

The Shrines for Non Muslims in an Islamic State-- An Islamic Perspective

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Islam is not only a religion of peace itself; rather it advocates and ensures peace in the world. Dispensation of religious freedom for every citizen is a pre-requisite for peace in the world. The Holy Prophet of Islam (SAW) has categorically guided his followers. He (SAW) issued the orders of rights for the non-Muslims when the whole world was under the dark clouds of dictatorship, inhumanity and lawless situation. It was a revolutionary step taken by Islam to provide the best rights to the minorities in the above mentioned situation.

According to the teachings of the Holy Prophet (SAW), the minorities have all the human rights. The Islamic states are bound to bestow all the rights prescribed by Quran and Sunnah for the non-Muslims e.g. beliefs, protection and provision of facilities as provided to the Muslims. Due to the prevailing stereotypical image of Islam after 9/11, the Issue is portrayed negatively and it is being mediated that Islam deprives the minorities off their basic rights in Muslim states. This claim is based on false and baseless conjectures.

It is the call of the time to step forward and portray the real image of Islam regarding the rights for non Muslims to have their shrines and placed for worship within an Islamic state. The researcher has tried his best to elaborate the issue and present the real picture of Islamic perspective regarding the shrines for non Muslims within an Islamic state.

The Construction of Shrines for Non-Muslims in An Islamic State

First of all we should have a brief detail of the division of Muslim state as per their administrative perspective. The Muslim jurists have divided the Islamic states into three types:

- 1) The territories conquered by force.
- 2) The territories submitted with agreement.
- 3) The territories built and populated by the Muslims.

Muslim jurists have different stance for all of three types of Muslim territories.

The States Populated by the Muslims

Majority of the Muslim Jurists don't allow building shrines for non-Muslims in a state populated by Muslims.

Iman Kasani writes about it

"واحداث الكنيسة في مصر من امصار المسلمين ممنوع منه شرعا."⁽¹⁾

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“To construct a church in an Islamic city is prohibited in Islam”.

Imam Ibn-e-Taimyah elaborates the issue by saying as under:

"وقد اتفق المسلمون على أن ما بناه المسلمون من المداين لريكن لاهل الذمة أن يحدثو فيها
كنيسة"⁽²⁾

“All the Muslim scholars have a unanimous stance that the infidels are not allowed to construct a shrine in a state populated by the Muslims.”

All the Muslim Jurists have above mentioned stance keeping in view the saying of Hazrat Abdullah bin Abbas (RA) when he was asked about the construction of a shrine for non-Muslims in an Islamic state, he replied.

"أيما مصر مصرته العرب فليس للعجم أن يبنوا فيه بناء أو قال بيعة"⁽³⁾

It is not allowed for the non-Arabs (Non-Muslims) to construct their shrines in a city populated and constructed by the Muslims.

The States conquered by agreement:

Certain Muslim Jurists have a different stance regarding the construction of a shrine for non-Muslims in a state having agreement with Muslims.

Imam Savi Maliki, the writer of the book "بلغة السالك" writes about it,
"ما فتح صلاحا يجوز لاهله الاحداث مطلقا"⁽⁴⁾

The non-Muslims are allowed to construct their shrines in a state conquered by the Muslims by agreements.

A well know Hanafi jurist Ibn-e-Hammam writes about it in his book "Fath Al Qadeer".

"وان عرف انها فتحت صلاحا حكما بانها اقروها"⁽⁵⁾

If a state is conquered with agreement, their rights (to construct shrines) will be maintained.

A well known Shafi jurist Khateeb Al Shrini writes in his book "Mughni Al Muhtaj":

"أو فتح صلاحا بشرط الارض لهم ويؤدون خراجها قررت كنائسهم لانها ملكهم ولهم الاجداث في الاصح"⁽⁶⁾

If the state is conquered with the agreement that the territory will belong to the non-Muslims and they will taxes to the Muslims, their shrines will be maintained and they have the right to build the new ones as well.

The Muslim jurists having this stance, strengthen it with the saying of Hazrat Abdullah bin Abbas (r.a):

"عن عكرمة قال: قيل لابن عباس: للعجم أن يحدثوا في أمصار المسلمين بناء أو بيعة؟ فقال: أيما مصر مصرته العجم يفتحها الله على العرب ونزلوا (يعنى على حكمهم) فللعجم ما في عهدهم وللعجم على العرب أن يوفوا بعهدهم ولا يكفوهم فوق طاقتهم"⁽⁷⁾

Ikrimah narrates that Abdullah bin Abbas (RA) was asked “can the non Arabs (non-Muslims) construct their shrines in a Muslim state?” He

replied, "If the Muslims conquer a non-Muslim state with agreement, the non-Muslims will be maintained with their agreement and they can build new shrines the Muslims are obligated not to suppress them out of their capacity." The agreement of the Holy Prophet (SAW) with the people of Najran is also a strong argument for the above mentioned stance. While the Hanbali Jurists have the stance that the non-Muslims are not allowed to build their shrines in Muslim states.

