

HELPING "PEOPLE WITH DISABILITIES" IN RITUAL PURITY (TAHARA) AND THE PROVISIONS RELATED TO IT

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ABSTRACT

Persons with physical disabilities are considered to be like other members of society. They have the same rights and duties as other members of society have. In view of the hardships they suffer as a result of their physical disability, it has become imperative for their societies to give them more care and attention in various aspects of life, each according to the degree and type of disability that they suffer. In addition, societies are witnessing a significant increase in the number of individuals with disabilities in general and physical disabilities in particular as a result of factors including diseases, infections, accidents, as well as wars that afflict societies, especially in developing countries, which, according to the United Nations Development Program, are witnessing more persons with disabilities.

Ritual purity (Tahara) of members any society should be at the top of the priority list because of its impact on the health of the individuals in particular and the health of society in general. Therefore, Islam gave Ritual purity a great interest and treated all aspects related to it, including the cleanliness of people with physical disabilities.

This study aimed to shed light on the issue of the Ritual purity of persons with physical disabilities from an Islamic perspective, and to define the rights and duties of persons with disabilities in Islam. As Muslim-majority countries are mostly developing countries, that calls for a greater understanding and a correct Islamic approach to the Islamic rules related to the Ritual purity of Muslims with physical disabilities and to offer them the opportunity to receive professional assistance in cleanliness within the permissible Shari'a limits.

The study concluded a number of results, the most important of which is that Islamic Shari'a gave a special interest for the Ritual purity of people with disabilities and assigned each of them, according to the type and degree of disability he suffers, to do this himself/herself as much as he/she can and to seek the assistance of others if he/she is unable to do so in order to avoid revealing the genital organs.

Keywords: Ritual Purity (Tahara), Physical Disability, People with Special Needs, Genital Organs (Awrah), Seeking Help

INTRODUCTION

Praise be to God, Lord of the Worlds and the best prayers and peace be upon our master Muhammad, who was sent as a mercy to the worlds, and upon all his family and companions (Sahaba), and those who followed his teachings until the Day of Judgment (Manzur & Makram, (n.d.).

The provisions of Islamic Shari'a were enacted to achieve the interests of people in this world and the afterlife, and God Almighty has imposed rules and provisions to achieve benefits and prevent evils and harms from those who are charged of duties towards others. One of the most important purposes of Islamic Shari'a is that members of the same society should live in tranquility, obtain their rights and perform their duties towards others (Noaman, 2002).

The provisions of Islamic Shari'a were also based on facilitation and the removal of embarrassment for the worshippers, taking into account that deficiency that may occur to the worshippers in some cases and from time to time. It also included groups that need special care

because they suffer from a disability, whether it is sensory, physical or mental, which makes them unable to carry out the work that they were assigned to do in whole or in part. That was not the case in societies before Islam. People with disabilities were isolated from the society activities to the extent that people did not even eat next to them. For this, God, the Merciful, sent down the following verses to break the isolation of people with disabilities and integrate them into society (Noaman, 2002):

It shall be no fault for the blind, the lame, the sick and yourselves to eat from your houses. Nor the houses of your fathers', your mothers', your brothers', your sisters', your paternal uncles, your paternal aunts, your maternal uncles, your maternal aunts or in houses the keys of which you own, or in those of your friend, there is no fault in you that you all eat together, or separately. When you enter houses, greet (with peace) one another with a salutation from Allah, blessed and good. As such Allah makes clear to you His verses so that you understand (An-Noor 61).

In addition, the Prophet Mohammad (peace and blessings of Allaah be upon him) was an example to all human beings in serving people with disabilities. He did not refuse if they asked for his help and prayed to God to ease their suffering and he was known to preach that God would reward them for their patience in the afterlife. This proves that Islam is a religion that includes all people, whether they are able to fully or partially perform their religious duties or even not to be able at all. Allah Almighty says: People, We have created you from a male and a female, and made you into nations and tribes that you might know one another. The noblest of you before Allah is the most righteous of you. Allah is the Knower, the Aware (Al-Hujurat 13). God Almighty made piety a measure of human dignity regardless of their physical ability. All people are equal before God, and everyone has a chance to seek God's satisfaction (Noaman, 2002).

