

RELIGIOUS FREEDOM AND THE BUILDING OF CHURCHES IN ARAB COUNTRIES

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Abstract: Religious freedom is a key issue linked to the integration of minorities not merely in Europe, but also in the Middle East. This article examines the conduct of Islam with churches in parts of the Middle East in two unique eras; the first era takes us back in time to the offspring of Islam in the 7th century AD, when the Levant and Egypt were under the control of the Roman-Byzantine Empire and Christianity represented the dominant religion, while the second era represents the contemporary period exploring the factual and legal situation on building churches in some Muslim Middle Eastern countries with emphasis on Jordan, being the baptism site of Jesus Christ and having a significant Christian minority.

Keywords: churches; Sharia; fatwa; religious freedom; tolerance

Klíčová slova: cirkve; sharia; fatwa; náboženská svoboda; tolerance

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1. INTRODUCTION

Religious freedom is one of the most important human rights principles with its practical implementation having a crucial impact on the integration of religious communities and their members. Religious freedom covers a broad range of individual as well as collective rights and among these, the right to build and use sacral buildings represents a crucially important right.

Sacral buildings are the focal point of every religion due to their role of linking subjects with divinity. The importance of sacral buildings cannot be confined to their religious character; they also perform significant social, cultural and political roles beyond their spiritual function. The basic human instinct to worship some form of higher power in a sacred place predates any known civilization or existing religion as evidenced by prehistoric cave paintings demonstrating the presence of religion,¹ clergy (shamanism), rituals and sacred sites.² *Antonetti* further explains that “as demonstrated in sociology, humans centralized religion by building houses of worship in the center of their communities, making them prominent. There is an area in our brain that is receptive to spirit presence. This opens up to us the presence of God, with its houses of worship and

¹ ANTONETTI, F. M.: *The Enigma of God. A Revelation to Man*. Bloomington, 2012, p. 52.

² WINZELER, R. L.: *Anthropology and Religion. What We Know, Think, and Question*. Plymouth, 2008, p. 58–60.

rectories, etc. The point being, God, is a part of our brain and mind. How we work out this presence is our individual religion.”³

A religion without its special place of worship will most probably face extinction. Many religions established efficient mechanisms and instruments to fund the construction, maintenance and safeguarding of their sacral buildings. The success of these mechanisms was guaranteed when they were considered as forms of worship and offerings by believers to divinity in hope and aspiration for redemption, deliverance and spiritual reward. We also shouldn't forget that offenders of their sanctity are bound to be condemned with eternal damnation.

As far as religious freedom that has been enshrined in most national constitutions and some major international human rights treaties⁴ is concerned, we have to distinguish between an internal aspect, which – on the one hand – is related to the freedom of an individual to freely embrace a belief, and – on the other hand – an external aspect related to the manifestation of that belief. The United Nations' Human Rights Committee explained that “the concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest.”⁵

The main causes of destruction of sacral buildings can be attributed to natural disasters and human intervention. For example, the rise of a new religion in the country will certainly accelerate the demise of the old one including its sacral buildings. As a customary practice of all universal and expanding religions, their first priority consists in replacing previous religions and beliefs with the new ones. This frequently means replacing buildings of worship of old pagan temples with churches,⁶ and then replacing churches with mosques⁷ and vice versa.⁸ Remarkably, in the 8th century Pope Gregory the Great advised Saint Augustine of Canterbury not to destroy the temples of the idols, but ritually cleanse them because the people will gather more familiarly in places where they had been customarily going to.⁹ Notably, buildings were not the only things to be swapped but also it was very common that new religions would swap old festivities and holidays with new ones, such as what Christianity did with pagan holidays, to serve the same purpose of replacing old temples with new churches.¹⁰

Some new religions took another more lenient and less aggressive approach to destroying or replacing places of worship through levying high taxes on the old religion believers and property taxes on their sacral buildings to encourage them to eventually

³ ANTONETTI, F. M.: *The Enigma of God. A Revelation to Man*. Bloomington, 2012, p. 52.

⁴ See for example: Article 18 of the International Covenant on Civil and Political Rights of 1966, Article 9 of European Convention on Human Rights.

⁵ See more: General Comment no. 22 adopted by UN Human Rights Committee (HRC), CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), 30 July 1993, CCPR/C/21/Rev.1/Add.4.

⁶ E.g. The Pantheon of Rome converted to a Roman Catholic church dedicated to St. Mary and the Martyrs.

⁷ E.g. Hagia Sophia mosque that used to be an Orthodox patriarchal basilica but since 1935 converted into a museum.

