



Universiteit
Leiden
The Netherlands

Islam and disability : perspectives in islamic theology and jurisprudence

Ghaly, M.

Citation

Ghaly, M. (2008, February 27). *Islam and disability : perspectives in islamic theology and jurisprudence*. Islamic Theology, Faculty of Religious Studies, Leiden University. Retrieved from <https://hdl.handle.net/1887/12617>

Version: Corrected Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/12617>

Note: To cite this publication please use the final published version (if applicable).

Islam and Disability

Islam and Disability: Perspectives in Islamic Theology and Jurisprudence

PROEFSCHRIFT

ter verkrijging van
de graad van Doctor aan de Universiteit Leiden,
op gezag van Rector Magnificus prof.mr. P.F. van der Heijden,
volgens besluit van het College voor Promoties
te verdedigen op woensdag 27 februari 2008
klokke 16:15 uur

door
Mohammed Ghaly
Geboren te Damro, Egypte
1976

Promotiecommissie

Promotor: Prof.dr. P.S. van Koningsveld

Referent: Prof.dr. R. Peters (Universiteit van Amsterdam)

Overige leden: Prof.dr. H.L. Beck (Universiteit van Tilburg)

Prof.dr. L.P.H.M. Buskens

Dr. A.F. de Jong

*to my wife, Karima
to my cute twins, Khadija and Maryam
to my mother, Fawziyya
&
to the memory of my father, Mostafa
with all love and gratitude*

Table of Contents

Acknowledgments	xii
Chapter One: Introduction	I
1.1 United Nations Organization: Global Interest in People with Disabilities.....	I
1.2 Religion and Disabilities.....	2
1.3 Islam.....	5
1.3.1 Modern Studies on the Position of People with Disabilities in the Islamic Normative Sources	7
1.4 Research Question, Methodological Approach and Focus.....	I4
1.4.1 Islamic Theology	15
1.4.2 Islamic Jurisprudence (<i>Fiqh</i>)	18
1.5 Structure and Organisation of the Study.....	22
1.6 Terminology Used.....	37
1.6.1 English Usage	38
1.6.2 Arabic Usage	40

PERSPECTIVE IN ISLAMIC THEOLOGY

Chapter Two: Speculative Theology	47
2.1 Introductory remarks	47
2.1.1 Sufis	51
2.1.2 Philosophers.....	53
2.2 Anti-Theodicy Approach.....	56
2.3 Pro-Theodicy Approach	58
2.3.1 Afflictions Befalling those with Legal Liability (<i>Mukallafūn</i>)	61
2.3.1.1 Wise Purposes (<i>Hikam</i>)	65
2.3.1.1.1 Deserved Punishment.....	65
2.3.1.1.2 Divine Assistance (<i>Lutf</i>).....	67
2.3.1.1.3 Compensation (' <i>Iwad</i>)	69
2.3.2. Afflictions Befalling those without Legal Liability (non- <i>Mukallafūn</i>)	70
2.3.2.1 Adherents of Metempsychosis (<i>Aṣḥāb al-Tanāsukh</i>)	70
2.3.2.2 The Majority View	72
2.3.2.2.1 Divine Assistance (<i>Lutf</i>)	72
2.3.2.2.2 Compensation (' <i>Iwad</i>)	73
2.4 Middle-Course Approach.....	73
2.4.1 Afflictions Befalling those with Legal Liability (<i>Mukallafūn</i>)	77
2.4.1.1 Disabilities: Punishment for Sins Committed?	77
2.4.1.2 Gaining Reward (<i>Tahṣīl al-Thawāb</i>) and Elevating the Ranks (<i>Raf' al-Darajāt</i>)	83
2.4.1.3 A Faith-Test	86
2.4.2 Afflictions Befalling those without Legal Liability (non- <i>Mukallafūn</i>)	87
2.4.2.1 A Proof of God's Existence and Oneness.....	88
2.4.2.2 Realizing God's Threats and Promises in the World to Come.....	90
Chapter Three: Practical Theology	91
3.1 Servitude ('<i>Ubūdiyya</i>)	91
3.2 Patience (<i>Sabi</i>)	93
3.3. Gratitude (<i>Shukr</i>).....	97