The Significance of the Study

The significance of this study lies within the following:

- It is related to the provisions of ritual purity that prayer (Salat) is not valid without performing them.
- It focuses on the tolerance of Islamic Shari'a and how it took into account the conditions of people with disabilities, and legislated permissions that relieve them of embarrassment and hardship during their performance of worship.
- Develop proposals to help Muslims with disabilities who need health care provided by a non-Muslim country.

THE LIMITATION OF THE STUDY

The problem of this study lies in the lack of knowledge known by Muslims concerning the Shari'a rules that must be adhered to while helping physically disabled people, and the lack of jurisprudence controls with regard to ritual purity. The removal of the defiling (Najasa), or during the purification from preclusion (Alhadath Alasghar), necessitate people who live in Muslim minority countries and provide daily state health care to be aware and familiar with the provisions related to maintaining physical hygiene according to Islamic jurisprudence (Al-Muhtaj, (n.d.).

Also, how can Muslims with disabilities and their families, who live in these societies deal with these questions? Is there anything that enables them to perform their religious duties in an easy and correct manner as possible? As well as answering the following questions:

- What is the ruling of the ritual purification of a person with physical disability and the obligatory duty on him to remove preclusion impurity and remove defiling (Najasa)?
- What are the opinions of the jurists (Al Fuqaha') regarding the ruling on a disabled person seeking help from others when he is unable to ritually purify himself?

- Who is allowed to help people with disabilities in order to purify and remove defiling, and remove defiling when being affected (alhadath al'asghar) by performing ablution, and remove preclusion (janābah) by washing?
- What are the Shari'a guidelines for uncovering and touching the genitals (Awra) while helping people with disabilities to ritually purify and remove defiling?

AIM OF THE STUDY

This study aimed to shed light on the issue of ritual purity from an Islamic perspective of a growing minority within the Islamic community, as well as to shed light on the situation of Muslims living in countries with a Muslim minority, where they have the opportunity to receive professional help in hygiene and washing, by answering the study questions and showing the following (Ali, n.d.):

- Explanation of the ruling on the ritual purification of people with disabilities and the duty that they are obligated to remove the affecting and the defiling.
- Detailing the sayings of the jurists regarding the ruling on a person with a disability seeking help from others when he is unable to ritually purify himself/herself.
- Explaining who is allowed to help people with disabilities for performing ritual purity and remove defiling, remove affecting by performing ablution, and remove preclusion by washing.
- Explanation of the shari'a guidelines for uncovering and touching the genitals while assisting people with disabilities in performing ritual purification and removal of defiling.

STUDY METHODOLOGY

This study relied on the descriptive approach based on induction, analysis and deduction, as it is the most appropriate approach to the nature of this study and to achieve its objectives, through research and reference to the original jurisprudential sources.

The Limits of the Study

The limits of this study are those with physical disabilities that constitute an obstacle from ritually purifying themselves, whether in whole or in part. It includes those who were born disabled, or suffered from a disease or accident that caused them a movement disability, or the people, and therefore the study includes people with disabilities whose disability did not prevent them from performing ritual purification and do not need the help of others (Misbah, (n.d.).

Previous Studies

After researching and studying the original jurisprudential sources, it was found that a few previous studies dealt with issues related to people with disabilities including the following (Ismail, (n.d.):

- Shari'a care for the physically disabled: Shari'a provisions of worship as an example, Ahmed bin Muhammad bin Saleh Azab, Journal of Islamic Studies and Academic Research, Cairo University, Faculty of Shari'a, 2015, Issue 64. This study dealt with the definition of disability and its causes and showed the purpose of Shari'a in facilitating and removing embarrassment. It clarified the duties of a person afflicted with a disability and our duty towards them and presented the approach of the Prophet Mohammad, may God's prayers and peace be upon him, in dealing with people with disabilities and explained the provisions of worshiping of the disabled in the calling (Athān) to prayer, praying and Hajj.
- Shari'a Provisions for people with special needs in worship and transactions, Maryam bint Issa bint Hamid Al-Issa, Journal of Shari'a Research and Studies, Egypt, 2013, Issue 12, Volume 2. This study dealt with the types of disabilities and their provisions in worship and transactions. It detailed in sensory disability,

peripheral disability and pathological disability. Then it shed light on the reward that awaits those afflicted with disability, and concluded the study with the rights of people with disabilities and the results of the study.

