

5157 - Health care for prisoners in Islam

the question

i have a project in the quality of health

care in the prison.. do the prisoners have the same health care like other people.. what is the isalmic prespective of justic and equality in this case??

Detailed answer

Islam pays great attention to the matter of prisons and the circumstances of prisoners; it is rare to find anything similar to this in any place or time. The fuqahaa' discussed in their books the rulings pertaining to prisoners, their circumstances and how they should be treated. This concern stems from the Islamic concern for the protection of man and respect for his humanity.

To make the matter easier to understand and to make the rulings more clear, the scholars divided the subject-matter into two parts: the rulings pertaining to the personal health of prisoners, and the rulings pertaining to health care in the place that is used as a prison.

One: Rulings pertaining to the personal health of prisoners

1. Imprisoning a sick person. The fuqahaa' discussed the matter of imprisoning a person who is sick in the first place – do the authorities have the right to imprison a sick person? The answer is that this is the matter of ijtihaad, and the final decision rests with the Qaadi (judge) who must weigh up the reason why this person is to be imprisoned, the seriousness of his disease and the possibility of taking care of him in jail. If sufficient health care is available for this sick person in prison, and he is not suffering a serious illness which could kill him if he is detained, it is permissible to imprison him. If such care is not available, the judge may hand him over to someone who can treat him and guard him, without releasing him completely, until it is possible to imprison him again.
2. If a prisoner becomes sick whilst in jail. If a prisoner becomes sick whilst in jail and it is possible to treat him there, then he must be treated without bringing him out. Doctors and

servants should not be prevented from going in to see him, treat him and serve him. If not treating him leads to his death, criminal charges are to be laid against those who were the cause of that, and they are to be punished. The Prophet (peace and blessings of Allaah be upon him) passed by a prisoner who was in chains, and he called out, “O Muhammad, O Muhammad!” He came to him and said, “What is the matter?” He said, “I am hungry – feed me. I am thirsty – give me water.” The Prophet (peace and blessings of Allaah be upon him) commanded that his needs should be met.

(Narrated by Muslim, 3/1263). And no doubt medical treatment is what the sick person needs.

But if it is not possible to treat him inside the prison, he must be taken out to a place where it is possible to treat him, under the supervision of the jail or whoever is delegated to the task of watching and guarding him.

With regard to these rulings, the fuqahaa do not differentiate between physical illness and psychological illness (true psychological illness, that is, as opposed to the made-up psychological illness or the regular psychological illness which many lawyers use as a means of getting criminals let off). Hence the fuqahaa’ (may Allaah have mercy on them) stated that it is not permissible to lock the door on the prisoner – so long as there is the certainty that he will not run away – or to put him in a darkened room, or to harm him in any way or to do anything that will make him terrified. His relatives should not be prevented from visiting him, because this will have an effect on his health and psychology.

It is prescribed for the authorities or their representative to set up a special medical wing in the prison, to take care of the prisoners’ health needs. This will spare them the need to take them out to public hospitals and expose them to possible insult and humiliation.

Prisoners should be allowed to see their wives and to have intimate relations with them, if there is a suitable place for that in the jail, as a protection for them and their wives.

The fuqahaa’ stated that it is obligatory to enable prisoners to do wudoo’ and purify themselves, which is undoubtedly an important protective precaution against sickness.

Two: Rulings pertaining to health care in the place that is used as a prison

The place that is used as a prison should be spacious, clean, well-ventilated, lit by natural sunlight, and furnished with the necessary facilities such as washrooms, etc.

It is not permissible to gather such a large number of prisoners in one place that they will not be able to do wudoo' and pray.

Three: there follow some of the things which the fuqahaa' stated it is haraam to use when disciplining or dealing with prisoners:

1. Mutilating the body: it is not permitted to punish a prisoner by cutting off any part of his body or breaking any of his bones. The Prophet (peace and blessings of Allaah be upon him) forbade mutilation of prisoners-of-war and said: "Do not mutilate."

(Narrated by Muslim, 3/1357).

Hitting the face, etc., because of the humiliation involved. By the same token, it is not permitted to put chains on prisoners' necks or to lay them on the ground to whip them, even if this is the hadd (Islamic punishment) prescribed for them, because this involves humiliation and harms their health and bodies.

Punishment by fire, strangulation or holding a prisoner's head under water – except in cases of qasaas and where the punishment needs to fit the crime. For example, if a person has committed aggression against another by burning him, it is permissible to exact retribution against him in the same manner.

Starving prisoners or exposing them to the cold, or feeding them harmful things, or preventing them from wearing clothes. If a prisoner dies because of such things, his jailer may be executed in retribution (qasaas) or be required to pay diyah (blood money).

Removing prisoners' clothing, because this uncovers their 'awrah and exposes them to physical and psychological illness.

Preventing them from relieving themselves, doing wudoo' and praying. It is obvious that this is harmful to the prisoners' health.

Examples of Muslims' concern for prisoners:

The hadeeth mentioned above shows how the Prophet (peace and blessings of Allaah be upon him) issued commands that prisoners should be cared for and their needs for food and drink met. The Prophet (peace and blessings of Allaah be upon him) often used to hand prisoners over to his companions and urge them to treat them well.

The Rightly-Guided Khaleefah 'Ali ibn Abi Taalib (may Allaah be pleased with him) used to inspect the prisons, meet the prisoners in them and enquire about their circumstances.

'Umar ibn 'Abd al-'Azeez, the fifth Rightly-Guided Khaleefah, used to write to his employees, telling them to see how the prisoners were and to take care of the sick among them.

The 'Abbaasi khaleefah al-Mu'tadid allocated 1500 dinars of the monthly budget to be spent on the needs and medical treatment of prisoners.

When the 'Abbaasi khaleefah al-Muqtadir imprisoned one of his wazeers, Ibn Muqlah, the wazeer got sick. So the khaleefah sent the famous doctor Thaabit ibn Sinaan ibn Thaabit ibn Qurrah to treat him in jail, and he urged him to treat him well. The doctor used to feed him with his own hand and treated him very kindly.

At the time of the khaleefah al-Muqtadir, the wazeer 'Ali ibn 'Eesaa al-Jarraah wrote to the head of the hospitals of Iraq at that time, telling him: "I have been thinking, may Allaah grant you long life, about those who are in prison. With their large numbers and rough accommodation, they are not free from disease. They are prevented from doing things which will benefit them and meeting with doctors whom they can consult about the sicknesses they are exposed to. So you have to appoint doctors for them who will go in and see them every day and take them medicine and drinks, and who will go around to all the jails and treat the sick in them and prescribe medicine for them." This care lasted throughout the khilaafah of al-Muqtadir, al-Qaahir, al-Raadi and al-Muttaqi.

For more information, please see: Ahkaam al-Sijn wa Mu'aamilat al-Sujanaa' fi'l-Islam, p. 367-379; al-Mawsoo'ah al-Fiqhiyyah, part 16, p. 320-327

And Allaah knows best.