears for his

⁸ Abu al-Hasan Ali Ibn Muhammad Ibn Habib al-Mawardi is a Shāfi'ie scholar. He contributed to the interpretation of Quran, philology, ethics, and literature. He served as judge at several Iraqi districts, including Baghdad, and as an ambassador of the Abbasid caliph to several Muslim states. Al-Mawardi's works on Islamic governance are recognized as classics in the field. He died in 1058 CE/450H.

⁹ "When angels take the souls of those who die in sin against their souls, they say: "In what (plight) Were ye?" They reply: "Weak and oppressed Were we in the earth." They say: "Was not the earth of Allah spacious enough for you to move yourselves away (From evil)?" Such men will find their abode in Hell,- What an evil refuge! - Except those who are (really) weak and oppressed - men, women, and children - who have no means in their power, nor (a guide-post) to their way. For these, there is hope that Allah will forgive: For Allah doth blot (sins) and forgive again and again."

¹⁰ Abu Ja'far Muhammad bin Jarir bin Yazid al-Tabari, a famous historian and Quran commentator of the first three centuries of Islam. Died in 923 CE/ 310H in Baghdad.

religious freedom, and the preservation of his dignity and wealth.” (Tubuliyak, *Al-Ahkām As-Siyāsiyyah Li Al-Aqalliyāt Al-Muslimah Fi Al-Fiqh Al-Islamiy*, 1997, p. 54).¹¹

Al-Qahtani also argued that the inherent correlation between WB and hijrah is evident in the prophet’s verbal instruction to the Muslims to not live among disbelievers. This disassociation or *bara’* from disbelievers is essential so that Muslims would not fall into tribulations that could weaken their faith. (Al-Qahtani, *Al-Walā’ wa al-Barā’ fi al-Islām*, 1992, p. 221). This move was also to ensure Muslims stay close to each other. Al-Qahtani then cited a hadith that said “I am not responsible for any Muslim who stays among disbelievers.” They asked: “Why, Messenger of Allah?.” He said: “Their fires should not be visible to one another.”¹² (Ibid.). A careful examination of this hadith, however, would reveal that the advice was issued at times where hatred towards Muslim in Mecca was at its height. Those who chose to remain after the Prophet’s emigration to Medina was allowed to do so only if their safety is guaranteed. Otherwise they should perform hijrah.

On the issue of hijrah itself, there are abundant hadith that shows the Prophet allowed his companions to live and seek protection from the non-Muslims. In one instance the Prophet permitted his uncle, Abbas to remain in Mecca, which at that time was not under the Muslim rule. In another example the hijrah of the Prophet’s companions to Abyssinia (Ethiopia) and their return six years after the Prophet’s hijrah to Medina, also suggests that hijrah is only necessary for those who are weak and fear religious persecution as explained in the Quranic verse 4:97-99.

Above accounts also supported by the fact that there were Muslims who chose to remain in Mecca after the Prophet’s emigration to Medina. One such case is a companion of the Prophet by the name of Abu Nuaim who was the financial provider for a group of orphans and widows of his tribe. He postponed his hijrah as his people who were the non-believers requested him to stay. They guaranteed his safety and his protection in return for his continued service. When he eventually emigrated to Medina, the Prophet said to him; “My people have ousted me and wanted to kill me. Whilst your people protected you.” (Sa’id, 2001, p. 129) and (Al-Athīr, 2012, p. 1200). This explains that a Muslim can choose to remain in his locality if he enjoys the freedom to practice his belief without any fear of persecution or discrimination against him or his family.

Another companion by the name of Fudaik said to Prophet Muhammad: “Indeed, many people allege that anyone who does not emigrate will be destroyed.” The Prophet said, “O Fudaik! Establish prayers (the five obligatory daily prayers), pay zakāt (alms), avoid evil doing, and stay wherever you like with your people.” Fudaik said, “I assume that the Prophet also said “(Then) you are as those who emigrated.””¹³ (Al-Aṣbahāni, 1998, p. 406)

In another account The Prophet was approached by a Bedouin who asked him about emigration. He said: “Woe to you! Emigration is very difficult. Do you have camels?” He said: “Yes.” He said: “Do you pay Zakat on them?” He said: “Yes.” He said: “Then do good deeds even if you live beyond the sea, for Allah will never leave any of your good deeds unrewarded.” (Al-Hajjaj, 2007, pp. 198-199)

