CONCLUSION

It is quite evident from our preceding discussion that the legal status of India in Islam was an important as well as controversial matter about which a large number of *ulama* and scholars expressed their opinion and many of them put forward their arguments and evidences in support of the same. The history of the development of Islamic Jurisprudence shows that whenever any new situation or problem emerged in the Muslim society it also drew the attention of *ulama* of the period to be taken into consideration from juridical point of view. The occupation of India by the Britishers in the 18th century and subsequent development brought many problems for the Indian Muslims. Some of them including legal status of India was considered very important from juridical point of view as it would shape their attitude towards the Britishers and also determine the nature of their relationship with them. In fact many of the socio-economic problems of the period were connected with this issue. Accordingly, as our preceding discussion showed the legal position of the pre and post-independence India was examined by the contemporary *ulama* and jurists. A number of them expressed their views in form of *fatwa*, articles, treatises and books. But all these materials except few books were available in scattered form. Neither, these were compiled in systematic way, nor subjected to a
critical analysis. Hence, it was quite difficult to find out and go through them particularly in a situation when many old books containing the opinion of ulama were out of print and could not be traced. Secondly, in many cases the ulama had given their opinion not directly, but in reference to the use of interest or issue of Muslims’ relationship with non-Muslims including Hindus and Christians. However, after collecting and examining the available material it became possible to find out and analyses the views of the Indo-Pak ulama about the legal position of India.

The above study shows that Shah Abdul Aziz was the first Indian theologian and scholar to express his opinion in clear term that India of the British period was darul harb. A number of ulama of those days and the latter period came out with their opinion about the matter under discussion. Though it became a controversial issue. But majority of the ulama supported the point of view of Shah Abdul Aziz. Apart from legal importance of his fatwa, it cannot be denied that it had also contributed to develop anti-British sentiments and gave great impetus to the freedom struggle. It also appears from the above discussion that in addition to darul harb and darul Islam, India of the British period was also treated by some ulama as darul amn or darul aman which means that Muslims enjoyed security of their life and property in those days. In fact, the arguments given by the ulama in support of their
respective points of view lead to the conclusion that their differences were actually based on the assessment of the situation of that period.

After India got independence, its legal status again became a subject of discussion among the contemporary ulama and scholars. The issue was examined by them afresh in the changed situation. It is interesting to observe that even in present times, the issue agitated minds of many Indian jurists and scholars. However, it may be said in the light of the preceding discussion that post-independence India came to be interpreted in different legal terms including darul Islam, darul harb, darul kufr, darul amn, darul muahidah, darul hijrat, darul farar, darul fitan and darul watan al-qaumi. But majority of ulama treated India of those day as darul Amn, considering it a part of darul harb. There are three major causes for differences in approach of the ulama of past and present times towards this much debated issue. (a) taking the Indian constitution at its face value (b) giving consideration to the actual position held by Muslims of modern India with regard to their religious, social and political rights (c) different interpretations of the definition of darul Islam and darul harb and that of conditions of transformation of the former into later one as given in the fiqh-works. Moreover, it may be also stated with regard to different terms applied to India of the post-independence
period that many of these terms (darul amn and darul sulh, darul kufr and darul fitan, darul hijrat and darul farar, darul muahidah and darul watan al-qaum) appeared to be distinct from each other are actually similar to each other in connotation and meaning. One of the important findings of the present study is that majority of the ulama defined the legal position of the post-independence India in term of darul amn and they did not think it reasonable to interpret it in the usual terms of darul harb or darul kufr. It is equally significant that some of them have ventured to explain the legal position of India in such a way (i.e. darul watani al-quam) that it may conform to the present situation as well as to modern connotation. As a matter of fact, a number of ulama have realised that the political setup of modern countries has got drastic change (from the medieval one) especially with the rise of democratic and secular states and so, they have come to the conclusion that the old juridical division of land/territories only into two categories (darul Islam and darul harb) has little relevance to the modern situation.