⁸ E.g. The Great Mosque of Córdoba was turned into the Cathedral of Our Lady of the Assumption.

⁹ WALTER, P.: *Christian Mythology: Revelations of Pagan Origins*. Rochester, 2014, p. viii.

¹⁰ WALTER, P.: *Christian Mythology: Revelations of Pagan Origins*. Rochester, 2014, p. 2.

abandon their religion in favor of the new. Both peaceful and forceful phasing out of one religion for another has been happening throughout human history and many believers of the old religion found themselves under immense persecution and injustice that would lead them ultimately either to take on the new religion or to abandon their homes and move to more tolerant destinations, which in turn adversely affected most of their human rights in one single act. Therefore, the notion of freedom of religion primarily envisages the right of an individual or group of individuals to freely practice their religion while maintaining their sacred buildings in their habitual place of existence without any intervention or restriction enforced by the dominant religion.

This article focuses primarily on the factual and legal situation of Christian sacral buildings in the Arab countries¹¹ of the Middle East; this topic has been selected due to the fact that almost all Jews from Arab countries permanently immigrated to the State of Israel that was created in 1948, hence, building Jewish places of worship was never an issue of public attention in these countries. Moreover, other religions like Buddhism and Hinduism are not native in this region but were only brought along as Asian workers were arriving to the Arab Gulf countries. Nonetheless, many countries like Bahrain, Oman, Yemen and United Arab Emirates allowed to construct temples which were to serve the followers of these religions.¹²

Before exploring the main purpose of this article, a brief recount of some historical events of relevance should be presented as an adequate prelude to the subject at hand and to illustrate the early practices of Islam with the sacral buildings right at the beginning of Muslim conquests.

2. THE HISTORY OF ISLAM AND SACRAL BUILDINGS

In 610 AD, Prophet Mohammed received the message of Islam in Mecca.¹³ At that time, the majority of Arabs in the Arabian Peninsula were pagans (idolaters),¹⁴ having Mecca as their holiest and most sacred religious destination. Each prominent Arab tribe had its own worshipping idol (statue) erected in Mecca, and at one time over 300 idols were spread around Kaaba at the center of Mecca.¹⁵ These were all destroyed in 630 A.D. when Mecca fell under the control of the Muslim army which terminated the era of paganism in the Arabian Peninsula.¹⁶ Other religions were existing as well at that time, yet they were not that wide-spread – such as Hanifs, Zoroastrianism, Christianity and Judaism.¹⁷

¹¹ Officially, Arab countries only recognize Abrahamic religions.

¹² Hindu temples of Gulf countries: more exist than you imagined. *Catchnews* [online], 17. 8. 2015, available at: <http://www.catchnews.com/world-news/west-asia-temples-hindu-1439789867.html>.

¹³ DONNER, F. M.: Muhammad and the Caliphate. In ESPOSITO, J. (ed.): *The Oxford History of Islam*. New York, 2000, p. 6.

¹⁴ ARMSTRONG, K.: *Islam. A Short History*. New York, 2002, p. 3.

¹⁵ NUTTING, A.: *The Arabs. A Narrative History from Mohammed to the Present*. New York, 1965, p. 27.

¹⁶ DONNER, F. M.: Muhammad and the Caliphate. In ESPOSITO, J. (ed.): *The Oxford History of Islam*. New York, 2000, p. 10.

¹⁷ FYZEE, A. A. A. (ed.): *Outlines of Muhammadan Law*. New Delhi, 1999, p. 11, 12.

After establishing itself as the prominent religion in the Arabian Peninsula; Islam started spreading into the surrounding areas.¹⁸ Around 634 A.D, Muslim armies moved up north to the Levant and Egypt, which were under the rule of the Roman-Byzantine Empire; and northeast to Mesopotamia which was under the control of the Sasanian (Neo-Persian) Empire. Christianity was the predominant religion in the Levant and Egypt, while Zoroastrianism was the dominant religion in the Sasanian Empire.¹⁹

Under the Quranic mandate, the Muslim armies were obliged not to trespass the limits stated in the mandate: “fight in the way of God against those who fight you, but transgress not the limits. Truly, God does not love the transgressors.”²⁰ These limits related to the prohibition of killing women, children and monks, destroying cities, killing animals, cutting down trees. In light of this, the Muslim Caliphs commanded the marching armies to keep these limits at all costs.²¹

Within a period of a few years after the campaign started, Muslim armies defeated both empires, dominating the entire area of the Levant, Egypt, Mesopotamia and most parts of the Sasanian Empire.²²

The two most crucial events that took place during Islam’s expansion to the Levant and which bear relevance to our subject were the surrender of Jerusalem and the conquest of Egypt. These issues are relevant because they portray the early practice of Islamic law “Sharia” right during the advent of Islam – this contrasts the blatant violations committed by radical Islamic groups that portray themselves as implementing the true Islamic Sharia to justify the horrors and atrocities they have been committing against Christians in Syria and Iraq throughout recent years.