PERSPECTIVE IN ISLAMIC JURISPRUDENCE

Chapter Four: Human Dignity of People with Disabilities.....	101
4.1 Theoretical Considerations: Influence of Physiognomy?.....	101
4.1.1 The Shāfi‘ī School.....	110
4.1.1.1 Muḥammad b. Idrīs al-Shāfi‘ī’s Controversial Statements	110
4.1.1.2 Materials that Seem to Advocate the Authenticity.....	114
4.1.1.3 Materials that Seem to Oppose the Authenticity.....	116
4.1.1.4 Origin of these Statements.....	121
4.1.2 The Hanbali School	124
4.1.2.1 Paradoxical Standpoints.....	125
4.1.2.2 Counterpoise-Trials	130
4.1.3 Other Schools	132
4.2 Dignity of People with Disabilities in Practice	133
4.2.1 Controversial Attempts	133
4.2.2 Main Contributors.....	135
4.2.3 Encounters Preceding this Polemic	137
4.2.4 A Controversial Book.....	138
4.2.5 Identity of the ‘Demagogues’	141
4.2.6 The Polemic in Focus.....	142
4.2.6.1 Backbiting (<i>Ghiba</i>).....	143
4.2.6.2 Predecessors.....	146
4.2.6.3 Juristic Authorities	147
4.2.7 Concluding Remarks.....	149
Chapter Five: Employability of People with Disabilities	151
5.1 Muezzin.....	152
5.2 Prayer-Leader (<i>Imām</i>).....	155
5.3 Judge (<i>Qādī</i>)	157
5.4 Head of State (Caliph)	159
5.5 Concluding Assessment	160
Chapter Six: Medical Treatment of People with Disabilities	163
6.1 Physical Medicine	164
6.1.1 Preventive Measures	169
6.1.1.1 Consanguineous Marriage	169
6.1.1.2 Abortion of the Disabled Fetus	173
6.1.1.3 Vaccination.....	175
6.1.2 Therapeutic Measures.....	177
6.1.2.1 Replanting.....	177
6.1.2.2 Transplanting	181
6.1.2.3 Cloning	184
6.2 Spiritual Medicine	184
6.2.1 Good Deeds & Charity	188
6.2.2 Prayers and Religious Formulae	189
6.2.3 Spiritual Medicine as a Profession	192
Chapter Seven: Revenues of Financial Aid within the Family.....	195
7.1 Maintenance (<i>Nafaqa</i>)	195

7.1.1 Parents with Disabilities.....	197
7.1.2 Children with Disabilities.....	199
7.1.3 Marriage of People with Disabilities	201
7.1.3.1 Rules Pertaining to the Situation before the Contracting of Marriage.....	202
7.1.3.2 Rules Pertaining to the Situation after the Contracting of Marriage	205
7.1.3.3 Wives with Disabilities	210
7.1.3.4 Financial Consequences of Disabilities	212
7.1.4 Relatives with Disabilities	215
7.1.5 Conditions for the Obligation of Maintenance	216
7.1.6 The Order of Relatives on whom Maintenance is Obligatory	219
7.2 Bequest (<i>Wasiyya</i>).....	220
7.2.1 The Beneficiaries	222
7.2.2 The Mandatory Will.....	223
7.3 Family Endowment (<i>Waqf Ahlī</i>)	224
7.3.1 The Main Principles of <i>Waqf</i>	225
7.3.2 The Future of Family Endowment.....	226
Chapter Eight: Revenues of Financial Aid within Society.....	229
8.1 Welfare Endowment (<i>Waqf Khayri</i>).....	230
8.1.1 The Administration of <i>Waqf</i>	232
8.1.2 The Role of the <i>Qādī</i> in the Administration of <i>Waqf</i>	235
8.2 Zakāh	238
8.2.1 People with Disabilities and <i>Zakāh</i>	240
8.2.2 The Administration of <i>Zakāh</i>	241
8.2.3 Are there Other Claims on Wealth besides <i>Zakāh</i> ?.....	245
8.2.4 The Status of Non-Muslims.....	246
Conclusion	249
Samenvatting.....	255
Bibliography.....	263
1. Abbreviations	263
2. Works published in Arabic	263
2.1 Manuscripts	290
3. Works published in Other Languages	290
Curriculum Vitae	311

Acknowledgments

The great pleasure of bringing this work to an end does not make me forget the great help generously offered by many.

I am grateful for the financial support of the Prince Salman Center for Disability Research (PSCDR) which made it possible for me to conduct this research.

As for help on the scientific level, a huge number of people have been involved such as Islamologists, Muslim scholars, specialists in the field of disability studies and officials from international organizations and many others especially those affiliated to the United Nations Originations (UNO). I hereby submit my gratitude to them all and my apologies for having no space to name them all by name.

On the social level, great support has been given by many friends, again too many to list here. However, my junior colleague Abdurraouf Oueslati should be mentioned by name. His sincere and fruitful efforts spared me a lot of time and energy especially in the final stage of finishing this work.

A final note is reserved for my family. The support given by my wife and colleague Karima Joundi is too generous to be repaid. My cute twins, Maryam and Khadija, have been a very fine addition in my life which was a source of great motivation and inspiration during my work. Finally, a note of gratitude is due to my mother whose constant support, kindness and tenderness can never be duly expressed leave alone be rewarded.

Mohammed Ghaly,
Leiden, December 6, 2007