- Jurisprudential Provisions related to the prayer of the deaf and their jurisprudential rules, Rudaina Ibrahim Hussein Al-Rifai, Journal of Studies of Sharia and Law Sciences, University of Jordan, Faculty of Sharia, 2009, Volume 36, p 2. this study dealt with the definition of prayer and the purpose of its legitimacy, the definition of individuals with special needs, and then defined the deaf and the Sharia's interest in people with special needs, and then explained the provisions of the prayer for the deaf and the jurisprudence rules related to them.
- Shari'a Provisions for the deaf, mute and blind in worship, a comparative jurisprudence study, Asmaa Jamal Qatayef, a master's thesis in Comparative Jurisprudence, College of Sharia and Law, Islamic University, Gaza. This study dealt with the prayer and the imamat of the deaf and mute, the rule of the blind's Ijtihād in the purity of water, the call to prayer by the blind, and the Hajj of the deaf, mute and blind.

All of these studies did not address the main subject of this study, as they did not clarify the provisions on the ritual purification of the disabled and the duty that is required of them in removing affecting and defiling nor the provision of helping the disabled when they are unable to ritually purify themselves. The studies also did not clarify who is allowed to help the disabled in ritual purification by removing the defiling, removing affecting by performing ablution, and preclusion by washing. This study dealt with these topics and explained their Shari'a provisions in addition to the Shari'a disciplines in uncovering and touching the genitals while helping the disabled and the sick in ritual purification and removing defiling (Mustafa, (n.d.).

Defining the Study Terms

Definition of Disability in Language and Islamic Terminology

Definition of Disability in Language

It is derived from an Arabic word meaning obstacle or prevent from performing an activity as a result of a temporary or permanent handicap.

So the handicapped: is the person who cannot perform what he/she needs to perform (Al-Muhtaj, (n.d.).

Definition of Disability in Islamic Terminology

After referring to the old jurisprudential sources to look up the definition of the disabled, I did not find a definition for them, but there are some modern definitions of the disabled, including:

The definition of the World Health Organization. Disability is defined as: “a state of deficiency, or defect in physical or mental abilities, due to genetic or environmental factors, that hinders the individual from learning some of the activities carried out by a healthy individual of similar age” (Osama, (n.d.).

The handicapped is defined as: “Whoever suffers as a result of acquired genetic or environmental factors from a lack of ability to learn, acquire experiences or skills, and perform work performed by normal, healthy individuals of similar age, cultural, economic, or social background”

Others defined it as: “It is a defect due to a disability that prevents the individual or limits his/her ability to perform his/her natural role.”

When we see these definitions and others we will find them centered around “that a disability deprives a disabled person of his/her ability to carry out his/her work, whether fully or

partially, due to sensory, physical, or mental deficiencies; whether this disability is from birth, because of a certain disease, because of an accident or because of the aging.

Definition of Ritual Purity in Language and Islamic Terminology

Purity in Language

Derived from the Arabic word Tahara which means cleanliness, and in fact it describes cleanliness from sensual and metaphorical defiling.

Purity in Islamic Terminology

There are many definitions of the jurists of purity according to the view of each sect in the issues related to it, and the terms and conditions included in it. Perhaps the most unanimous of these definitions is the definition of Imam Al-Hosni, where he defined it as: "Removing impurity or defiling, or what is similar to them".

Definition of the Awrah (genitals) in Language and Islamic Terminology

The Awrah in Language

In the language, the 'Awrah has many meanings: "among them are defects, bad things, reprehensible things, and everything that it is forbidden to uncover".

The Awrah in Islamic Terminology

The 'Awrah in the Islamic terminology is "what it is forbidden to uncover of the body, whether for a man or a woman, or it is: what must be covered and not shown and it is forbidden to look at it".

Shari'a's Keeness to Relieve the Distressed Person

It is well known that the Shari'a provisions are based on facilitation and relief of burden and hardship for people in general. Islam took care of the healthy and the disabled alike and did not differentiate between them, and ordered them to perform the duties and obligations, each according to their abilities and capabilities, and gave special care to the sick and the disabled among them.

Islamic law had a special approach in dealing with the disabled, especially in worship, so it eased them in cases where hardship is above the norm. It permitted those who were unable to ritually purify themselves with water to do simulacrum "tayammum", and it permitted the incapable to perform prayers while sitting. Allah Almighty says: "Allah charges no soul except to its capacity. For it is what it has earned, and against it what it has gained (Al Baqarah 286). Allah Almighty also says: "and has not laden a burden upon you in your religion" Al-Hajj 78. That is: Any unsolvable problem.

