

The Crime Of Assault On Non-Islamic Sacred Sites From The Perspective Of Islamic Jurisprudence And Its Impact On The Economy And Sustainable Development

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ABSTRACT

The research aimed to define the crime of assault on non-Islamic sacred sites, its ruling from the perspective of Islamic jurisprudence, its penalty, and to clarify the effects thereof from both the Sharia and legal perspectives. The study relied on the descriptive method, and within that framework adopted the analytical approach. It resulted in many findings, the most prominent of which are as follows:

Assault on non-Islamic sacred sites means: doing that which is not permitted, or violating the sanctity of something sacred, such as the rites, places, and persons of non-Muslims. It is prohibited in Sharia to assault a non-Muslim, and likewise to assault their sacred sites by bombing them, killing those within, terrorising their people, or vandalising them. Islamic Sharia has commanded the preservation of places of worship from demolition, ensuring their security and the safety of their adherents. The assailant is punished by imprisonment for a term not less than six months and not exceeding five years, or by a fine under most positive laws. Causes for Exemption from the Penalty for assault on sacred sites are: death, repentance, pardon, and limitation. Finally, the crime of assault on non-Islamic sacred sites affects the economy and sustainable development, as it relates to security, which is the foundation of growth.

The researchers recommend the following:

1. Avoidance of conflicts, protection of society from strife, and the dissemination of a culture of engagement with other religions.
2. Decisive formulation of penal provisions in such a manner as to end all controversy raised concerning them by the legal legislator.

Keywords: Crime – Assault – Sacred Sites – Non-Islamic – Islamic Jurisprudence

1. INTRODUCTION

Indeed, Islamic Sharia is valid for every time and place, and therefore, throughout the ages, Muslim jurists have found solutions to every problem and emerging issue, considering in that all people, with their differences in environments and customs. They were never incapable of providing jurisprudential solutions in light of the principles of Sharia and its tolerant spirit. One who reflects realises that Sharia, in all its perfection, was laid down by the Wise, All-Knowing, All-Aware Lawgiver for the good of His creation. *"Does He not know, He who created – and He is the Subtle, the Acquainted"* [Al-Mulk: 14].

Some opinions have emerged from those not specialised in Sharia, claiming that there is no Sharia penalty for one who assaults non-Islamic sacred sites. It is known that a number of countries preserve a heritage legacy of non-Islamic origin, kept in their museums, considered as state-owned property. The research observes the rulings related to the crime of assaulting this heritage in lands of non-Muslims. This research sheds light on the concept of non-Islamic sacred sites and the penalty for assaulting them from the perspective of Islamic jurisprudence.

2. RESEARCH PROBLEM

The research problem may be formulated in the following principal question: What is the reality of the crime of assault on non-Islamic sacred sites from the perspective of Islamic jurisprudence, what are its penalties and Causes for Exemption, and what is its impact on the economy and sustainable development?

3. RESEARCH OBJECTIVES

Based on the foregoing questions, the objectives of the study may be formulated as follows:

- To define the term assault on non-Islamic sacred sites.
- To establish the jurisprudential basis for the crime of assault on non-Islamic sacred sites.
- To clarify the penalty for assault on non-Islamic sacred sites, its causes for exemption, and its impact on the economy and sustainable development.

4. RESEARCH METHODOLOGY

The study relies on the inductive method, whereby the issue subject to research is traced through specialised writings that have addressed it by way of presentation and analysis.

5. RESEARCH STRUCTURE

The study consists of an introduction, two topics, a conclusion, and an index:

Introduction: It addressed the research problem, its objectives, importance, methodology, and plan. It includes two topics, a conclusion, and an index of references.

Topic One: Definition of the crime of assault on non-Islamic sacred sites.

Topic Two: The penalty for the crime of assault on non-Islamic sacred sites, Causes for Exemption, and its impact on the economy and sustainable development.

6. TOPIC ONE: DEFINITION OF THE CRIME OF ASSAULT ON NON-ISLAMIC SACRED SITES...

First: Definition of crime.

In linguistic terms, "crime" is derived from the Arabic term *jurm*, meaning transgression, and *jurm* also signifies sin, with its plural forms being *ajrām* and *jurūm*. In the Hadith it is stated: *"The worst of the Muslims in terms of crime is the one who asks about something that was not forbidden, so that it becomes forbidden because of his inquiry."* The phrase "tajarrama alayya fulan" means: "Someone falsely accused me of a crime I did not commit.". The criminal is the offender. [7]

Crime is defined in Islamic law as a prohibited act for which Allah has prescribed either a fixed penalty (*ḥadd*) or a discretionary penalty (*ta'zīr*). [8] In legal terminology, a crime is defined as a voluntary act prohibited by law for which the perpetrator is subject to criminal penalty. [9]

Second: Definition of assault on sacred sites:

Assault: is the commission of acts not permitted, a breach of legal norms, or the violation of the sanctity of a person or a thing, or an attack on chastity or honour. [12]

Second: Definition of the sacred – purified, sanctified, venerated.

Third: Non-Islamic refers to the rites, places, and persons of non-Muslims. [12]

Thus, assault on non-Islamic sacred sites in general: is the commission of that which is impermissible, or the violation of the sanctity of something sacred, such as the rites, places, and persons of non-Muslims.

