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Debate on Status of Existing Non-Muslim's Worship Places in Multi-faith Society

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Abstract:

Islamic Law (*Shariah*) has granted fundamental human rights to Muslims and non-Muslims and safeguards their life and property by providing equal social justice. The significant feature of *Shariah* is to provide non-Muslims the freedom to exercise their religion in an Islamic state. The paper discusses non-Muslim's worship places that are established in an Islamic society. The objective of this research is to remove misunderstandings created by International media on current issues against Islamic teachings, Muslim jurists debate on *Shariah* perspective regarding the status of construction or erection of worship places. This present paper divided the debate on three major issues which are addressed by the Muslim jurist in today's conflicting scenario. *Firstly*, Religious freedom to exercise non-Muslim's faith in an Islamic state, *secondly* rulings for non-Muslim's worship places on Islamic Lands, and *lastly* rebuilding and construction of non-Muslim's worship places in a multi-faith society. A

descriptive and analytical approach has been adopted for juristic opinions. The paper examines these debates by Muslim jurists of the Sunni school of thought and concludes that *Shariah* has granted non-Muslim's right to construct or upright their worship places in their majority ruler area. A Muslim ruler may protect worship places of non-muslims and on the circumstantial requirement, he authorized to convert these places where necessary under the principles of *Mashlaha Aama* defined by the principles of *Shariah*.

Keywords: *Islamic Teachings, Juristic Debates, Non-Muslim's Worship Places, Multi-Faith Society*

1. Introduction

Islam is the religion that spreads throughout the world based on its good socio-moral and ethical values. Liberty to practice religion is a fundamental human right that is granted by Islam in its true word and spirit. Islam is against forcing people to accept any religion because it is a matter of one's soul and heart. Allah Almighty stated in His revealed book

لَا إِكْرَاهَ فِي الدِّينِ¹

No force is allowed in the case of faith.

Seerah of Messenger of Allah (ﷺ) is a role model of higher quality of moral ethics and standards which is evident by human history. As Political Head of state of Madina, he granted non-Muslims religious liberty and granted them all rights as human beings without being discriminated against or differentiated in any way while living in an Islamic state². The state of Madina was considered an interfaith society. Messenger of Allah (ﷺ) granted basic rights to non-believers and they enjoyed complete freedom to practice their religious obligations according to their own religious rules and policies.³

2. Religious freedom granted to Non-Muslims

The religion of Islam preaches a message of peace for all humanity and is granted the right to worship according to one's wish. Allah Almighty commands not to violate the rights of other human beings amongst them right to freely practice a religion which is granted to non-Muslims while living in an Islamic society. Islam is against coercion in the case of religion.⁴

¹ The Quran (2:256).

² Muhammad ibn Jarir al- Tabari, *Tarikh-ul-Tabari*, (Leiden, 1964), 2482.

³ Muhammad-Mansha Tayyab and Yasir Farooq, "The places of worship of the Non-Muslims and their religious independence in an Islamic state: A review in the light of seerah", *UOCHJRS*, volume.02, (Jan-June 2019): 34 <https://doi.10.33195>.

⁴ The Noble Quran (2:256).

All Muslim Jurists unanimously agreed to allow the free practice of religion by non-Muslim in their worship places⁵. The question arises on non-Muslim religious practicing publically in a multicultural society? whether *Shariah* allows non-Muslims to practice their religious rituals outside their worship places freely in public in an Islamic state.

According to Hanafi jurists who allowed Non-Muslims to practice their religion freely in public if in that particular area Muslims are not populated and in the villages. Qadi Abu Yousaf narrated an instance regarding the protection of worship places of the Non-Muslims that the companion of Messenger of Allah (S.A.W), Syedna Khalid bin Waleed (r.a) provided a written pact to the people belonging to the region of *Annat* in which he guarantees the security of worship places of the non-Muslims. Syedna Khalid bin Waleed permitted liberty to non-Muslims to observe their faith similarly, Syedna Khalid bin Waleed also permitted non-Muslims to put on the cross sign in their religious festivals.⁶