The tolerant Shari'a law also omitted some mandated provisions for people with disabilities, paying attention to their weakness. The Shari'a provisions in origin are commensurate with the ability and energy of the person, so the omission of the original provision is related to the person and the conditions that he has endured that caused him to be unable. Allah Almighty says: "There is no fault in the blind, or the lame, or the sick. He who obeys Allah and His Messenger He shall admit him to Gardens underneath which rivers flow; but he who turns away shall be punished with a painful punishment (Alfat-h 17). That is, there is

no moral burden or distress upon neither the blind nor the sick of that they lag behind in jihad and war the ills that they have and the reasons that prevent them from taking part in it.

The Messenger of God, peace and blessings are upon him, said: “If I forbid you to do something, avoid it, and if I command you to do something, do as much of it as you can.”

The Messenger of God, peace and blessings be upon him, also said Indeed, religion is easy, and if one tries make hard it will overcome them.¹³

Significance: Based on the previous texts, it appears to us that Islamic Shari'a cares about people with disabilities who have burdened by conditions of life such as illness and other burdens that prevent them to live like other healthy people. It also shows the ease of Shari'a in relieving the disabled hardship for the compelled, the disabled, and the completely or partially incapable. If he-she is not able to ritually purify themselves by removing defiling, or to perform ablution from affects, or to perform wash from preclusion, due to his inability to do so for any reason, then the Islamic Shari'a obligates him to seek the assistance of others for the purpose of ritual purification, as will be explained in the following.

Therefore, the religion of Islam does not aim to bring hardship to its followers. Whenever it is difficult to perform obligatory worship, there is often a permission to facilitate the completing worship. That is, the idea of suffering, voluntarily or without need, is not Islamic and was not encouraged by the Prophet (peace be upon him) or his followers.

Fiqh Rules Regulating the Ritual Purification and Ablution of the Disabled

Rule One: Hardship Begets Ease

Ibn Taymiyyah says: “The principles of Sharia in all its provisions differentiate between the capable and the incapable, the excessive and the transgressor, and those who are neither excessive nor transgressor, and the distinction between them is a great and reliable principle. It is the moderation of the moderate nation and by which justice prevails between the two different opinions”.

It appears to us from this saying that the Islamic Shari'a linked the act enjoined to the ability of the person. A disabled person may have a complete disability so that they cannot move any organ or partial so that they can move some of the organs but not others, and therefore the disabled person may be unable to remove the defiling by himself, or to perform ablution from affects, or to perform wash from preclusion.

If this is the case, then the disabled person has to seek the help of someone else to remove the defiling or affects, and he may be helped by his family or by a servant who serves him. In this case where he lacks the ability, for the existence of unusual and extraordinary hardship, the rule mentioned above (Hardship begets ease) must be applied.

The Second Rule: Necessities Permit Prohibitions, and Necessity is Evaluated according to its Need

This rule means that what is not permissible becomes permissible when the need is greater than the importance of the provisions.

Examples with regard to our topic are the permissibility of the disabled person's use of others in order to remove the defiling or affects, with the need to follow the Shari'a regulations regarding the disclosure of the genitals and not to exceed the limit in that, as will be explained for these regulations.

The Third Rule: The Easy-Going does not omit the Hard- Going

In practice, this means that a person, who is assigned to perform a certain act of worship but is unable to perform it in full, must perform the parts that he is able to perform.

An example of this with regard to the issue of the ritual purity of people with disabilities is that a partially disabled person can do some work related to his purity, so he must do what he can do by himself and does not resort to the help of others except for what he is unable to do by himself.

The Disabled Person Performance of the Duties of Ritual Purification Imposed on Him

With regard to ritual purification for persons with disabilities of some kind, jurisprudential provisions related to these acts are often divided according to the type and degree of disability. The person may have a permanent or temporary disability, or a disability that affects organs of the body or the whole body, or a disability that is exacerbated by the use of water or is not affected by using water, ... etc. The following is a detailed explanation of the provisions relating to persons with disabilities when it comes to performing ablution, and here it must be divided into three topics:

The Ritual Purity of the Disabled and the Obligatory Duty to Remove the Defiling and the Affects

Since ritual purification is obligatory for every obligated person, the ritual purification of the handicapped and the duty that is required of him in removing defiling and affects come under the rule: "A person who is able to perform parts of worship and is unable to perform other parts, does what they can." This means that a person with a disability should purify themselves as often as they can. The jurists have unanimously agreed that the Muslim must remove the defiling from his body or clothes, and remove affects by ablution and preclusion by washing.

