A Quest for an Islamic Jurisprudence in Finding Solutions for the Problems Faced by Contemporary Minority Muslims of Sri Lanka

M. Nafeel M. Zawahir
Department of Arabic and Islamic Studies
University of Peradeniya
Sri Lanka.

Correspondence: nafeel.zawahir@arts.pdn.ac.lk

Abstract

This study seeks to explore some of the main problems encountered by contemporary Sri Lankan Muslims from the perspective of coexistence. In doing so, it mainly aims to shed light on to the extent what problems the Sri Lankan Muslims face and what impact they might have on their religious identity, relationships, belongings, and the contribution towards the nation at large. This research explains the major objectives, methodology and secondary data collection. Further, the study will strive to examine whether Sri Lankan Muslim scholars need to deal with contemporary issues and seek to suggest a jurisprudential approach called Fiqh al-Aqalliyyāt, which is a special law for Muslims who live as a minority in a territory of the people of different faiths. Using a jurisprudential approach, internal social bonds and a healthy political engagement could be enhanced within the general public. Therefore, it concludes by arguing for the potential and enriching possibilities, that Sri Lankan Muslims need a special new legal discipline to address their unique religious requirements, which differ from the Muslims reside in Islamic countries. A modern interpretation is a major demand of the Sri Lankan Muslim community, since the classical rules or interpretations do not find answers to modern day problems; whereas the classical schools did it as per to the demands of their time.

Keywords: Islamic jurisprudence, problems, minority Muslims, Sri Lanka

1. Introduction

Sri Lanka is a multi-religious, multi-ethnic and multi-cultural country. The majority people of the country are followers of Buddhism, while the Muslims being a second minority community who practice a unique ethno-religious hybrid culture.

Apart from the cultural and religious differences, the people of Sri Lanka live in harmony with peaceful co-existence. For instance, temples, churches, mosques and Kovils can be seen in the same area in most parts of the country; it is not an uncommon sight to see a Buddhist temple next to a Hindu Kovil or a church in close proximity to a mosque. Moreover, some important sites of pilgrimage such as Kataragama and Adams Peak were multi-religious sites. Certain religious activities such as shrine/saint worship, holding annual festivals on the grounds of mosques/churches that held the shrines of saints and keeping vows at these places of worship were some of the shared activities amongst the different religious groups. Moreover, during religious festivals and cultural events, sharing of food amongst the different ethnic groups was a common occurrence in the country. Each community has their own food habits and dress

codes; however, in most of the occasions, men belonging to different religions dress indifferently, meanwhile women population choose to dress themselves differently.

2. The Concept of Minority

According to the Oxford English Dictionary the word 'minority' is defined as a small group of people separated from rest of the community by the difference in race, religion, language, etc. and Webster's 7th new collegiate dictionary defines the concept of 'minority' as a part of population differing in some characteristics and often subjected to deferential treatment.

There are Muslim populations in most of the countries around the world. Based on the percentage of the Muslims of the entire population, the country would be identified either as *Ummah Dawah* (Muslim minority) or Ummah Istijaabah (Muslim majority).

Minority Muslims can be further divided as minority by birth and minority by migration. The Muslims in Sri Lanka, India, Serbia, Bulgaria and similar countries are considered within the first division and the Muslims who migrated to European countries such as England, Germany, France and other countries after 1950s from Arab and other countries due to political, educational and economic reasons are considered within the second division.

There are around sixty countries in the world where Muslims live as majority and in around 150 countries they live as minorities. Ninety percent of minority Muslims live in Asia and Africa. In Asian countries there are around 250 million Muslims and in Africa it is around 24 million.

3. Relationship of Muslims with people of other faiths

There are many instances or historical evidences for the relationship between Muslims and the people of other faiths in the Seerah (the Prophet's biography). A set of Muslim refugees entered the land of Abyssinia (Ethiopia) and they were welcomed and well treated by the King Najjasi. Prophet Muhammad (PBUH) kept a strong relationship with the king, although he was not a Muslim. Abyssinia was a Christian country with a majority of Christian people. Therefore, the Muslim refugees who lived in Abyssinia as minority is a good example to the Muslims who live among the *Ummah Dawah.*

Prophet Muhammad (PBUH) made agreements with other religious minority people especially with the Christian minority people of Najran to ensure their full rights and protection under the Islamic rule. This system was a medium for inter-religious ideological transformation and thereby the coexistence prevailed. The lack of inter-personal relationships of Muslims with other religious groups is a main reason for misunderstanding. Prophet Mohamed (PBUH) interacted with people of other faiths in many ways. He borrowed money from Jews, accepted gifts from people of other faiths and honoured them and the history witnesses that the Prophet (PBUH) stood up even for a funeral of a Jew honouring it in terms of humanity.