On the other hand, Hanafi jurists prohibited non-Muslims to perform their religious duties and practices outside their worship places in an Islamic state because it challenge the sovereignty of the Islamic state.⁷ Hanafi jurists gave the justification of their stance by arguing that if non-Muslims worship freely in an Islamic state it would create socio-cultural and theological problems which are not appropriate in Islamic Culture. That is why jurists of the Hanafi School of thought forbidden it. On the other hand, the Hanafi jurists allowed Non-Muslims to practice their religion freely in the villages because it does not affect the autonomous status of Islamic Culture.⁸ According to Imam Abu Hanifa, non-Muslims must be in majority in any village, to protect their devotional places.⁹ Imam Kasani writes:

“Contracts and business deals of wine, pig, etc and wearing cross sign is allowed for the non-Muslim in those places where non-Muslims are in majority.”¹⁰

Hanafi jurists justify this opinion based on the (*Daleel*) evidence that rural communities play no vital or significant role in the cultural development of the community in a state as the majority of the residents in that specific area belong to non-Muslims living in villages they can exercise their religion publically. Non-Muslim population in the rural areas is in majority and they spend their life according to their traditions then it does affect the superiority of Islamic Culture and Muslims.¹¹

⁵Imam Muhammad bin Idress Al-Shafi, *Kitab-ul-Umm* (Dar ul- altaras al-arabi, 2012), volume:04, pg.127.

⁶Imam Qadhi Abu Yousuf, *kitab ul kharaj* (Iraq: Dar-ul-Haya publishers, 2018), 147.

⁷ Al Kasani, *Badai al Sanai fi Tarteeb al sharia* (Cairo: Dar al Hadith, 1996), vol. 7, p. 180.

⁸ Al Kasani, *Badai al Sanai*. vol 7, p. 181.

⁹Al Sarakshi, *Sharh kitab al siyar al-kabir*, (1917), vol 4, pg. 1533.

¹⁰. Ibid. p 218.

¹¹Ibid. Pg.1533.

Shafi jurists and Hanafi jurists have similar views regarding this matter. According to Shafi jurists, non-Muslims are only allowed to practice their religion freely in public if in that particular area non-Muslims are in majority. Imam Shafi has the opinion non-Muslims are allowed to worship freely in the way they like or which befits them in a condition that, if the land which is occupied by the Muslims belongs to non-Muslims and remained in the custody of non-Muslims and they pay a tool tax (*jizya*¹²) to the Islamic state.¹³ Many people considered *jizya* unjust for non-Muslims¹⁴. It is not any type of tax, which considered *dhimmi* underprivileged citizens but it is taken by the non-Muslims on the condition of living in an Islamic state, and after the payment of *jizya* they directly came under the protection of the Islamic state.¹⁵

Hambali jurists entirely prohibited non-Muslims to perform their religious duties in public in any Muslim state.¹⁶ Jurists of the Hambali school of thought give justification of their opinion by quoting the hadith of Prophet (ﷺ) in which he said:

لَا تَقُومُ السَّاعَةُ حَتَّى يَنْزَلَ فِيكُمْ ابْنُ مَرْيَمَ حَكَمًا مُقْسِطًا، فَيَكْسِرَ الصَّلِيبَ، وَيَقْتُلَ الْخَنَزِيرَ، وَيَضَعَ الْجُزْيَةَ، وَيُفِيضَ
الْمَالَ حَتَّى لَا يَقْبَلَهُ أَحَدٌ.¹⁷

Isa (A.S) will come as a head of state very soon and he will implement justice and he will split the cross sign and execute Pig and he will eliminate the toll tax that is given by non-Muslims.