Likewise, people with disabilities must ritually purify the body and clothing as a Muslim must, but according to their ability. Islamic law is based on facilitation, mitigation and relief of hardship, taking into account the conditions of those with hard conditions, including people with disabilities of all categories; so that they can worship God Almighty without burdens or hardship, as God Almighty says: "He has not laden a burden upon you in your religion" (Al-Hajj 78). If the disabled person is not able to ritually purify himself and he finds someone to help him, he must seek the help of someone who ritually purifies him to make the prayer permissible, and he does not resort to simulacrum "tayammum" when he is able to use water himself or with the help of others.

The jurists have agreed, that the disabled patient must do his best to ritually purify himself with water from the affects and preclusion, as is the case of a healthy person, because of the Almighty says: "fear Allah as much as you can" At-Taghabon 16. And the Prophet, peace and blessings be upon him, said: "If I forbid you to do something, avoid it, and if I command you to do something, do as much of it as you can."

The person who is incapable of using water on some parts of his body does not forfeit the use of what he is able to on the rest his body, as Al-Mawardi said.

The Rule of Helping a Disabled Person when he is Unable to Ritually Purify Himself

If a person with a disability is unable to ritually purify himself, he is obliged to seek the assistance of a member of his family, or find someone to serve him to remove the defiling from him and perform ablution. The jurists, in this regard, had two opinions, which are as follows:

The first opinion: The majority of Maliki, Shafi' is, and Hanbali jurists said that the patient with a disability must delegate someone to help him remove the defiling and perform ablution, even if it is for a wage, and if he does not have money, or the pay is more than a wage. If he does not have money, or the wage is more than the wage of the same effort, he does not have to seek help from others, and he moves from his obligation to simulacrum "tayammum".

They cited the words of God Almighty: Allah charges no soul except to its capacity. For it is what it has earned, and against it what it has gained (Al Baqarah 286).

That is assisting a person with a disability to remove the defiling or to perform ablution; whether it is by a volunteer or paid if he is able to pay, this has to do with ability, and since ablution is an obligation he must seek the assistance of others to perform this duty, because they are able to do so and that does not burden him or cause hardship.

There have been many sayings of jurists and fatwas that indicate that the disabled should seek help to remove defiling or perform ablution, including:

In Al-Dhakhira : “If the Aqta’ (one whose hand or hands are cut) finds someone to help him perform ablution, he must do that, even if it is for a fee, as he pays to buy water.”

In Mughni al-Muhtaaj: “If the Aqta’ is not able to perform ablution by himself for a cause, he must seek the help of others, even if he has to pay for that.”

And it came in Kashshaf al-Qinaa: “And if the Aqta finds someone to perform ablution or to wash, even if he has to pay for that, and he was able to pay, he must do so.”

As for the Kuwaiti Fiqh Encyclopedia: “The jurists said that whoever has a disability that prevents him from using water himself, such as the Aqta and the paralyzed, and he found someone to help him perform ablution or wash as a volunteer, he must seek help, and they also said even if he has to pay for that, and he was able to pay, he must do so.”

This is what the Permanent Committee for Fatwas issued when a person with a disability is unable to perform ablution: “The jurists have stipulated that a person who is unable to use water for a disability such as the cut hand, for example, or paralysis, he must delegate someone else to perform ablution, or tayammum if the water harms him, and if he cannot find someone to help him for free, he must hire someone to do that, if he can pay for that, and God knows best.”

The second opinion: Imam Abu Hanifa said that it is not necessary for a person with a disability to seek the help of others; he can perform tayammum and pray. He cited the words of God Almighty: Allah charges no soul except to its capacity. For it is what it has earned, and against it what it has gained (Al Baqarah 286).

Significance: the meaning of the verse is only within capability, so if we required the disabled to perform by the help of others if it was for free, then we obliged him to do the cleanliness of others.

Our response to that: he must perform ablution even if he seeks help from a volunteer, or paid, if he is able to do so because it has to do with his ability and capacity, and it does not contradict the text of the noble verse.