Prophet Muhammad was also reported as saying “If you meet your enemies among the unbelievers, call them to three things; whichever one they choose, accept from them, and restrain yourself. Invite them to move from their place to the place of the muhajirin (those who have emigrated). Tell them that if they do so, for them the rights of the muhajirin, and on them, the responsibilities of the muhajirin. If they refuse and choose their place of abode, tell them they are the same as the bedouin Arabs among the Muslims. The laws of Allah are just as applicable to them, but not for them the booty of war.” (Ibid., pp. 16-18). This hadith shed more light on the debate of hijrah and putting today’s context into perspective. It is particularly relevant to Muslim who represents the minority group in any given country. He may want to consider relocating himself to a Muslim friendly country if he prefers to be surrounded by majority Muslims or if the chosen country offers him a better prospect of life, just like the way Medina did in the past. This hadith is proposing an option, not a commandment as what proponents of hijrah are alluding.

¹¹Cited by Muhammad Sulaiman Tubuliyak, *al-Ahkām as-Siyāsiyyah li al-Aqalliyāt al-Muslimah Fi al-Fiqh al-Islamiy*, p.54. See also *Majallah Al-Azhar*, vol 6, 63rd year, Jumada Al-Akhirah 1411H, December-January 1991, p.618.

¹² Narrated by Abu Dawud. Please see Sunan Abi Dawud, 2009, p. 413, Damascus, Dar ar-Risala al-‘Alamiyya

¹³Hadith related by Ibn Hibban and Al-Baihaqi. Also related by at-Ṭabarāni and graded as a ‘fair’ chain of hadith transmission or better known as *hasan* among scholars of the science of hadith.

Muslim is at liberty to exercise that option. From these evidences, it can be concluded that there cannot be a general ruling for or against Muslims living in non-Muslims countries. The ruling depends on the status of the individual and the context. It is also clear that any position prohibiting Muslims from settling in a non-Muslim country is not the consensus of Muslim jurists. On the contrary they are of the opinion that ruling on hijrah depends on the situation and can be summarised as such:

- a) Hijrah is obligatory for a Muslim if he or she cannot practise his religion and fears that he cannot maintain his faith;
- b) Muslims who can practise Islam and can afford to do hijrah are only encouraged to do so;
- c) Muslims who cannot afford to or face difficulty in performing hijrah are not required to do so and can remain living in that country;
- d) It is obligatory for a Muslim to remain in a non-Muslim country if his presence and expertise is required by the Muslims there.

Conclusion

Al-Qahtani's stand on the obligation of hijrah and that Muslims must only reside in *dār al-Islām* can be seen as one of the many divergent views on the issue. Though the concept of hijrah exists and has a comprehensive meaning in Islam, the application and the practicality may vary from time to time, depending on situation and context. Furthermore, Muslim scholars and jurists differ in their understanding of the issue and that the varied juridical positions were a function of historical specificity. The reaction of different jurists reflected a dynamic process by which doctrinal sources, legal precedents, juristic methodologies and historical reality interacted to produce diverse results. (Fadl, 1994, p. 3)

It can be argued that in today's context, hijrah to a Muslim land in its classical sense is irrelevant and not feasible as no particular country today can be truly classified as *dār al-Islām vis-a-vis Medina*. Furthermore, there is no one country, be it Muslim or non-Muslim country, that is perfectly suitable to meet the original objective of hijrah, which is to allow a Muslim to practice Islam as a comprehensive religion. Practically, anywhere a Muslim chooses to live, he still has to make the appropriate adjustments and accommodations to his society. It is true that the argument brought forward by Al-Qahtani on the issue of hijrah has its evidences from the religious sources and writings of scholars. The hadiths found in Al-Qahtani's book with respect to the prohibition of residing in the lands of the non-believers are construed to refer to when one is incapable of practicing the rites of his religion, fears persecution for that, and is insecure in his person and property because of his religion. It has been acknowledged in matters of non-definite ruling such as hijrah, religious scriptures like hadith which connote prohibition do not necessarily indicate absolute prohibition. This is because there are other hadith that shows otherwise.