Syedna Ayesha (رضي الله عنها); narrates that the Messenger of Allah said:

حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ، حَدَّثَنَا أَبِي، حَدَّثَنَا يَحْيَى، حَدَّثَنَا عِمْرَانُ بْنُ حِطَّانَ، عَنْ عَائِشَةَ، رَضِيَ اللَّهُ عَنْهَا أَنَّ رَسُولَ
اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ لَا يَتْرُكُ فِي بَيْتِهِ شَيْئًا فِيهِ تَصْلِيبٌ إِلَّا قَضَبَهُ.¹⁸

“Every cross sign is smashed by the Messenger, which is seen by him hanging in the house.” It is narrated that once the Messenger (ﷺ) saw a cross sign hanging in the neck of the companion Adi bin Khatim, on seeing, he said:

¹² Islamic state applies on non-Muslims who are obliged to pay *jizya* to the Muslim state and the money of the *jazia* is used to benefit the *dhimmi* living in an Islamic state. On paying the *jazia* tax non-Muslims are free from performing any military service for the defense of the country at the time of war.

¹³ Imam Al-Khatib al-Shirbini, *Mughni al muhtaj ila marifat al-maani al-faz sharh al-Minhaj* (Dar ur kuttab ul ilmiyyat, 1416), 1125.

¹⁴ Saleh Hussain al-Aayed, *Right of Non-Muslims in the Islamic world* (Dar Eshbelia publishers, 2002), 93.

¹⁵ Ziauddin Ahmad, *The concept of Jizyah in early Islam* (Islamic studies, 1975), vol. 2 p. 293.

¹⁶ Mansur ibn Younis ibn Idrees al-Bahuti, *Kashshaf al-qina an matn al-iqna* (Dar-ul-ilm publishers, 1968), p 76.

¹⁷ Sahih-al-Bukhari .Hadith. 656.

¹⁸ Sunan Abi Dawood, Hadith 4151.

حَدَّثَنَا الْحُسَيْنُ بْنُ يَزِيدَ الْكُوفِيُّ، حَدَّثَنَا عَبْدُ السَّلَامِ بْنُ حَرْبٍ، عَنْ غُطَيْفِ بْنِ أَعْيَنَ، عَنْ مُضْعَبِ بْنِ سَعْدٍ، عَنْ عَبْدِ اللَّهِ بْنِ حَاتِمٍ، قَالَ: أَتَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَفِي عُنُقِي صَلِيبٌ مِنْ ذَهَبٍ، فَقَالَ: يَا عَبْدِي، اطْرَحْ عَنْكَ هَذَا الْوَثْنَ.¹⁹

“It is narrated by Adi bin Hatim that I came to the Prophet (ﷺ) while I had a cross of gold around my neck. He said: 'O 'Adi! Remove this idol from yourself!'”.

From the above juristic debate, Qazi Abu Yousuf concludes that *Khalifa* ruler of the Islamic state is given authority that after examining the environment he permits or prohibits non-Muslims to worship freely by considering the causes and consequences. In case there exists no doubt of dispute between the Muslims and non-Muslims, Muslim rulers can allow non-Muslims to worship freely in an Islamic state.²⁰

3. Shariah injunctions for non-Muslim’s worship place on Islamic Land

All the jurists of Islam agree on the point that Muslim rulers should protect the basic rights of the Non-Muslims living in an Islamic state²¹ because in an Islamic state there is the sovereignty of Allah Almighty and non-Muslims comes under the category of Dar-ul-Islam. In that case, they are given protection by the rulings of the *Shariah*. It is to be noted that the Muslim jurist was not only restricted towards the theory but also focused on the implications of the Islamic rulings. It is evident in history that whenever Muslim jurists noted some injustice towards the Non-Muslims, they stood against the ruler of that time and reminded them about the rulings of Islam. Once Abbasid ruler Salih b. Ali b. Abdullah b. Abbas banished some *dhimmi* from the hill tracts of Lubnan because some of them had indulged themselves in subversive activities against the state, Imam Awza’i condemned the action of the ruler for his maltreatment of all the *dhimmi*.²²

Evidence in history provides that Al- Walid, in his reign, has changed the status of the church of John into the mosque. After Al-Walid; Umar bin Abdul Aziz (r.a) came into power. Christians came to Umar bin Abdul Aziz and complained about the injustice of khalifa Al-

¹⁹ Jamia al-Tirmizi. Hadith3095.

²⁰Imam Qadhi Abu Yousuf, *kitab ul kharaj* (Iraq: Dar-ul-Haya publishers, 2018), p.147.