Based on the foregoing, the most correct opinion for me is the first opinion, which says: “The disabled person must seek the help of someone else to remove the defiling and perform ablution, whether he is a volunteer paid, because this to do with the ability, and because of the strength of the evidence that they inferred and its agreement with the rules of jurisprudence, jurists fatwas and the sayings of jurists, and God Almighty knows best and is wiser.

Who is allowed to assist a Disabled Person in Ritual Purification by Removing Defiling, Affects by Performing Ablution, or Preclusion by Wash?

The opinion of the scholars regarding the one who is allowed to assist a disabled person in ritual purification by removing defiling, affects by performing ablution, or preclusion by wash is a matter of dispute.

The Malikis, Hanbalis and Shafi’is, as well as Abu Yusuf and Muhammad bin Hassan of the Hanafi school, as stated in the “Jurisprudence Rules Concerning the Ritual Purity and Prayers of the Patient”, that a person with a disability becomes able with someone who helps him, and therefore is not exempt from performing the imposed duties when he can get assistance. Although in the matter of removing defiling they see that a person is only able to with those who are allowed to see and touch his genitals, and moreover, the Hanbali school held that a disabled person can seek the assistance of his parents, children, aunts, uncles, etc. Thus,

they consider the ruling on seeking help from others as the ruling that the doctor may see the patient and touch genitals in case of necessity.

Here, the importance of using the rule of “necessities permitting prohibitions” emerges clearly, if we look at the negative effects on the health of a person with a disability, which will certainly negatively affect a disabled person who does not receive assistance to clean the defiling from their genitals.

The researcher, in “The Jurisprudence Rules Concerning the Ritual Purity of the Patient and His Prayers”, confirmed the opinion of the Hanbalis in this case, which makes it easier for people with disabilities and helps them avoid diseases and hardship.

So, the basic principle is that the sick or infirm person should wash the defecation and remove the defiling from by him. If he is not able to do so, then his wife will take care of his washing, because the Prophet, peace and blessings be upon him, said: “Hide your genitals except from your wife or your slave girls.”

If his wife is incapable or he does not have a wife, then his sons or other relative males take care of his washing, and they are better than the females, because the man with the man is safer than the woman doing this work for the man, even if she is a mahram. What is meant by mahrams is a person who is permanently forbidden to marry her by lineage, breastfeeding, or in-laws.

If there is no one among his relatives or other men who voluntarily can do this work, then he must hire a man or a nurse to help him. If it is not possible - for one reason or another - then there is nothing wrong with his daughter or one of his mahrams to take over the washing and cleaning of him for the need that is in the status of necessity. Almighty says: Therefore fear Allah as much as you can (At-Taghabon 16).

Giving precedence to men over mahrams of women in the process of washing a helpless or sick man from defecation and defiling is out of precaution in religion, safety from temptation, and preservation of God’s law and its limits. It is not out of mistrust and suspicion, because they often do not associate with mahrams.

It should be known that the one who begins to wash genitals of a sick or infirm person must cover his genitals or, at the very least, lower his gaze from that when there is no need to look at. If it is difficult for him to avoid looking or he needs it, then it is not permissible for him to wash his genitals directly without a barrier, in the way that a woman washes her kid’s genitals. This is because the difference between them is obvious. So he should not touch the genitals directly, rather he should remove the defecation by using a rag or a tissue paper or anything that is often used for this purpose.

Shari’a Guidelines for Uncovering and Touching the Genitals of the Body While Assisting Persons with Disabilities in Ritual Purification and Removal of Defiling

Based on the foregoing, it is preferable for the disabled to use someone else to remove defiling and perform ablution. But this may result in revealing the genitals of the disabled person in order to clean or touch the genitals. Is this permission to absolute without restriction or limits?

This topic is very important and it must be clarified and people should be made aware of its provisions, especially the people who serve the disabled of all categories. The importance of the topic increases if we know that a high percentage of people do not know the Shari’a rulings resulting from helping the disabled, and this is evident through the large number of inquiries that ask about this topic is in various audio and print social media, so it is necessary to clarify these provisions and limits.

I mentioned earlier the definition of the awrah: “It is everything that it is forbidden to uncover from the body of a man or a woman, and it must be covered and not shown, and it is forbidden to look at it.” The established principle is that the muslim is prohibited from looking at, or touching the genitals of others, whether of mahrams or non-mahrams. Almighty says: Say to the believers they should lower their gaze and guard their genitals that are purer for them.