The first major event took place in 637 AD, where, after the Muslim army had been sieging the city of Jerusalem for six months, Sophronius, the Patriarch of Jerusalem and representative of the Roman-Byzantine Empire, offered to surrender the city peacefully under the condition that the Muslim Caliph Umar ibn al-Khattab would accept the surrender in person, which he did.²³ Upon accepting the surrender, Caliph Umar granted the requested assurances regarding the safety of Christians and their churches, which were drafted in a document called “al-‘Uhda al-‘Umariyya”. There is another similar yet more detailed document on the same subject. This document is called “Pact of Umar”. It is more general and directed to all Christians in the Levant. These two documents served as the canon throughout the Islamic ages to regulate the relationship between Muslims and non-Muslims. They also provided a practical guide to the future Muslim rulers with regards to the freedom of religion and safety of churches from being a Hered or destroyed as it has already been enshrined in Quran, the holy book of Islam. Freedom of religion was first put into practice by Prophet Mohammed in the Pact of Najran where

¹⁸ ARMSTRONG, K.: *Islam. A Short History*. New York, 2002, p. 21.

¹⁹ DONNER, F. M.: Muhammad and the Caliphate. In ESPOSITO, J. (ed.): *The Oxford History of Islam*. New York, 2000, p. 1.

²⁰ Holy Quran, verse 2:190 Surat al-Baqara.

²¹ DAKAKE, D.: The Myth of a Militant Islam. In LUMBARD, J. E. B. (ed.): *Islam, Fundamentalism, and the Betrayal of Tradition. Essays by Western Muslim Scholars*. Bloomington, 2004, p. 10.

²² MIKHAIL, M. S. A.: *From Byzantine to Islamic Egypt. Religion, Identity and Politics after the Arab Conquest*. London, 2014, p. 1.

²³ NUTTING, A.: *The Arabs. A Narrative History from Mohammed to the Present*. New York, 1965, p. 73.

the Christian communities in Najran in southern Arabia were guaranteed the security for themselves, for their religion, lands, possessions and the welfare and independence of their churches.²⁴ Similar pacts were set up by Muslim war commanders in major cities in Syria and Palestine.²⁵

A remarkable event happened during the surrender of Jerusalem, when “the Caliph himself came to Jerusalem and met with the patriarch at the Church of the Holy Sepulchre. Sophronius invited Umar to pray there, but Umar declined, fearing to endanger the Church’s status as a Christian temple”.²⁶ In a sense, Caliph Umar feared that his prayer would have been construed later in history as a prelude to converting this church into a mosque by his successors. Since the Muslim conquest of Jerusalem and up to this date of the Church of the Holy Sepulchre still stands as it did before Islam.

During his reign, Caliph Umar decreed that all conquering Arabs were prohibited from owning land outside the borders of the Arabian Peninsula fearing the expected injustice of local people who would be forced to sell under duress. Consequently, protecting the properties of all inhabitants without regard to their creeds²⁷ was promoted.

The second major event took place upon the conquest of Egypt in 641 AD.²⁸ Before the conquest, Egypt was suffering chaotic and turbulent times at the height of the religious and political turmoil between Monophysite and Chalcedonian Churches.²⁹ As the Roman-Byzantine Empire was the protector of the Chalcedonian Church, Coptic Church’s monophysite beliefs rendered it as an enemy of the Empire. Consequently, Coptic churches were burnt and destroyed, prosecution and torture of Coptic clergy and an all-out war against the followers of Monophysite churches spread throughout Egypt. This prosecution was led by the newly appointed Archbishop of Alexandria Cyrus by Emperor Heraclius.³⁰

The conquest of Egypt was led by Amr ibn al-’As, commander of the Islamic army who became the governor of Egypt³¹ later on. He is highly accredited by the Coptic Church in Egypt for his services to this Church. The significance of his work in reinstating the Coptic clergy and rebuilding their churches can be amply summarized with the following extract from the book “The Great Arab Conquests” by Hugh Kennedy: “Cyrus the Roman governor had expelled the Coptic patriarch Benjamin into exile. When Amr occupied Alexandria, a Coptic nobleman (duqs) called Sanutius persuaded him to send out a proclamation of safe conduct for Benjamin and an invitation to return

²⁴ DAKAKE, D.: The Myth of a Militant Islam. In LUMBARD, J. E. B. (ed.): *Islam, Fundamentalism, and the Betrayal of Tradition. Essays by Western Muslim Scholars*. Bloomington, 2004, p. 1.