²¹ Imam ibi Abdullah Muhammad bin Idress Al-Shafi, *Kitab-ul-Umm* (Dar ul- altaras al-arabi, 2012), vol 4, p 128.

²² Al-Baladhuri, *Futuh al- Buldan*, (2019), 222.

Walid. On hearing that Umar bin Abdul Aziz ordered his agent to give back their worship place to them.²³

According to Islamic law, it is apparent that the Islamic rulings concerning the worship places of non-Muslims are associated with the region on which the worship places of non-Muslims are established. The part of the land which is linked with the Muslims is established either by the means of conquering it or Muslims themselves established it. The area which is occupied is either conquered by the way of confrontation or the enemy accepted his defeat and surrender to the Islamic state. The detail and rulings of these areas are as follow:

3.1. Worship places under Conquered Land by the Muslim Ruler

The land whose control is gained by the Muslim army through war or by fighting with the enemy,²⁴ *Shariah's* ruling regarding worship places of non-Muslims must not be destroyed after conquering that area. Islamic history is full of evidence that the Messenger of Allah (S.A.W) advised his companions to safeguard places of worship belonging to non-Muslims. On one occasion, the second caliph of Islam Umar bin Khattab (r.a.) gave a written verdict to his army in which the following instructions were stated:

“The worship place belongs to non-Muslim must not be destroyed or damaged”.²⁵

It is very important to examine juristic views regarding the existing devotional places in the land which is occupied by the Muslim ruler. On this issue there exist two contradicting views of jurists. Imam Abu Hanifa in this regard left the decision on the ruler of that area. Muslim ruler has the authority in an occupied area that he protects devotional places of the non-Muslims when they are paying *Jizya* and become a peaceful citizen of the Islamic state²⁶. Despite this fact, the Muslim ruler of an occupied state is also given the authority to convert devotional places of the non-Muslim into mosques or libraries, or any other building²⁷.

3.2. A peace agreement between the Islamic state and non-Muslims

1. Islamic ruling regarding places of worship belonging to Non-Muslims who concluded a peace agreement with the Muslims²⁸ is not allowed to destroy or harm the place of worship of Non-Muslims which were constructed by the Non-Muslims before concluding a peace

²³ Abdullatif Hussain, *Tolerance: The west and Muslims* (Dar ibn-Al-Jozy publishers, 1999), 93.

²⁴ Ibn Qayyim-al-Jawziyyah, *Ahkam ahl al-Dhimma*, vol 2, p. 712.

²⁵ Al Kasani, *Badai al Sanai fi Tarteeb al sharia* (Cairo: Dar al Hadith, 1996), vol7, p. 175.

²⁶ “women, children, monks, unemployed, blind, sick and crippled are exempted from the payment of jizya. The categories of persons mentioned are not only exempted from jizya but were also given stipends from the state treasury”. Ziauddin Ahmad, *The Concept of Jizyah in Early Islam*, Islamic Studies, Islamabad, Vol:14, issue.4 1975, p216.

²⁷ Akman, Mehmet. Pg 134

²⁸ Muhammad-Mansha Tayyab and Yasir Farooq, “*The places of worship of the Non-Muslims and their religious independence in an Islamic state: A review in the light of seerah*”, UOCHJRS, vol. 2, (Jan-June 2019): p 39

agreement with Muslims. Justified his stance by an instance in history that before Islam in the state of *Yathrib* dominated by Jews had a place that serves as a worship place as well as a learning center for children of Jews. After the establishment of Islam as an ultimate religion, Messenger ((ﷺ)) of Islam ordered not to harm that place of worship.²⁹