Umar (RA) states that Dhimmis (people of other faiths in a Muslim majority country) who live in Islamic caliphate should be given all the rights just as Muslims according to their convention of Dhimma. Once Umar (RA) visited Quds and the time was to perform Asr prayer; then he refused to perform the prayer in the church stating that the Muslims may claim the particular church as a mosque in future based on his prayer. However, he permitted the people of other faiths to perform their prayers inside a mosque in one

occasion. This approach denotes how we should interact with people of other faiths without breaching their rights.

It is also a notable fact that Islam allows the Muslims to marry the people of *Ahlul Kitab* (followers of heavenly books) while the marriage is depended on mutual love, trust and bond. It is obvious that the relationship of Muslims is not limited only within the Muslim community.

Islam adopted so many things from different traditions and cultures in terms of development, education, security and environment. The prisoners of Badr were asked to teach the Muslim children in Medina. Also, war strategy of Persia was copied in Khandaq war. Most of the architectural structures were adopted from the African and Russian models and the agricultural methods of Meccan Arabs like foliation was followed by the Muslims.

Human beings are the creatures of God. Islam does not reject the diversity among the people. It does not promote differences in the name of humanity. "Tolerance, peace, and harmony in respect of religions involves the capacity to acknowledge the differences and diversities as real, basic and fundamental to make a sincere effort to rise above these differences identifying the shared values and commonalities." [1] The problem starts from misinterpretation of religious texts. However, diversity is presented as a factor which contributes to the enrichment of human life, culture and civilization whereby different groups, communities and nations come to know each other in a spirit of tolerance and mutual understanding.

"O mankind! We have created you from a male ad a female, and made you into nations and tribes, that you may know one another…" (Qur'ān 49:13)

"And if Allah (God) had willed, He could have made them one nation…" (Qur'ān 42:08)

We should continue to call for the integration and accumulation of civilization, not the clashes of the civilization; as Nadwi says "When two civilizations meet, there is all ways a two-way process of interaction between them, both being influenced and moulded by each other. Such interaction must not be seen as necessarily negative, because 'human existence is based on the noble principle of give and take".

When we trace the history of Muslims in Sri Lanka, the relationship between Sinhalese and Muslims has grown over a very good long period. This relationship with Buddhism developed and nurtured with trust and good understanding between two communities. Islamic culture and values embraced Buddhist culture and values where it did not impinge with co-Islamic beliefs. Apart from linguistic and some cultural and religious differences, bulk of ethos of Muslims in Sri Lanka had confluence with Buddhist community.

In respect to the role played by Muslim leaders at the threshold of the independence to Ceylon in 1940s evidences the mutual trust and bond between Sinhalese and Muslims, wherein the British colonial administration sort Muslims view being a constituent part of the Sri Lankan society about granting independence to Ceylon. Commendably, the Muslims response was instructive. They requested the

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[1] Vijitha, M. & Nafeel, M.Z.M. (2019). The Importance of the Buddhist and Islamic Teachings to Build a Harmonious and Prosperous Sri Lanka. Religious Studies Research and Publication Society. Department of Religious Studies & Comparative Philosophy, Buddhist and Pali University of Sri Lanka. https://www.researchgate.net/publication/351249669_The_Importance_of_the_Buddhist_and_Islamic_Teachings_to_build_a_Harmonious_and_Prosperous_Sri_Lanka

colonial administration to leave the country and that Muslims standby with these Sinhalese in their quest for independence and also Muslims would mutually resolve any outstanding issues between the Sinhalese and Muslims.

4. Challenges of Muslims in a plural society and the way forward

At a glance, historical background of Muslims of Sri Lanka shows that they were welcomed broadly and were not treated as strangers or invaders. They were recognized as traders. They lived peacefully with Sinhalese and Tamils with mutual trust and friendship. Although initially the Muslims came as traders, later on they were even recognised to be the physicians and the chieftains whom served the kings.

King Jaya Bahu II states as follows, 'So long as the sun rises in Sri Lanka, Muslims are at liberty to carry on trade and put up mosques'; according to this historical statement, we can understand that Muslims were living with full rights and dignity. And Justice Sarath N. Silva states that the Sri Lankan Muslims are the most peaceful community spread throughout the length and breadth of the country. They interact with other religious and ethnic groups cordially interlinking those cultures with their own culture while polarizing their own culture (Fowsar, 2014).