²⁵ DAKAKE, D.: The Myth of a Militant Islam. In LUMBARD, J. E. B. (ed.): *Islam, Fundamentalism, and the Betrayal of Tradition. Essays by Western Muslim Scholars*. Bloomington, 2004, p. 17–18.

²⁶ RUNCIMAN, S.: *A History of the Crusades. Volume I. The First Crusade and the Foundations of the Kingdom of Jerusalem*. Cambridge, 1987, p. 3–4. See also: FORTESCUE, A.: *The Orthodox Eastern Church*. Piscataway, 2001, p. 28.

²⁷ NUTTING, A.: *The Arabs. A Narrative History from Mohammed to the Present*. New York, 1965, p. 87.

²⁸ MCGREGOR, A.: *A Military History of Modern Egypt. From the Ottoman Conquest to the Ramadan War*. London, 2006, p. 12.

²⁹ NUTTING, A.: *The Arabs. A Narrative History from Mohammed to the Present*. New York, 1965, p. 91.

³⁰ BUTLER, A. J. – FRASER, P. M. (ed.): *The Arab Conquest of Egypt and the Last Thirty Years of Roman Dominion*. Oxford, 1978, p. 156.

³¹ MCGREGOR, A.: *A Military History of Modern Egypt. From the Ottoman Conquest to the Ramadan War*. London, 2006, p. 12.

to Alexandria. When he arrived, after thirteen years in concealment, Amr treated him with respect. He was then instructed by the governor to resume control over the Coptic Church. He arranged for the restoration of the monasteries in the Wadi Natrun that had been ruined by the Chalcedonian Christians, which still exists as a functioning monastery in the present day.”³²

Moreover, “to these Copts, as the Jacobite Christians of Egypt are called, the Muhammadan conquest brought a freedom of religious life such they had not been enjoying for a century. On payment of the tribute, ’Amr left them in undisputed possession of their churches and guaranteed to them autonomy in all ecclesiastical matter (...) he laid his hands on none of the property of the churches and committed no act of spoliation or pillage.”³³ It should be noted that the tribute or *Jiziah* is an Islamic taxation system which was mainly inspired by the well-recognized old Middle-Eastern poll tax. Both Roman and Persian Empires applied a similar poll tax system well before the advent Islam.³⁴

These two examples of Jerusalem and Egypt portray the early practices of Islam during the earliest days of prominence. Tolerance, coexistence and peace would be the main characteristics of Islam. In essence, “what can be said rather definitely is that the Muslim forces, in carrying out the early jihad, did act in accordance with the limits established by the Qur’an and hadith. We know this from the examination of the accounts presented in various Islamic histories. In these accounts, there is clear evidence of the importance Muslims attached to the idea of no compulsion in religion, as well as to the preservation of the places of worship of the People of the Book.”³⁵

Undoubtedly, it is evident that many Muslim rulers and conquerors – both in past times and nowadays – violated the good practice of Sharia laid down in early times, probably the most obvious example was the transformation of many churches into mosques after the Ottoman Muslim conquest of Constantinople in 1453 AD. Probably the most prominent example is that the Eastern Orthodox Cathedral and seat of the Patriarch of Constantinople was transformed into a mosque.³⁶

3. THE CONFLICTING FATWAS ON BUILDING CHURCHES

Before addressing the legal situation of building churches in a selection of Arab countries, we should first examine this situation from a religious point of view which is called “fatwa”. The fatwa “refers to a clarification of an ambiguous judicial

³² KENNEDY, H.: *The Great Arab Conquests. How the spread of Islam changed the world we live in*. Philadelphia, 2007, p. 164.

³³ ARNOLD, T. W.: *The Preaching of Islam. A History of the Propagation of the Muslim Faith*. London, 1913, p. 83.

³⁴ MORGAN, R.: *History of the Coptic Orthodox People and the Church of Egypt*. Victoria, 2016, p. 159.

³⁵ DAKAKE, D.: The Myth of a Militant Islam. In LUMBARD, J. E. B. (ed.): *Islam, Fundamentalism, and the Betrayal of Tradition. Essays by Western Muslim Scholars*. Bloomington, 2004, p. 17.