2. The area was previously dominated by non-Muslims and there does not exist any mosque or any place of worship for Muslims to perform their religious rituals, in this situation Muslim Jurists allow Muslims to perform their religious obligation in the place of worship belonging to Non-Muslims.³⁰ History is evident of the fact that in many areas like Damascus, Humus, and Halap, etc, Muslims and Non-Muslims performed their rituals in one place of worship collectively for some time. Non-Muslims are obliged according to the verdict of the peace pact to hand over half or one-fourth of their place of worship to the Muslims.³¹
3. Building of new worship places of Non-Muslims or restoring existing worship places would depend upon the verdict of the peace agreement that is both parties agreed upon or stated in a peace agreement. If the matter concerning the building of worship places for non-Muslims is not addressed in the peace pact, then it would depend upon the status of conquered land which is conquered by way of war or by concluding a peace pact. Likewise, if the matter about building or restoring the worship places of the Non-Muslims is declared in the peace pact then it would be implemented as per rulings of the peace pact. However, if in a peace treaty between Muslims and Non-Muslims, subjugated land belongs to the Non-Muslims and they are obliged to pay the land tax (*al-kharaj*) to the Islamic state in such a scenario, Non-Muslims are permitted to build new worship places or repair existing places of worship in that particular area. Despite this, if this land came under the direct control of the Muslims then Non-Muslims are required to pay tax (*jizya*), and their protection is the responsibility of Muslim Khalifa.

Jurist belonging to Shafi school of thought writes:

“If a peace agreement is a sign between the Muslims and the Non-Muslims and the Non-Muslims demand their land to remain with them and they also agree to pay the *jizya* tax to the Islamic state. So if the Muslims accept their demand then Non-Muslims are allowed to build their new temples in that area as well as, to worship freely according to their religious

²⁹Dr. Muhammad Hamidullah, Introduction to Islam (peace publications, 2010), Pg. 125.

³⁰“al-Mawsua al-Fiqhiyya al-Kuwaitiyye Ahl al-Dhimma”, vol. 7, p. 130..

³¹ Dr. Muhsin Kar, “Churches and synagogues in classical Islamic Law: Debate on construction, continuance and Repair”, Necmettin Erbakan, (May 2013): 356.

beliefs.³²Pig, wine, and all other things which are considered legal and lawful in the religion of Non-Muslims will be considered legal and lawful in that land for the Non-Muslims.’³³

3.3. Worship places on New Regions developed by Muslim Emperor

Muslim history is evident that the Muslim emperor developed many new cities and regions. It was practiced by Muslims to set up new cities and build the Grand mosque purchased from residents or its responsibility of the Islamic government to provide land for the establishment of the mosque on land purchased.³⁴

Islamic ruling on the subject of worship places of non-Muslim, in this regard, is forbidden to build new places of worship there. Therefore, Muslim Jurists do not allow Muslim rulers to grant any land belonging to the Muslims to the Non-Muslims which aid them in building their worship places, similarly, no pact is permissible in this type of case and it would be considered null and void. It is obligatory for every Muslim to safeguard their religion and to protect their religious sovereignty.³⁵

Ibn-e-Qasim Malaki a Malaki jurist explains that the ruler or sovereign of the state has authority to permit non-Muslims to erect their devotional places in the Islamic state.³⁶

An Iraqi jurist Dr. Abdul Karim Zaidan has concluded the debate of Muslim jurists in his monument work, where he argues that the only reason behind the prevention for the Non-Muslims to worship freely according to their religion by the jurists of Islam is due to the doubt of conflict and fear of occurring of unpleasant situation between the Muslims and the Non-Muslims.³⁷The prohibition regarding worshipping outside the temples by the Non-Muslims in an Islamic state is not a law or rule which is commanded by Allah Almighty to act upon it. It is prohibited by the jurists for the avoidance of unpleasant situations between Muslims and Non-Muslims. If it is a command of Allah Almighty then jurists never allow Non-Muslims to worship freely in the villages. This command of Allah Almighty would be implacable throughout the whole Islamic society whether it is the city or village. The four rightly guided caliphs of Islam tolerated Non-Muslims to generously follow their belief and they put on a cross sign in the area occupied by the Muslims.³⁸

³²Imam Al-Khatib al-Shirbini, *Mughni al muhtaj ila marifat al-maani alfaz sharh al-Minhaj* (Dar ur kuttab ul ilmiyyat, 1416), p.1125.

³³ Khatib ul Sharbani. *Mughni ul Muhtaj*..P. 1126.