What is lacking in Al-Qahtani's argument is the fact that he failed to contextualize the ruling of hijrah to the current socio-political environment. Being contextual is one of the fundamental characteristics of Islam. This means Islam takes into account the reality of the time, environment, individual and other factors in determining rules and in practising religion. Hence, the ruling for a certain matter may be different due to differences in reality. This applies whether the rule is a general policy for society, or specific to an individual or a particular group only. (Az-Zuhaili, 1986, p. 1116) and (Al-Qaraḍāwī, 1977, pp. 233-237). A good Muslim is also observed as the one who upholds the fundamentals of the religion and able to contextualise the teachings when the need arises and where necessary. This is congruent with Quranic teaching: "Allah does not impose upon any soul (a duty) but to the extent of its ability; upon it is (the benefit of) what it has earned, and (the evil of) what it has wrought."¹⁴

"To the extent of its ability" implies that Islam recognizes constraints faced by Muslims in practising the religion. Islam acknowledges that human beings may be inherently limited in their capacity. Thus, Muslims are only obliged to strive the best that they could, and not beyond limits which are against logical and rational constraints. This is the essence of contextualise in Islam. Another critical observation of Al-Qahtani's view of hijrah is the lack of juristic debate on the issue especially within the circles of the *mazāhib* (Islamic schools of thought). Debates and juristic positions on the issue of Muslim minorities have developed at least since the 12th century CE (6th century Hijri). Apart from the Quranic verses and several hadith quoted, only sayings of scholars and jurists who were of the view that hijrah is obligatory and that Muslims must not reside in non-Muslim country were presented. Al-Qahtani is also found to be absolutist in his view.

¹⁴Quran, 2:286

This can be seen from his criticism of Muslim parents who send their children to study Islam and Arabic in non-Muslim countries (western countries). He stated “While this is quite clear from many different sources, we still find a carefree attitude among many Muslims today with regard to this subject. The forming of friendships with those who are rightly our enemies, and establishing communities in their countries has been trivialised. Remarkably, some Muslims even send their children to the West to study Islamic Law and Arabic in European and American universities!

This will stand as an absurd monument to the foolishness of those Muslims of the twentieth century, who sent their children to the disbelievers to study Islamic Law and Arabic!” (Al-Qahtani, *Al-Walā’ wa al-Barā’ fī al-Islām*, 1992, p. 226).

It can be argued that there is no evidence which makes travelling to a non-Muslim country for the purpose of knowledge is *harām* (forbidden). Muslims are encouraged to learn and benefit from anyone and anywhere, including from the non-Muslims. This becomes more urgent if a particular field of knowledge is not available in “Muslim countries” and is needed by Muslims.

Based on the arguments presented above and the reality of minority Muslims living in non-Muslim countries, Muslims should not take living in their country negatively. The fact is, there is no country whether Muslim or otherwise, perfectly fulfil all the conditions that will allow Muslims to practise their religion in total. Wherever a Muslim goes today, he will face a situation that demands his striving to help achieve an ideal Muslim community.

All these strengthen the argument that staying put in a non-Muslim country is not disgraceful to Muslims. It does not make one a lesser Muslim compared to those who live in Islamic countries. In fact, there are more opportunities to share the message of Islam in such a country. This gives more opportunities to earn rewards from God, as mentioned in the hadith: “By Allah, if Allah guides someone through your efforts that is better for you than a red camel.” (Al-Bukhārī, 2002, p. 741).¹⁵

If Islam allows Muslims to remain in a non-Muslim country and if they choose to live there, it is then important for them to build their outlook and basis of thinking on the commitment to stay there. They should then participate constructively in developing the country, without neglecting the responsibility to offer constructive advice and criticism, consistent with the practice of democracy, justice and Islam itself. Islam should not become a factor that imposes psychological or other difficulties on Muslims in coexisting with non-Muslims or in non-Islamic country.

In a broader sense, *hijrah* in Islam does not only denote the act of emigrating from *dār al-harb* to *dār al-Islām* or moving from one place to another. The concept also constitutes a spiritual emigration that is to say moving from bad to good and from good to better ones. It is a continuous process that occurs throughout the life of a Muslim.

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¹⁵Red camels used to be precious in Arabia, and their reference here is to highlight the value of guidance.

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