³⁶ KIRIMTAYIF, S.: *Converted Byzantine Churches in Istanbul. Their Transformation into Mosques and Masjids*. Istanbul, 2001, p. 6.

issue or an opinion by a *mufti*, a jurist trained in Islamic law, in response to a query posed by a judge or a private inquirer. It is not a binding judgment or verdict.”³⁷

Fatwas play a pivotal role in the Muslims’ daily lives as they are looking continuously for religious guidance to accommodate themselves to the never ending social, economic, cultural and scientific advances. “Since the time of the Prophet, fatwas have been the vehicle by which Muslims can seek legal direction on matters of concern, whether profound or mundane. In giving guidance on what is permitted (halal) and what is forbidden (haram).”³⁸

Islamic jurisprudence classifies the actions of Muslims, whether religious in nature or not, to fall under five different categories;³⁹ *Wajib* i.e. mandatory (they are actions that are rewarded if done and punishable if not done); *Mustahab* i.e. preferable (actions rewarded if done and not punishable if not); *Mubah* i.e. permissible (actions that carry no reward nor punishment); *Makruh* i.e. not preferable (actions that are not punished if done but are rewarded if not done); and finally, *Haram* i.e. forbidden (actions that are punished if done but are rewarded if not done). In other words, when a query is put forward before an Islamic scholar; the answer would have to be whether this action is ‘*Wajib, Mustahab, Mubah, Makruh* or *Haram*’ and explain the grounds for this conclusion offering evidence from Sharia sources. Accordingly, “the general public always needs Islamic scholars to clarify the Islamic position on various issues by determining their proper categorization”.⁴⁰

Though fatwa is generally a non-binding legal opinion or ruling given by a recognized Islamic legal specialist, however, “(...) a small number of countries do give fatwas legal force, either by the government granting legal status to fatwas issued by state muftis, as happens in Saudi Arabia, or by sanctioning the enforcement of fatwas that are published and gazetted, as occurs in Malaysia. In the majority of Islamic countries, as in the non-Muslim ones, compliance with a fatwa is voluntary.”⁴¹

Fatwas can differ from one to another or even be contradictory⁴² depending on the issuing religious entity or person. Many Muslim countries decided to limit the entities allowed to issue fatwas to eliminate contradictions or even controversial fatwas. For instance, the King of Saudi Arabia decreed in 2010 that only the member of the Council of Senior Scholars and a handful of other renowned clerks had the authority to issue fatwas.⁴³

³⁷ SHEHABUDDIN, E.: Fatwa Overview. In SUAD, J. (ed.): *Encyclopedia of Women and Islamic Cultures. Family, Law and Politics Vol. II*. Leiden, 2005, p. 171.

³⁸ BLACK, A. – ESMAEILL, H. – HOSEN, N.: *Modern Perspectives on Islamic Law*. Cheltenham, 2013, p. 84.

³⁹ KASSEM, M.: Fatwa in the Era of Globalization. In SHAH, Z. A. (ed.): *Ifta’ and Fatwa in the Muslim World and the West*. Washington, 2015, p. 90.

⁴⁰ KASSEM, M.: Fatwa in the Era of Globalization. In SHAH, Z. A. (ed.): *Ifta’ and Fatwa in the Muslim World and the West*. Washington, 2015, p. 91.

⁴¹ BLACK, A. – ESMAEILL, H. – HOSEN, N.: *Modern Perspectives on Islamic Law*. Cheltenham, 2013, p. 85.

⁴² CAMPO, J. E.: *Encyclopedia of Islam*. New York, 2009, p. 233.

⁴³ BOUCEK, C.: Saudi Fatwa Restrictions and the State-Clerk Relationship. *Carnegie Endowment for International Peace* [online], 27. 10. 2010, available at: <http://carnegieendowment.org>.

Undoubtedly, building houses of worship for non-Muslims in Muslim countries remains a controversial issue in the standpoint of Islamic law (Sharia). The controversy is far from being settled, yet the greater majority of Muslim countries follow the fatwa of allowing new churches to be constructed as shall be illustrated later. Conversely, in some strict religious regimes, such as that of the Kingdom of Saudi Arabia, the fatwa of the Permanent Committee for Scholarly Research and Ifta of the Council of Senior Scholars,⁴⁴ the highest religious authority in the land, prohibits building places of worship for non-Muslims in Arabia and in all Muslim countries.⁴⁵