Historically Sri Lankan Muslims were identified as "Marakkala" or "Yonaka" (Sonahar in Tamil). At present, Sri Lankan Muslims are followers of different Islamic movements. In the Islamic world various schools of thoughts emerged soon after the demolition of the Islamic state. These movements were established according to the demands and necessities of their own problems. However, Sri Lankan Muslims should not get away from this cultural base of their original Sri Lankan Muslim identity which has been gradually transformed into merely "Muslim" identity with the exposure and the adoption to the Middle–Eastern culture and many other foreign Islamic schools of thoughts.

While living in plural societies as a minority, Muslims of Sri Lanka face challenges in terms of their religious practices, as well as their separate identities. These challenges have exhisted throughout the history. Halal food, dress code and slaughtering of animals are burning issues that have caused tension in the recent past.

The important question is, if Islamic teachings offer solutions to address the kind of challenges faced by Muslims to practise their religion in pluralistic countries; and how far are the Muslims in Sri Lanka willing to analyse these issues and bring solutions to avoid conflict. Unfortunately, the right perspective in these kinds of issues is lacking among the Muslims of Sri Lanka. They are ignorant of this concept of the dynamic flexibility in the Islamic ideology. As a result of the lack of knowledge of flexibility not only does the community suffer as a whole, but the very image of Islam suffers as well.

Therefore, in Sri Lanka there is a great demand for Islamic jurist scholars (Mujtahid) who can contemplate and guide Muslims to practice the religion in Sri Lankan context and would be able to find solutions to the social, political and economic problems as well in Sri Lankan context unlike in Islamic countries. However, Muslims of Sri Lanka have never seen a jurist scholar or a group of jurist scholars who can guide them in accordance with the Sri Lankan context.

In more than a thousand years of Sri Lankan Muslim history, there have been more than 300 Arabic Colleges and other Islamic institutions. However, these entities have not managed to produce enough Islamic jurist scholars who could find solutions to the problems of Muslims in accordance to Sri Lankan context.

Sri Lankan Muslims need a special new legal discipline to address their unique religious needs, which differ from the Muslims reside in Islamic countries. Therefore, a special branch of jurisprudence (Fiqh) is necessary to facilitate the relationship between the Muslim minority and the majority. The concept of "dialogue of religions" in modern times arose through purely moral idea and it is generated through a sense of imminent end of the world as a result of the control of the evil[2]

The theory of Fiqh al-Aqalliyyat is a special jurisprudence system for Muslim minorities by which they practice their religious views in a territory of the people of different faiths, and using their methodological tools for increasing their internal social bonds and enhancing their political influence within the general public.

Ibn Qayyim al-Jawziyya (RAH) states that legal rules in any country should be made according to the customs of its inhabitants. He further explains this point that in some places 'Dabba' (riding an animal) means riding a donkey and in another place refers riding a horse. He says that, if a person who resides in a place where 'Dabba' means donkey, he is allowed to make an oath that he is not riding a 'Dabba' while he is riding a horse.

Therefore, modern interpretation is the major demand of the Sri Lankan Muslim community since the classical rules or interpretations do not find answers to modern day problems. The classical schools did it as per to the demands of their societies. These needs and demands have now changed.

For example, one of the burning issues with regard to the Sri Lankan Muslim community is their identity. The issue of banning of Niqab is just an example. The arguments behind the scene may be political or ethnical intolerance. Thus, the solution for the issues like Niqab is somehow sensitive because of the human rights concepts of freedom of religion and thoughts. Therefore, a contextual approach to the solution may necessitate a long research.

5. Conclusion

Sri Lankan Muslims have an extent of legal autonomy through separate school systems and legal systems. Formation of a separate jurisprudence for Muslim minorities in Sri Lanka is an essential need of the time. This new theory of jurisprudence should satisfy the concerns of the specific community and be appropriate to resolve the problems they face. However, it may take some time for establishing an Islamic method that supports the peaceful coexistence of Muslims and people of other faiths within societies. The Sri Lankan Muslim scholars should engage with this jurisprudence in order to formulate new and fresh, Qur'ān and Hadīth based solutions, taking into account a holistic approach to our modern problems from all perspectives. And the jurist scholars also could provide legitimate solutions within the boundaries.

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