Allah is Aware of the things they do. And say to the believing women, that they lower their gaze cast down their eyes and guard their chastity. An-Noor 30-31. And for his saying, peace is upon him: “Do not gaze”.

If there is no need and necessity for this uncovering or touching, such as for the purpose of medication, or to help people with disabilities in ritual purification, this is not correct, and if it occurs, the following Shari'a guidelines must be observed:

- 1) Need and necessity: looking is restricted with the needed; Because what is permitted for necessity is to be estimated, as mentioned in the Fiqh Encyclopedia: “It is not permissible to look at genitals of another or touch them unless there is a necessity for looking, such as the physician, and whoever serves a sick or sick person in ablution or removing defiling and other things or as a midwife. It is permissible for them to look at what they need to look at from the genitals, and when there is a need for it, such as the necessity of medication, nursing and others, since necessities allow prohibitions, and the need takes the status of necessity.”
- 2) Necessity is to be estimated: if it is permissible to look, uncover, touch and other reasons to help the disabled or the sick in ritual purification and removal of defiling, or treatment to prevent harm, then it is not permissible in any case to transgress, and it is not permissible to go beyond the necessary place to reveal the nakedness, so it is limited to the organ the one only needs to look at, and do his best to lower his gaze as much as possible, and he must feel that he is doing something that is principally forbidden, and ask God’s forgiveness for what may have happened from the transgression, and if it is possible to see the place of the disease by looking only, it is not permissible to touch, If it is enough to touch with a barrier, it is not permissible to touch without a barrier, and so on.
- 3) In case the doctor or the person assisting people with disabilities has touched his genitals due to cleaning and medication, then it should be differentiated between touching the genitals without a barrier and touching the rest of his body. Touching his genitals without a barrier invalidates ablution, and as for touching the rest of his body, it does not invalidate ablution. And for touching his genitals, the jurists of the Permanent Committee said: "Touching his genitals without a barrier invalidates ablution, whether the touched person is young or old". The Prophet, peace be upon him, said: “Whoever touches his genitals he must perform ablution”.
- 4) Finally, it is necessary to fear God in this great issue, for which the Shari'a has made clear and firm rulings, and one of the afflictions that has prevailed in this time is the leniency in issues of uncovering genitals.
- 5) Analysis and discussion: An Islamic view of the situation of Muslims with disabilities and their caregivers.

When applying the aforementioned three rules in the matter of ritual purity for Muslims with disabilities, it becomes clear to one the extent of the flexibility of Islamic rulings, which were not originally prescribed to bring hardship to people, but rather were legislated to ease and facilitate them.

Persons with disabilities have many challenges that they face in their daily lives, and for many of them, the possibility of having another person to help and care for them on a permanent basis makes a big difference between living an easy life or living a hard life.

And as we have noticed from the Qur’anic verses as well as the hadiths of the Prophet (peace and blessings of Allaah be upon him) that were previously mentioned, it becomes clear to us very clearly how keen the Islamic Shari'a is to facilitate, mitigate and relieve the public of hardship who are healthy. That becomes more obvious if a weak person suffers from a disability or disease, and therefore the lack of attention to this category by ensuring helping them makes Shari'a rulings difficult for a Muslim, and this contradicts the principle of ease and the meaning of permits in Islam.

On the other hand, Muslims with disabilities and their close relatives and family members (if they are present) must ensure that they are aware of the legal provisions that are included in the permits; Since the two rules - “Necessities permit prohibitions” and “Necessities are estimated” - cannot be ignored and separated from each other. And this is what Sheikh Ahmed Enaya concluded, where he wonderfully explained that: “The real meaning of the permits is an exception from God for a higher purpose, and this purpose is not to achieve ease in

itself, but rather to submit to God's laws as a Muslim and to preserve the religion by establishing the obligations, the purpose is also to ward off what does not serve the interest of mankind and encourage what is in the best interest of mankind. Therefore, the person who takes permits to achieve his own purposes does not perform his duties in the right way, because the means do not take precedence over the end.