There are fatwas issued by preeminent Muslim scholars, such as Sheikh Yusuf al-Qaradawi,⁴⁶ allowing the building of churches in Muslim countries based on the principles of reciprocity and equal treatment, which means that because Muslims have a right to build mosques and profess their religion in Christian countries, this right must be guaranteed to Christians in Muslim countries. In 2008 Al-Qaradawi said: “There is nothing wrong in building churches for Christian citizens if there is such a need because their numbers have multiplied or because they lack a place to worship as long as it is authorized by the ruler”.⁴⁷ The same point of view is taken by the Egyptian House of Fatwa (Dar al Ifta al Misryah). The first fatwa in this regard was issued in 1999 by Sheikh Dr. Nasr Farid, the Grand Mufti of Egypt at the time, providing that it is totally legitimate to allow churches to be built in Muslim countries. The fatwa was reiterated in 2017 by the House of Fatwa.⁴⁸

As explained earlier, fatwas represent a non-binding, yet authoritative legal opinion in almost all countries. In other words, fatwas do not have the force of law and the state cannot sanction a person who fails to abide by it. Most, if not all Muslim countries have codified their legal systems thus closing the door on major issues that could be the subject-matter of fatwas. Usually, fatwas relate to basic ordinary day-to-day religious matters of believers. Thus, the consequence of violating a fatwa amounts to divine punishment. However, especially in ultra-religious countries, fatwas have the power to shape public opinion, effect the ruler’s decisions and influence the codifications of laws. Sometimes, when the law is silent on a specific matter; judges rely on established and recognized fatwas in their rulings, bearing in mind that in most Muslim countries Islamic law is considered a primary source of legislation.

The proponents of the Saudi fatwa believe that Saudi Arabia has a special and holy location and is the cradle of Islam and that this should be considered by itself as a legitimate and warranted reason for prohibiting non-Muslims to build places of worship, comparing this situation to that of the Vatican where no non-Catholic place of worship can even be conceived. Furthermore, the fact that there are no non-Muslim Saudi cit-

⁴⁴ Both the Permanent Committee and the Council of Senior Scholars are headed by the Grand Mufti of Saudi Arabia.

⁴⁵ Fatwa no. 21413 in Hijri year 1421 (corresponding to the year 2000 A.D.). The complete text of this fatwa can be reviewed in English at the Committee’s official website: <http://www.alifta.net>.

⁴⁶ Egyptian Islamic theologian and chairman of the International Union of Muslim Scholars.

⁴⁷ SABRAH, M.: Building Churches Allowed: Qaradawi. [Online] Available at: <https://archive.islamonline.net/?p=926>. An Islamic website created and supervised by Sheikh Yusuf al-Qaradawi.

⁴⁸ Fatwa no. 3922 dated 26/01/2017. Read more at the House of ifta official website: <http://www.dar-alifta.org>.

izens is a major reason for not building place of worship for non-Muslims. In other words, why should there be places of worship for the non-permanent working population. Finally, Dr. Abdul Wahab al-Triri⁴⁹ believes that the application of article 18 para 3 of the International Covenant on Civil and Political Rights provides the state with the right to limit the freedom to manifest one's religion where it is necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Accordingly, Dr. Triri concludes that prohibiting non-Muslims from professing their religions in Islam's holiest place and pilgrimage site is considered necessary to protect the peace and public order by avoiding altogether the risk of sectarian tension or violence where religious sensitivity is at its peak in these holy places.⁵⁰

4. THE CONSTRUCTION OF CHRISTIAN CHURCHES IN ARAB COUNTRIES

We shall examine now the approaches of a selection of Arab countries in the Middle East to the issue of sacral buildings.

A. HASHEMITE KINGDOM OF JORDAN

The Christian community in Jordan is considered one of the oldest Christian communities in the world. Being near to the birthplace of Christianity, Jordan has more than 100 biblical sites and is home to one of the holiest sites of Christianity by Papal recognition which is the Baptism Site of Jesus Christ; Bethany-Beyond-the-Jordan.⁵¹

Most Jordanian Christians belong to the Greek Orthodox Church of Jerusalem.⁵² There are other churches adhered to by Jordanian Christians, including the Syriac Orthodox Church, the Syrian Catholic Church, the Latin Rite Catholic Church, the Ancient Church of the East, the Anglian Communion and the Melkite Greek Catholic Church.⁵³ It is difficult to exactly estimate the number of Christians in Jordan, for example the Jordanian embassy in Washington posted on its website that Jordanian Christians represent 6% of the population,⁵⁴ while others suggest it is only 2%.⁵⁵ In a survey study conducted by Dr. Hana Keldani in 2015, the total estimated number of Christians in Jordan was 239,003 equaling thus 3.68% of the population,⁵⁶ 52.52% of which belong to the Greek

⁴⁹ Saudi University Professor and author of many books about Prophet Mohammed and Islam.

⁵⁰ AL-TRIRI, A. W.: Will Churches be built in the Kingdom? *islamtoday.net* [online], 19. 3. 2008.