7. ELEMENTS OF THE CRIME OF ASSAULT ON NON-ISLAMIC SACRED SITES

Material element: This consists of acts such as vandalism, including destruction and breaking, and desecration, which includes the placing of filth and other such acts. [6]

Moral element: Criminal intent is general intent based on full knowledge and will; the crime of assault or destruction of items related to religious rites, symbols, or other objects is an intentional crime requiring both knowledge and intent. [11]

8. TOPIC TWO: THE PENALTY FOR THE CRIME OF ASSAULT ON NON-ISLAMIC SACRED SITES, CAUSES FOR EXEMPTION, AND ITS IMPACT ON THE ECONOMY AND SUSTAINABLE DEVELOPMENT.

First: The penalty for assault on non-Islamic sacred sites in Islamic jurisprudence:

It is prohibited in Sharia to assault a non-Muslim, and likewise to assault his sacred sites, by bombing them, killing those within, or terrorising their people. Indeed, the Noble Qur'an has made the Muslims' victory and striving to repel tyranny and aggression, and Allah's enabling them upon the earth, a cause for the preservation of places of worship from destruction, and a guarantee of their safety and the safety of their adherents. [5] Allah the Exalted said: *"And were it not that Allah repels some people by means of others, monasteries, churches, synagogues, and mosques, in which the name of Allah is much*

mentioned, would surely have been destroyed. And Allah will surely support those who support Him. Indeed, Allah is Powerful, Exalted in Might. Those who, if We establish them in the land, establish prayer and give zakah and enjoin what is right and forbid what is wrong. And to Allah belongs the outcome of matters.” [Al-Hajj: 40–41]. The Prophet, peace and blessings be upon him and his family, wrote to the bishop of Banū al-Hārith ibn Ka'b and the bishops of Najrān, their priests, followers, and monks: *“That they shall retain over what is in their possession, little or great, of their churches, religious rites, monasticism, and the protection of Allah and His Messenger, peace and blessings be upon him and his family.”* Reported by Ibn Sa'd in *al-Ṭabaqāt* et al. [4]

Second: The penalty for assault on non-Islamic sacred sites in positive law:

The Egyptian legislator placed the crime of contempt of religions in Part Two of Book Two of the Penal Code under the title – “Crimes Harmful to State Security from Within.” In the year 1981–1982 AD, the first amendment was made: which was the addition of Article (98). The second amendment: in the year 2006 AD, Law No. (147) was issued, amending the text of Article (98), and the amendment was formulated as follows:

“Whoever exploits religion in promoting, whether by speech or writing or by any other means, extremist ideas with the intent of inciting sedition or contempt or disdain for one of the heavenly religions or the sects affiliated therewith, or causing harm to national unity, shall be punished by imprisonment for a term not less than six months and not exceeding five years, or by a fine not less than five hundred pounds and not exceeding one thousand pounds.” [1].

The Sudanese legislator: Article (125) “Insult of Religious Beliefs” of the Sudanese Criminal Code of 1991 AD stipulates that: “Whoever publicly insults or disparages, in any manner, any religion, its rites, beliefs, or sacred sites, or works to arouse feelings of contempt or disdain towards its followers, shall be punished by imprisonment for a term not exceeding six months, or by a fine, or by flogging not exceeding forty lashes.” [2].

The Kuwaiti Penal Code expressly states that insult through modern communication platforms is punishable by imprisonment and a fine for offending religion and its symbols. Article 6 of the year 2006 AD prohibits imprisonment and a fine for offending religion and its symbols through statements circulated on the internet. [3]

In all cases: Arab penal laws have not been as clear as Sharia, nor as deterrent as Sharia, nor as precise and free from doubt or discretionary interpretation as Islamic Sharia in its penalties.

9. THIRD: CAUSES FOR EXEMPTION FROM THE PENALTY FOR ASSAULT ON NON-ISLAMIC SACRED SITES:

Causes for Exemption from the Penalty for assault on non-Islamic sacred sites are: death, repentance, and pardon. [9]

10. FOURTH: IMPACT OF THE CRIME AND PENALTY FOR ASSAULT ON NON-ISLAMIC SACRED SITES ON THE ECONOMY AND SUSTAINABLE DEVELOPMENT

It is well known that security encourages investment and economic growth in various sectors. Security stability and economic growth are complementary to each other; whenever security and stability are present, economic growth increases and develops, and sustainable development is achieved. This cannot be attained when assaults on sacred sites occur. [10]

11. CONCLUSION: THE STUDY REACHED MANY FINDINGS, THE MOST PROMINENT OF WHICH ARE

1. Assault on non-Islamic sacred sites means: the commission of what is impermissible, or the violation of the sanctity of something sacred, such as the rites, places, and persons of non-Muslims.
2. It is prohibited in Sharia to assault a non-Muslim, and likewise to assault his sacred sites, by bombing them, killing those within, or terrorising their people.
3. Islamic Sharia has commanded the preservation of non-Muslim places of worship from demolition, ensuring their security and the safety of their adherents.
4. Punishment by imprisonment for a term not less than six months and not exceeding five years, or by a fine, is prescribed under most positive laws.
5. Causes for Exemption from the Penalty for assault on sacred sites are death, repentance, pardon, and limitation.
6. The crime and penalty for assault on non-Islamic sacred sites affect the economy and sustainable development, as it relates to security.

12. RECOMMENDATIONS

1. Avoidance of conflicts, protection of society from strife, and dissemination of a culture of engagement with other religions.
2. The importance of decisively formulating penal provisions in such a manner as to end all controversy raised

concerning them by the legal legislator.

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