

International Relations Under Islamic Law (Shari'a): Dar Al-Harb (House of War) vs. Dar Al-Islam (House of Islam)

March 2012



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INTERNATIONAL RELATIONS UNDER ISLAMIC LAW (SHARI'A): DAR AL-HARB (HOUSE OF WAR) VS. DAR AL-ISLAM (HOUSE OF ISLAM)

I. Introduction

International relations under Islamic Law (Shari'a) were traditionally governed according to the definition of the concepts of war and peace. However, this principle diminished following the downfall of the Islamic Ottoman Empire in the early twentieth century and the establishment of nation states. More recently, discussion of these concepts has been revived due to the rise of the Islamic militant groups operating in the Middle East and worldwide.

In the late 1990s, Islamic militant groups adopted a fundamentalist interpretation of the concepts of war and peace under Islamic Law. In particular, religious clerics affiliated with such non-state actors issued decrees claiming that they are in a war against the West to defend what they called "House of Islam." At the same time, various Muslim scholars expressed disagreement with such a fundamentalist perspective. These moderate scholars have held conferences and published books and articles in an attempt to reach a common modern interpretation for the terms "the House of Peace" and "the House of War" under Islamic Law.

The purpose of this article is to provide an understanding of the conceptual differences between Islamic legal schools in interpreting the issues of war and peace. It also presents different views of Muslim scholars regarding the characteristics of individuals who are recognized as *harbis* or enemies under Islamic Law. Finally, the article covers the different opinions of Muslim jurists related to motives behind declaring *jihad* (struggle) against another country.

II. Background

During the period starting from middle of the seventh century, Islamic conquests of vast areas, ranging from the eastern shore of the Atlantic to Afghanistan, forced Muslims to contemplate international relations and the concepts of war and peace. At that time, the Islamic empires, such as the Umayyad and Abbasid dynasties, established rules regulating the relationship between themselves and their neighbors, essentially dividing the world into two camps: Dar al-Islam (House of Islam), areas governed by norms of Islam, and Dar al-Harb (House of War), areas where Islam did not govern. Later, when the Islamic empire began to enter into treaties with neighboring kingdoms, the concept of Dar al-Aman (House of Safety) was introduced as well.¹

According to Muslim scholar Dr. Wahbeh al-Zuhili, there is no precise definition of Dar al-Harb and Dar al-Islam in the existing religious sources of Quran or the Sunnah (the body of

¹ For more info see, Maurits Berger, *Islamic Views on International Law*, in CULTURE AND INTERNATIONAL LAW 105, 107–09 (Paul Meerts ed., 2008), available at http://www.clingendael.nl/publications/2008/20080000_cdsp_chapter_berger.pdf.

Islamic tradition based on the Prophet's actions and sayings).² Most Muslim jurists state in their writings that the interpretation of these two concepts is debatable. Islamic scholars consider these concepts subject to *ijtihad*, which is an effort to achieve an independent interpretation of problems not dealt with by the Quran or Sunnah.

III. Dar al-Islam (House of Islam)

Muslim scholars' definitions of Dar al-Islam vary. According to some, a country is classified as Islamic when that country either relies on Shari'a as the basis of its legal system or incorporates some aspects of Shari'a into its secular legal system. Saudi Arabia, the Gulf states, Pakistan, and Iran are considered to be examples of these approaches. Another group of scholars believes that Dar al-Islam also includes countries of Muslim majorities even if their governments do not incorporate Shari'a into their legal system, such as Egypt, Syria, and Turkey.³ A third faction of Muslim scholars maintains that a territory can be labeled as Dar al-Islam if the Muslim population living there enjoys peace and security.⁴

IV. Dar al-Aman (House of Safety)

The concept of Dar al-Aman is manifested in verse 92 of Surah al-Nisa, the chapter on women in the Quran.⁵ This verse commands Muslims to honor the covenant that was agreed upon with non-Muslims. Dr. Abduljalil Sajid, a current Islamic scholar, defines Dar al-Aman as a territory or a country that has concluded treaties of peace with countries in Dar al-Islam.⁶ It appears that the only treaties that meet this definition are those that cover the areas of trade and mutual cooperation. The history of Islamic empires provides various examples of Dar al-Aman, such as the trade agreements between the Nubian Christian Kingdom and the Sunni Muslim Abbasid Empire during the eleventh and twelfth centuries.⁷

V. Dar al-Harb (House of War)

Muslim scholars provide a number of definitions for what is known under Islamic law as Dar al-Harb. One group of scholars, including Imam Abu Hanifa--the founder of the Sunni Hanafi School of Islamic jurisprudence--mentions that labeling a territory or a country as Dar al-Harb depends on the safety and religious freedom of Muslims in that place: if Muslims living in a non-Muslim state are not allowed to practice their religion freely and do not enjoy safety in a certain territory, then it is described as Dar al-Harb.⁸ Another group of scholars, led by Yusuf al-

² Wahbeh al-Zuhili, *Islam and International Law*, 87(858) INT'L. REV. RED CROSS 269, 278 (June 2005), http://www.icrc.org/eng/assets/files/other/irrc_858_zuhili.pdf.