³⁴ Al Sarakshi, *Sharh kitab al siyar al-kabir*, (1917), vol 4, p1533.

³⁵Dr. Muhsin Kar, “*Churches and synagogues in classical Islamic Law: Debate on construction, continuance and Repair*”, Necmettin Erbakan, (May 2013): 356.

³⁶Ibn Said Sahnun, *Al-Mudawwana al-Kubra li-imam Malik ibn Anas* (Dar Sader, 1999), volume.03, pg. 436.

³⁷Abdul Karim Zaidan, *Ahkam uz zamiyeen wal mustaaneen* (Al Qadas publishers, 1982),p. 86.

³⁸Ibid. pg. 88.

The most important matter concerning this debate is to determine the status and position of the worship places of Non-Muslims. This issue is fully addressed by Muslims jurists and they came forward to solve this question by the way of observing the life of Messenger of Allah (S.A.W) and by using the principle of *Maslaha Ammah* (public interest).³⁹

4. Rebuilding and Construction of non-Muslim's Worship places in a multi-faith society

Muslim history proves that non-muslims are permitted to construct their churches and synagogues in their cities other than the cities established by Muslim rulers. They are also permitted to construct places of their worship in cities where non-muslims are in majority⁴⁰. The presence of non-Muslim's worship places in early Islamic state indicates *Ijma'* of Muslim jurists that non-Muslims may have places of their worship in an Islamic state and that they must be protected by the Muslim ruler⁴¹ There is, however, the consensus amongst Muslim jurists on this issue is that non-Muslims cannot construct their worship places in *Haramain* (Makkah and Madina).⁴²

Muslim jurists consider Muslims occupied areas and constructed cities in the same category discussed above. The jurists categorize them as cities belonging to the Islamic State.⁴³ The most important issue of the Non-Muslims while living in a multi-faith society is the restoration or rebuilding of their worship places.

4.1. Juristic debate on the construction of worship place

Many jurists are against the restoration of the worship places of the Non-Muslims in a region which is occupied by the Muslims by warfare⁴⁴ and which is set up by Muslims rulers. The jurists prohibit non-Muslims to construct their worship places. The debate of Muslim jurists concerning this issue is as follow:

Al Kamal ibn al Humam al Hanafi a Hanafi jurist, did not allow restoration of the worship places of the non-Muslims. According to him, the reconstructions of worship places are

³⁹ *al-Mawsua al-Fiqhiyya al-Kuwaitiyye* : "Ahl al-Dhimma", vol. 7, p. 128

⁴⁰ Al Kasani, , vol 7, p. 180. Jurists give status to *Mustamin* as those non-muslims who not come under direct control of the Islamic state by the way of war or any peace agreement but they are those who came to the Islamic state for the purpose of trade , migrated to that area or came for any other reason and used to live there

⁴¹ Al-Kasani, *Badai al Sanai fi Tarteeb al sharia* (Cairo: Dar al Hadith, 1996). vol:7, p.149 Al-Mughni, vol:8, p527

⁴² Al-Tabari, *Ikhtilaf al-Fuqaha*, Leiden 1933, P. 236

⁴³. Al-Kasani, op. cit vol:7p.114

⁴⁴ Imam ibn Qayyim also used the word *Ahl-ul Ghanoot* for those people who fight with the Muslims and after defeated by the Muslims came under the direct control of the Islamic state.

forbidden and are considered the act, which is not tolerated in Islam in the territory, which is conquered by the Muslims.⁴⁵

Correspondingly Imam Taymiyyah “Non-Muslims living in the Muslim’s occupied region are prohibited to reconstruct their devotional places in that area. All the Muslim jurists agree with that stance”.⁴⁶

Shafi jurist Imam Sabqi has also opinion against the restoration of the worship places of Non-Muslims in the areas which are occupied by the Muslims even if there exists no devotional place of them or even their temples were pull down by the Muslims while occupying that territory.⁴⁷

5. Evidence (Dalaail) of the Juristic opinions

Following are the evidence provided by the Muslim Jurists in this regard:

1. Muslim jurists put forward the pact which was concluded between Syedna Umar ibn Khattab (r.a) and between Christians belonging to the region of Syria. This pact is found in history in the following words:

“This pact is put forward by the Umar bin Khattab. This pact is concluded between us so that the life, belongings, and assets of Muslims must be safe and they should live with peace and calmness. Despite this fact, Muslims will not allow non-Muslims to upright their temples in the land belonging to Muslims or around the cities of Muslims. Muslims will also not allow non-Muslims to recreate their destroyed places of worship”.⁴⁸

Juristic debates and opinions given by the jurists prohibit the re-construction of the worship places of non-Muslims in an Islamic state. Despite this fact, those temples of non-Muslims which are destroyed or damaged, are also not allowed to repair it.

2. Muslim jurists gave justification of their stance by narrating the sayings Syedna Abdullah bin Abbas (r.a.) was once inquired about the fact whether non-Muslims are permitted to construct their worship places in the Muslim occupied region. On hearing this, Syedna Abdullah bin Abbas (r.a.) replied that: *It is not permitted for the Non-Muslims to build any object in the Muslim recognized land.*⁴⁹

Muslim jurists argue by giving their opinion that Islamic territory belongs to the Muslims and non-Muslims are not permitted to construct anything that may create hindrance in

⁴⁵Al Kamal ibn al Humam al hanafi l-Human, *Fath al Qadhir* (2016), vol 6, p. 59.

⁴⁶Ibn Taymniya al-Harrani, *Majmu al fatawa al-kubra* Majmu-al-Mulk fahdad, (1971), vol 28, p 64.

⁴⁷Taqi-ud-din, *Fatawa-as-Sabqi*(Dar-ul-Maharuf), vol 2, p.411. Only Shafi jurists says those buildings have to be converted and used for other purposes.

⁴⁸Al Sarakshi, *Sharh kitab al siyar al-kabir*, (1917), vol 4, p. 1533.

⁴⁹ Ibid.pg.1533.

establishing *Shariah* injunctions.⁵⁰ According to the evidence, companions of Messenger had not permitted non-Muslims to upright their places of devotion in Muslim territories like Damascus, Hums, etc. On the other hand, previously existed places of devotion of the non-Muslims were protected by the Muslims.⁵¹

6. Conclusion

Non-Muslims in an Islamic state can freely profess their belief system according to the injunctions of the Quran and *Seerah* of Prophet Muhammad and his companions and importance have been given to the rights of freedom of worship. It is forbidden in *Shariah* to demolish non-Muslims' places of worship. Early Islamic state implies *Ijma* of Muslim jurists to the effect that non-Muslims may have worship in the Islamic state which is protected by Muslim ruler from encroachment by others. The point of conflict arises on constructing new worship places in Muslim majority lands. Some jurists hold the opinion that they can construct or rebuild in majority areas while living in ruler area of the State. Hambali jurists condemn that cannot construct the places of their worship. After clearly interpreting the viewpoint of different schools of thought one reaches the point that Non-Muslims must worship inside their worship places and they must avoid worship outside their worship places due to the doubt of conflict and fear of unpleasant situations between Muslims and non-Muslims. Muslim jurists on the status of existing worship or devotional centers of non-Muslims in an Islamic state have different opinions regarding its function. *Firstly*, the land that is conquered by way of war it is concluded Muslim ruler is allowed to convert existing worship place of non-Muslims into the mosque or any other building like library or museum. *Secondly*, if non-Muslims surrender towards the Islamic state and lives as zimmi and pay jizya to the Islamic State, under such circumstances Muslim ruler is obliged to protect their life, honor, property, and place of worship but the rulers are not allowed to build or renovate non-Muslim's devotional places. Therefore in safeguarding the rights of non-Muslims, *Shariah* has given non-Muslims liberty to exercise their religion and enjoy their religious rights and liberties under the Islamic state.



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⁵⁰Al Sarakshi, *Sharh kitab al siyar al-kabir*, vol 4, p. 1533.

⁵¹Muhammad Hamidullah, *Majma-al-Wasaiq-al-siyasiya*, p 456-8.