Likewise, the Muslim ruler has a great responsibility towards this weak group in the Muslim community. He must offer them help in their life affairs, including performing the obligatory duties on them such as ritual purification and worship, in the absence of a relative or volunteer to take care of them, or in the event their inability to hire someone to serve them, and the stories of Islamic history in the field of assigning people to take care of people with disabilities and arrange their affairs attest to this, including the following example: - It was reported that in the reign of Omar bin Abdul Aziz (may God have mercy on him), that he wrote to the city rulers of Syria, "Send me a list of the blind or a paralytic, or a person with hemorrhoids, or a disability that prevents him from prayer. So they sent him the list." He ordered a guide for each blind, and a servant to every two of disabled to serve and take care of them.

- Umayyad Caliph Al-Walid bin Abdul-Malik³⁸ (may God have mercy on him) followed the same track as he had the idea of establishing institutes or care centers for people with special needs. He gave them a periodic salary. And thus, he sufficed, he assigned a companion for every crippled or disabled, and a guide for every blind person. He also built a hospital for lepers in the outskirts of Damascus.
- Also, Abu Jaafar Al-Mansur³⁹ did this. He built a hospital for the blind, a shelter for lepers, and a shelter for the elderly in Baghdad.

These examples of the works of the caliphs from different ages confirm that what they understood of the duties of the caliphate and the imamate is the interest in this category with special attention to the specificity of their situation.

Finally, there is a question that arises regarding Muslim minorities, which is: How can Muslims who live in countries where Islamic law is not a common goal or purpose of the majority, with the right to health care and with the caregiver being an essential role in the lives of these people? Hence, how can a Muslim make sure that he is doing his best to perform his duties in a correct manner? Here I would like to suggest a number of suggestions that can help Muslims with disabilities who have the right to health care provided by non-Muslim countries, including:

- 1) The Muslim minorities must be fully aware of their rights and duties in these cases, which is a very important matter, by reading, education, and asking knowledgeable people about the possibility of seeking help from someone who provides health care and the Shari'a that regulate it.
- 2) Communication with the health care provider as well as consultation - whenever possible - with the person with a disability, is key when providing assistance that benefits people with a disability. Thus a person with a disability who adheres to Shariah rulings and sees this as an important part of his life should have the right to express his will in arranging the health care provided to suit his beliefs.
- 3) The education of the person who will help the person with a disability is important in creating an understanding of the importance of religion in their daily lives. Muslims can turn to religious institutions and organizations as well as local religious figures for assistance in these matters. It should be noted that many European countries such as Britain and Sweden have achieved many great achievements for Muslim patients through their cooperation with hospitals and health care centers and the provision of subsidized projects.

CONCLUSION

Praise is to God, Lord of the Worlds, whose good grace is accomplished, and blessings and peace is upon our master Muhammad, may God's prayers and peace be upon him and his

family. At the conclusion of this study, the researcher reached a set of results and recommendations, which I enlist as follows:

RESULTS

- 1) Islamic Shari'a gave care and attention to people with disabilities and weak members of society, and assigned them duties to perform according to their ability, and legislated provisions that would relieve them of burdens and hardship wherever they were found.
- 2) Persons with disabilities must do work related to ritual purity, remove defiling, and the affects as long as they can do so, even partially, and not to seek the help of others unless they are unable to do so themselves due to the necessity of covering the genitals except for necessity.
- 3) The majority of scholars allow people with disabilities, the sick and those in similar situations to seek the assistance of others in matters of ritual purification when they are unable to do so themselves, even if it is necessary to hire someone to help them in that when there is no one to volunteer.
- 4) Whoever assists people with disabilities must fear God and observe the provisions of Islamic Shari'a and its limits related to uncovering the genitals, and not exceeding the limit of need and necessity.

RECOMMENDATIONS

This study is concluded with the following recommendations:

- 1) Organizing conferences and seminars that would raise awareness of the provisions of persons with disabilities in Islamic Sharia, and educating society of the rights and duties of this group, which constitutes an integral part of the fabric of society.
- 2) The state should care for people with disabilities and consider of all their affairs, through the establishment of special centers for them that will serve and care for them free of charge, and employ staff to take care of them if they need to, similar to what was the case in the Islamic state in various eras according to what was presented of the leading examples of 3. Coordination with religious institutions and various international organizations in various countries where there are Muslim minorities in order to assist people with disabilities in matters of their religion, educate them about their rights and duties, and prepare the necessary courses to qualify those who help them and introduce them to the provisions of Islamic Shari'a in this field.

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