

Rights of Prisoners ♦

How the prisoners are being un-humanly treated in the foreign lands is something serious that requires the attention of those who stand for justice and human rights. The seminar of the Islamic Fiqh Academy (India) adopts unanimously the following resolution on the issue explicitly expressing the Islamic and the ethical point of view.

- 11.1 Any one who perpetrates a crime, his/her position as a human being continues to be in existence. A criminal must be punished for the offence, but he/she cannot be deprived of his/her right of human dignity.
- 11.2 One who is accused of an offence, he/she cannot be termed as a criminal unless convicted by a court of law, nor should he/she be subjected to ill treatment.
- 11.3 One may be incarcerated on the basis of charges if strong circumstantial evidences support the charges against him/her or there are clear portents to hold him in doubt. It is up to the Court to determine the extent of imprisonment of an accused. But this term of incarceration must not extend from the prescribed term of imprisonment for the concerned offence.
- 11.4 Rights of a prisoner.**
- (A) All the prisoners irrespective of their faith and belief shall have the liberty to perform their religious rituals. The prisoner would be entitled to get the food permissible under his/her faith. No sacrilege should be permitted to the scriptures or the religious guides of a prisoner.
- (B) Physical demands of the prisoners: Balanced diet, potable water, dress in accordance with the weather conditions and medical treatment, these facilities must be provided to the prisoners. They should be allowed physical exercise as per the hygienic norms. The prisoners should not be kept in the cell where it is not possible to stand straight or stretch their legs no proper light and air is there.
- (C) Social rights of prisoners: Such as right to education and technical training. To have contacts with the fellow prisoners under ordinary conditions and to see the visiting relations. So far radio and TV are concerned these are the medium of entertainment so they cannot claim to listen or view it as their

right but newspapers may be allowed to them if the administration deem it proper.

- (D) Male/Female prisoners should be lodged in separate prisons. It should be ensured that there should be female supervisory staff for the female section of the prison. The internal maintenance of the female section should also be in the hands of the female officials. Similarly minor and adult prisoners must have separate wards.
- 11.5 To force the prisoners to reveal the truth and subject them to torture to undress them, to unleash dogs on them electric shock, to make them sit on the ice slabs to force them to remain awake by throwing flood light on them shrill noise or Norco analysis test, all these methods are illegal, immoral and inhuman. To torture in such a way that might result in the loss of an organ or have adverse effect upon their mental health, such punishment are illegal and prohibited (Haram).
- 11.6 To chain the prisoners, handcuff them is not permissible under the Shariah. But if the prisoner is a dreaded and habitual criminal and it is apprehended that he might hit the others, such lawful methods may be used to keep him under control.
- 11.7 If conditions demand the prisoner may be kept in seclusion for such a period as recommended by a medical officer. But it should not be a long one that makes the prisoner mentally ill.
- 11.8 Forced labour: If rigour is a part of his/her sentence. It may be allowed to the extent of the prisoners stamina and he/she will not be entitled to any remuneration under the Shariah. But if the government pays wages to him under its rule it would be permissible for the prisoner under Shariah. Under other circumstances he would be entitled to wages.
- 11.9 The under trials should not be treated as criminals. They are not criminals but accused. They should not be put to hard labour and fair and better treatment should be meted out to them vis-à-vis the other prisoners.
- 11.10 It is not proper to keep an under trial in detention for a period more than the term of imprisonment prescribed for the crime he/she is accused of. There should not be inordinate delay in the investigation and judgment that the detention of the under trials transcends the period of sentence awarded to him. In such a case he should be immediately released.
- 11.11 If a prisoner is declared not guilty by the Court of law he must be compensated for the mental agony, he underwent during his detention.

- 11.12 A prisoner shall enjoy the rights to consult a lawyer in connection with the trial, to contact his relatives and to plead in his defense.
- 11.13 Female prisoners will be allowed to keep their sucking (infant) babies with them in the jail.
- 11.14 The seminar felt that the rules/regulations enforced in the country relating to the prisons and the prisoners, in most of the cases the rules of Islamic Shariah have been observed. But in effect most of them are not enforced. This seminar therefore demands that all these rights should be given to the prisoners. The seminar also expressed its concern that ignoring the provisions of law and the directions of the apex Court, innocent citizens are apprehended. During the past some years many Muslim youth have been taken in to custody. They are tortured and tormented. After keeping them under its custody for many days, the police record their arrest and they are produced before the Court of law. This behaviour of police and the law enforcing agencies and the connivance on the part of the government is causing serious concern and it stigmatizes our democracy. This seminar, therefore, urges the central and the state governments to ensure that police and the law enforcing agencies observe discipline and abide by the directions of the Supreme Court as well as the regulations of the law. Those flouting these directions should be taken to task. Strait orders should be issued that no one should be apprehended with out solid proof of offence and no one should be tortured and tormented.
- 11.15 This seminar also feels that the USA and other Western Countries have established torture centers to torment those accused for the so called terrorism. They are brutally tortured. This is a flagrant violation of the international charter and covenants and is an affront to humanity. The UNO, other international institutions and the human right commission should take note of it. We call upon all concerned to raise their strong voice against this persecution and torture cells. The global institutions impose sanctions against them to force them to abide by the international law.
- 11.16 This seminar expresses its serious concern that some of the lawyers and Bar Councils have resolved not to plead the cases of those accused of terrorism, while this is the legal right of every one to get legal aid. It is a universally acknowledged law that an accused should not be treated as a convict/criminal. The law of the land also upholds it so it is a clear violation of ethical and human norms. Lawyers and the Courts of law are to ensure and enforce the law. It is most unfortunate that they indulge in such unjust and unfair misdeeds. This seminar urges the lawyers and Bar council to desist from such illegal behaviour and demands the government to arrest such a dangerous trend.