The States Conquered after Fight:

The term "مافتح عندة" is used for the territories conquered by power. Muslim jurists have three different stances for such situation. The shafa'i jurists have the stance that the non-Muslims are not allowed to maintain their shrines in such states. A well known shafi jurist Imam Subki writes:

"مافتح عنوة فان لم يكن فيها كنيسة أو كانت والهدمت أو همدتها المسلمون وقت الفتح أو بعده فلا يجوز لهم بناءها." (8)

If Muslims conquer a city by power and there was no shrine at that time or there was any shrine and the Muslims destroyed it during the war. The non-Muslims are not allowed to re-build or re-construct it.

The Hanafi jurists don't allow to destroy the shrines in such states. Imam Kasani writes about it,

"وكل مصر من امصار المشركين ظهر عليه الامام عنوة --- لا ينبغي ان يهدم." (9)

If any Muslim ruler conquers a city after fight, he is not allowed to destroy the shrines.

Imam Ahmad has the stance that the Muslim ruler is provided with all the options according to the situation. He can do whatever he deems appropriate.⁽¹⁰⁾

Arguments and the Preferred Stance:

Muslim jurists, who prohibit building shrines for non-Muslims in a state conquered by the Muslims by power, strengthen their stance with the agreement done between Hazrat Umar (RA) and the Christians of Syria. Let us have the detail of that agreement:

بسم الله الرحمن الرحيم هذا كتاب لعبد الله عمر أمير المؤمنين من نصارى مدينة كذا وكذا اتكروا لما قدمتم علينا
سألناكم الأمان لأنفسنا ان لاتحدث في مدينتنا ولا فيما حولها ديورا ولا كنيسة ولا قلاية ولا صومعة راهب ولا نجد
ماخرب منها ولا نحى ماكان منها في خطط المسلمين --- فلما أتيت عمر رضى الله عنه بالكتاب زاد فيه وان لاتضرب احدا
من المسلمين شرطنا لهم ذلك على أنفسنا وهل ملتنا وقبلنا منهم الأمان فان نحن خالفنا شيئا مما شرطناه لكم فضمنناه على
انفسنا فلا نمة لنا وقد حل لكم ما حل لكم من اهل المعاهدة والشقاوة. (11)

This agreement is provided by the Ameer Al Mominin Umar bin Khatab (RA) to a specific city. After your advancement to our state, we request your guarantee for ourselves, our children, our properties and our religion. We impose ourselves with the condition that we will never build

any building or churches in our cities. We will never build any building for our priests within or in the surroundings of our cities. We will not maintain or re-construct those old churches.

When this agreement was brought to Umar bin Khatab(RA) he added, "We promise that we will never trouble the Muslims. We have imposed these conditions ourselves. We have requested refuge from Muslims on they will be responsible for it. If you violate these conditions, we will not be responsible for it and you will be treated as enemies.

The above mentioned Muslim Jurists have the argument from this agreement that according to this agreement not only they are prohibited to construct shrines but also not allowed to maintain them. They have the stance that it is never permissible to construct a shrine for non-Muslims in a Muslim state because the Muslims are the proprietors of that state.

Contrary to them, the Hanafi and the Maliki jurists have the stance that the non-Muslims can have shrines in Muslim states. According to Imam Abu Hanifa, the non-Muslims are allowed to have their shrines in territories containing the majority population of non-Muslims. He is of the opinion that such territories and villages are neither important in civilization process nor have any humiliation aspect for the Muslims. So, the non-Muslims are allowed to construct their shrines in such places.

"واما في القرى اوفي موضع ليس من اعمار المسلمين فلا يمنعون من احداث الكنائس والبيع" (12)

The Hanafi Jurists do not restrict the non-Muslims from the construction of their shrines in such towns where Muslims are not in majority.

They have the argument that the reason behind the prohibition of building shrines for non-Muslims in a Muslim state is to show the Islamic mastery over the state. So, Shrines for non-Muslims are prohibited in all big cities while it is not prohibited in towns and villages where there is no such concern.

Among the Maliki jurists, Ibn-e-Qasim Maliki has imposed a precondition regarding this situation with the Muslim ruler is allowed to decide. If the Muslim ruler feels it appropriate, he may permit for the construction of shrines for non-Muslims in Islamic state. (13)

The Preferred Stance:

At present, Mualim Ummah is facing a new situation. All the states comprises of mixed societies. There are numerous non-Muslims living in Muslim states as their citizens. They are neither conquered nor having that situation of agreement. They are living freely as common citizens. All the major cities contain followers of different religions. After having discussed all the above mentioned situations and different stances of the jurists, we are

able to develop a moderate viewpoint. Here are some important points regarding the issue.

The Hadith of the Holy Prophet (SAW) says,

"لا يجتمع دينان في جزيرة العرب" (14)

There can never be two religions in the Island of Arabia at the same time.