⁵¹ FRENCH, C.: *Jordan. The Bradt Travel Guide*. Guilford, 2012, p. 33.

⁵² FRENCH, C.: *Jordan. The Bradt Travel Guide*. Guilford, 2012, p. 32.

⁵³ FRENCH, C.: *Jordan. The Bradt Travel Guide*. Guilford, 2012, p. 32.

⁵⁴ See the official website of Jordan's embassy in USA: www.jordanembassyus.org/page/culture-and-religion.

⁵⁵ CURTIS, R.: Hashemite Kingdom of Jordan. In GASIOROWSKI, M. – SEAN, L. Y. (eds.): *The Government and Politics of the Middle East and North Africa*. Boulder, 2017, p. 4.

⁵⁶ KELDANI, H.: Percentage of Jordanian Christians. Survey study published online at: www.abouna.org on 8/7/2015.

Orthodox Church, 28.93% belong to the Latin Rite Catholic Church, 12.83% are Catholics and 7.72% belong to other churches.⁵⁷

The Baptism Site is “situated on the eastern bank of the River Jordan, nine kilometres north of the Dead Sea – the archaeological site consists of two distinct areas: Tell Al-Kharrar, also known as Jabal Mar-Elias (Elijah’s Hill) and the area of the churches of Saint John the Baptist near the river. Located in a pristine natural environment, the site is believed to be the location where Jesus of Nazareth was baptized by John the Baptist. It features Roman and Byzantine remains including churches and chapels, a monastery, caves that have been used by hermits and pools in which baptisms were celebrated, testifying to the religious character of the place. The site is a Christian place of pilgrimage”.⁵⁸

The Government of Jordan donated many Christian Churches strategically situated lands throughout the country to build their churches on the vicinity of holy sites. Most importantly, the government provided free lands on the Baptism Site for all Christian denominations to build churches there.⁵⁹ Almost all Christian denominations in Jordan have their own churches, schools and hospitals. Usually Christian schools are very popular among all Jordanians, even among Muslims, which is due to these institutions exceptional educational quality. There are about 100 churches, monasteries and religious institutions belonging to all Christian denominations in Jordan.⁶⁰

Freedom of religion is explicitly provided for in Article 14 of the Constitution which states: “The State shall safeguard the free exercise of all forms of worship and religious rites in accordance with the customs observed in the Kingdom, unless such is inconsistent with public order or morality.”

Jordanian law also provides all churches with full exemption from land and property taxes.⁶¹ Additionally, all grants, donations and gifts received by churches for their private use are exempt from customs duty, and all other fees and taxes pursuant to Customs Law.⁶² Goods gifted or donated to churches, in addition to all religious activities are fully exempt from sales tax,⁶³ and finally, the churches are exempt from income tax.⁶⁴

B. ARAB REPUBLIC OF EGYPT

The population of Egypt consists of around 89% Sunni Muslim, and 10% of Coptic Christians, also smaller numbers of Protestant Christians and Shi’a Muslims.⁶⁵

⁵⁷ Ibid.

⁵⁸ TRAVIS, J.: *The Vatican Diaries. A Behind-the-Scenes Look at the Power, Personalities and Politics at the heart of the Catholic Church*. New York, 2014, p. 68.

⁵⁹ Official Website for the Baptism Site: www.baptismsite.com/index.php/new-churches.html.

⁶⁰ TADRUS, R.: Jordan’s Christians. Religious Freedom, Political and Social Presence. *elaph.com* [online], 13. 1. 2013.

⁶¹ Article 12 Section (i), Buildings and Lands Tax Law no. 11 for the year 1954.

⁶² Article 158 Section (h), Custom Law no. 20 for the year 1998.

⁶³ Article 22 Section (a.2), Sales Tax Law no. 6 for the year 1994 and Schedule (3) thereof.

⁶⁴ Article 4 Section (c.2), Income Tax Law no. 34 for the year 2014.

⁶⁵ STACHER, J.: Arab Republic of Egypt. In GASIOROWSKI, M. – SEAN, L. Y. (eds.): *The Government and Politics of the Middle East and North Africa*. Boulder, 2017, p. 13.

Article 64 of the new Egyptian Constitution of 2014 provided that the freedom of practicing religious rituals and establishing places of worship for the followers of Abrahamic religions (i.e. Judaism, Christianity and Islam) is a right regulated by Law. It goes hand in hand with the established fatwa of the Egyptian House of Fatwa which allows to freely build churches in Egypt.