³ Berger, *supra* note 1, at 109, 110.

⁴ Abduljalil Sajid, *Dar al-Islam, Dar al-Harb*, WORLD MUSLIM CONGRESS (January 31, 2008), <http://worldmuslimcongress.blogspot.com/2008/01/dar-al-islam-dar-al-harb.html>.

⁵ Quran 4:92, available at <http://quran.com/4>.

⁶ Sajid, *supra* note 4.

⁷ Al-Zuhili, *supra* note 2, at 278.

⁸ Sajid, *supra* note 4.

Qaradawi, identifies non-Muslim countries that attack or conquer Muslim territories as Dar al-Harb.⁹

VI. Jihad (War)

Muslim scholars were faced with the need to clarify various questions and concepts following Iraq's invasion of Kuwait in 1990. In particular, the main question was whether or not declaring war (*jihad*) against a Muslim territory or country is permissible according to Islamic Law. Many Muslim scholars responded to this query by condoning the concept of waging *jihad* against a Muslim country, such as Iraq attacking another Muslim country.¹⁰

The term Dar al-Harb goes hand in hand with the term *jihad*. One of the Sunni jurists of the Maliki school of thought, Ibn Arafa, defines *jihad* as warfare waged by Muslims against non-Muslims for the purpose of elevating the word of God if the enemies are against God's presence, or as retaliation for the conquest of a Muslim territory. Essentially, according to Ibn Arafa, *jihad* is necessary to suppress aggression against Muslims.¹¹ It appears that many Islamic scholars support this principle by referring to verse in the Quran that states: "Permission [to fight] has been given to those who are being fought, because they were wronged. And indeed, Allah is competent to give them victory."¹²

In recent decades, Muslim jurists have also sought to define groups of individuals against whom *jihad* (war) could be waged. As a result, jurists have reached different interpretations of *harbis* (enemy fighters). The first group of scholars, represented by Sheikh Ali Gum'a, the former Egyptian Mufti, defined *harbis* as individuals belonging to a military force sent to launch an assault against a Muslim territory or country. Sheikh Ali Gum'a also prohibits Muslims from joining non-Muslim armies sent to fight other Muslims in a Muslim country.¹³]

Another group of Muslim jurists, who are described as fundamentalists, define *harbis* as all citizens, whether civilian or military, of a country that has sent its troops to fight Muslims.¹⁴ They justify this concept by stating that those citizens have democratically elected their governments. Therefore, each of them individually is responsible for the decision of their government to attack a Muslim country or territory. This perspective is widely condemned by many Islamic scholars across the world.¹⁵

VII. Conclusion

⁹ *Id.*

¹⁰ Al-Zuhili, *supra* note 2, at 114.

¹¹ Berger, *supra* note 1, at 245.

¹² Quran 22:39, available at <http://quran.com/22>.

¹³ 'Ali Gum'a, *The New Egyptian Mufti—Dr. Sheikh 'Ali Gum'a: Opinions About Jihad, Supporting Suicide Bombings, and Forbidding Muslims in the U.S. Military From Fighting Other Muslims* (The Middle East Media Research Institute, Special Dispatch No. 580, Oct. 1, 2003), <http://www.memri.org/report/en/print961.htm>.

¹⁴ Al-Zuhili, *supra* note 2, at 115.

¹⁵ *Id.*

Islamic law regarding international relations divides the world into three categories: Dar al-Islam, Dar al-Harb, and Dar al-Aman. While no clear definitions exist for any of these concepts in either the Quran or the Sunnah, over time the Islamic empires from the Umayyad to the Ottoman adopted the concepts when dealing with neighboring non-Muslim entities. However, it appears that under current international law regulating the relationships among states worldwide, the Islamic states have largely moved away from the implementation of the concepts of war and peace that had previously been applied under Islamic law.

Today, the principles of Dar al-Islam and Dar al-Harb are no longer incorporated into the legal systems or international relations of Muslim states. However, Islamic militant non-state actors, such as al-Qaeda, apply their own version of a fundamental interpretation of those concepts and use them as a justification to launch terrorist attacks on Western interests worldwide. These actions have given impetus to many Muslim scholars to discuss the definition of these concepts with the aim of reaching a universal moderate consensus regarding the principles of Dar al-Islam and Dar al-Harb under Islamic Shari'a.

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March 2012