While this hadith reveals the fact that no other religion can prevail in the Island of Arab. It is just an Island that is supposed to be the only religion in Arab. On the other side, specification of this order with the Island of Arabia, unveils that it is not prohibited in other parts of the world. And it is quite logical since Arab land holds a special status. There can be many religions and their shrine all over the world except the Island of Arabia. It is inferred from the Hadiths that the non-Muslims can live and build shrines outside the Island of Arabia. The mentioning of Arabia depicts that it is allowed to construct such shrines outside of its premises.

The companions of the Holy Prophet (SAW) had never destroyed any shrine of the non-Muslims in the conquered cities. They allowed them to worship freely. It reveals that it is not a demand of Shariah to demolish already shrines of non-Muslims from the Muslim state. If it were so, the companions of the Holy Prophet (SAW) had razed them with no hesitation. Instead of it they provided the protection to the shrines of non-Muslims. Many agreements and guarantees provided by Hazrat Khalid bin Waleed to the people of Damascus (Dimashaq) and other non Muslim conquered residents bear witness to this fact.

Main argument to prohibit the construction of shrines for non-Muslims in a Muslim state is conditions of Umar (RA) (Also known as Shurot e Umeryah). According to it, the non-Muslims promised neither to construct a new shrine nor to maintain the older ones. But there are certain observations which must be kept in mind while discussing conditions of Umar (RA);

- a) These conditions were adopted by the non-Muslims themselves. It was not Hazrat Umar (RA) who imposed this condition according to the Shariah.
- b) Despite the conquest of Damascus, there are so many other conquests in the era of Hazrat Umar(RA). There is no single example where the Muslims have imposed this condition. Instead, the non-Muslims were assured of the protection of their shrines and holy places. As Hazrat Khalid bin Waleed did this agreement in the 15th Hijri in the era of Hazrat Umar (RA).

It is quite obvious that the companions of the Holy Prophet (SAW) and Hazrat Umar himself had not considered it an Islamic Order to

ban the construction of shrines for non-Muslims. Otherwise, they must have ordered to do so.

- c) Sayings of companions regarding any religious issue hold a very venerable and legal status for the Muslims. However it must be kept in mind that any decision made by any companion of the Holy Prophet (SAW) must not be considered universal and permanent. We can adopt other options according to the situation. If we have other evidences, we can even adopt a viewpoint opposite to that of a companion (Sahabi). The unanimous decision of the companions of the Holy Prophet (SAW) is one of the most accepted evidences. But we don't have any unanimous decision of the companions (Sahaba) regarding this issue.
- d) Some Muslim Jurists have claimed a unanimous decision (Ijma) that the non-Muslims are not allowed to construct their shrines in Muslim states. But they don't have any strong evidence for their claim. While there are so many great Muslim Jurists who have allowed it.

We have the evidence that the successors allowed to maintain the shrines in the conquered states.

Hazrat Khalid bin Waleed provided the guarantee the people of Anat. It was written in it,

"ولهزم أن يضربوا نواقيسهم في أى ساعة شاء وأمن ليل أو نهار الا في اوقات الصلوة وأن يخرجوا الصلبان في ايام عيدهم" (15)

They are allowed to beat their kettle drums (Naqoos) whenever they want except the times of prayer for Muslims and they can exhibit their cross on the eve of charismas.

Hazrat Khalid bin Waleed granted such agreement guarantee to the people of Quraiqisa too.

Qazi Abu Yousuf Writes about it,

"ثم مضى حتى اتي ببلاد قرقيسيا --- واعطاهم مثل ما اعطى اهل عانات أن لا يهدم بيعة ولا كنيسة وعلى أن يضربوا نواقيسهم الا في اوقات الصلوة ويخرجوا صلبانهم في يوم عيدهم فاعطاهم ذلك" (16)

Then he (Khalid bin Waleed) arrived to Quraiqisa and provided them the guarantee as provided to the people of Anat that they could beat their kettledrums anytime except that of prayer and they also could display their crusades at the charismas.

The same conduct is narrated about Hazrat Umar (RA). He provided the guarantee to the people of "Bait ul Muqaddas" that their crosses would not be damaged. The aggrement says:

It is the guarantee from the slave of Allah; Umar Ameer al Mominin for the people of Ilia that their properties, lives, shrines, crusades and all the people will not be damaged.⁽¹⁷⁾

- e) After having discussed the different opinions and stances of the Muslim scholars and jurists, we can say that there is no exact evidence in Shariah to prohibit their shrines in Muslim states. The difference in stance of the Jurists reveals that it is a matter directly concerned with the Muslim Ruler. The Muslim Ruler can allow to construct new shrines for non-Muslims as well as to maintain the old one. It is a matter that must be dealt according to the situation. It has never ordered to destroy the churches and shrines. It is described by the Holy Quran:

﴿ولو لادفع الله الناس بعضهم ببعض لهدمت صوامع وبيع﴾⁽¹⁸⁾

If Allah had not weakened the people through fights among them, the churches and shrines must have been destroyed.

This verse from the Holy Quran describes that secret behind fighting (Jihad) is to protect the shrines. Islam does not aim at destroying them. It is another matter that Islam doesn't accept the mastery of systems based upon shirk and kufr. But on the other side, Islam allows the non-Muslims to act upon their religions freely.

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