Furthermore, in August 30, 2016, the Egyptian Parliament passed a law governing the construction and restoration of churches. The law aimed at liberating the process of constructing churches in Egypt from the bureaucratic red tape.⁶⁶ However, this law was criticized for imposing several restrictions, such as linking the size of the church with the number of Christians residing in the vicinity. A report prepared by parliament's committees on legislative, religious, housing, local administrative and cultural affairs said "the law addresses two main issues; making the construction and restoration of churches easier through a number of clear-cut procedures and dates, and retroactively granting licenses to operate for all existing churches and Christian places of worship as long as they are structurally safe."⁶⁷ All in all, the law is still in its infancy and only time will tell whether it meets the Christian aspirations of building their churches freely in a country where 85–90% of the population are Muslims.

C. THE ARAB GULF COUNTRIES

Religious freedom is enshrined within the constitutions of all Arab Gulf countries except that of Saudi Arabia,⁶⁸ however, these constitutions did not provide for the explicit right to building churches. It can be argued though that guaranteeing non-Muslims the right to practicing their religion implicitly entails allowing them to build their own places of worship. More importantly, there are neither laws nor fatwas preventing such acts, unlike in Saudi Arabia.

The number of Christians residing in the Arab Gulf ranges around 3 million who are dispersed all over the six Arab Gulf countries with the biggest community residing in Saudi Arabia where no Christian church exists. Most of these Christians belong to Orthodox, Catholic and Protestant denominations.⁶⁹

The number of churches is noticeably increasing in Kuwait, Bahrain, Oman and in the United Arab Emirates. There are over 40 churches in the UAE.⁷⁰ In the line with the fatwa of al-Qaradawi, who is permanently based in Doha, Qatar consecrated its first church in March, 2008. This was the Church of Our Lady of the Rosary, to serve the Catholic domination in Qatar that is mostly comprised of foreign workers. The price of the land on which the church stands was donated by the Prince of Qatar. The Prince

⁶⁶ GAMAL, E. E.: Egypt Parliament approves new church building law. *ahram.org.eg* [online], 30. 8. 2016.

⁶⁷ GAMAL, E. E.: Egypt Parliament approves new church building law. *ahram.org.eg* [online], 30. 8. 2016.

⁶⁸ Kingdom of Saudi Arabia is the only country in the Arab Peninsula that prohibited building churches.

⁶⁹ SAED, R. – TAWKIF, M.: Gulf Christians. Kuwait hold 450 thousand, Emirates Counter Hatred and Saudi Arabia without Churches. *Albawaba Magazine* [online], 4. 8. 2017.

⁷⁰ KISRWANI, P.: Will the Churches' Bells Ring in the Gulf? *raseef22.com* [online], 14. 8. 2014. Updated 20. 5. 2016.

also approved the building of four more churches to serve the other denominations of Christianity.⁷¹

5. CONCLUSION

The principle of religious freedom is a crucial reference point for integrating religious minorities not only in secular Europe, but also in the Middle East where Islamic law plays a crucial role. Regardless of the criticism targeting the image of Islam and its conduct towards Christianity in international media and scholarly works, there remains one unequivocal fact that Christianity and churches still exist after 14 centuries of Islamic dominance over the Middle East. Old churches were safeguarded and maintained, and new ones were built throughout these centuries. The early practices of Islam with Christians during the lifetime of Prophet Mohammed and his immediate successors (Caliphs) and the pacts made for guaranteeing the safety of their persons, religious beliefs, property and churches should be always kept in mind before criticizing the foundation of this religion. In essence, the coexistence between Christians and Muslims in the Middle East should be showcased as the norm and not the exception.

By the fall of the Ottoman Empire, almost all countries under its rule became secular countries with very few exceptions. Secularism provided additional guaranties to freedom of religion and the construction of churches. Churches can be found all over the Middle East, with the exception of the Kingdom of Saudi Arabia. Religious Freedom is enshrined in the constitutions of all Arab countries except the Kingdom of Saudi Arabia which focused exclusively on Islam. The meaning and application of this freedom can differ dramatically from one country to another. Christianity is recognized by Islam as a divine Abrahamic religion and consequently, churches enjoy a significant degree of sanctity under Islam.

From what has been mentioned above, we may conclude that the situation of religious minorities and especially Christian communities in Arab countries differs as far as the use of sacral buildings is concerned. The integration of Christians into majority Muslim societies depends on various factors. However, it is undisputed that Christians and their religious buildings have been forming part of the cultural and social reality in Arab countries for centuries.

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⁷¹ Published online on Qatar's Al-Jazeera news agency. See: www.aljazeera.com/news/middleeast/2008/03/2008525173738882540.html.