

Violations of Basic Rights of Prisoners In Conventional and Islamic Law: Theory and Practice

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Abstract: In jails, the prisoners are often maltreated by the jail authorities. They are abused, and, their fundamental rights as human beings are frequently violated. Although laws upholding the rights of prisoners are plenty, unfortunately, these seem ineffective in preventing the abuse of prisoners in jails. This paper examines the problems of jailed prisoners in general and highlights their violations of human rights. In particular, this paper discusses sexual abuse of prisoners, their mental and physical tortures, and enforcement of prison labour laws. The paper also focuses on overcrowding in jails, inadequate educational facilities for prisoners and poor health care facilities. This article analyses these issues from the perspectives of Islamic Law and attempts to provide a conceptual frame work of solutions. An analytical approach is employed in this study.

Keywords: Prison, right of the prisoner, human rights, International law, Islamic law

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Abstrak: Di dalam penjara, tahanan penjara sering dilayan dengan tidak baik oleh pihak berkuasa penjara. Mereka didera, dan hak asasi sebagai manusia seringkali dilanggar. Walaupun terdapat banyak undnag-undang yang mendokong hak asasi tahanan penjara, namun demikian, undang-undang tersebut dilihat tidak berkesan dalam menghalang penderaan terhadap tahanan penjara di dalam penjara. Kertas ini meneliti masalah-masalah tahanan penjara secara umum dan memberikan fokus kepada pelanggaran hak asasi mereka. Secara spesifik, kertas ini membincangkan mengenai penderaan seksual terhadap tahanan penjara, penderaan mental dan fizikal, dalam penguatkuasaan undang-undang berkaitan kerja tahanan penjara. Kertas ini juga memberikan fokus tentang kesesakan di dalam penjara, kemudahan pendidikan yang tidak mencukupi untuk tahanan penjara dan kemudahan perubatan yang lemah. Artikel ini melaksanakan analisis terhadap isu-isu yang dibangkitkan ini daripada perpektif undang-undang Islam dan cuba untuk menyediakan rangka kerja berkonsep sebagai langkah penyelesaian. Pendekatan beranalisis turut digunakan dalam kajian ini.

Kata kunci: Penjara, hak banduan, hak asasi manusia, undang-undang antarabangsa, undang-undang Islam.

Introduction

Generally, public and legal institutions look at prisoners differently. The people who are usually imprisoned in prisons might be criminals in the sight of law, but the people are unlikely to realize that the prisoners are human beings who deserve humane consideration and proper treatment. Although the nature of crimes committed by prisoners can be beyond one's perception, nevertheless, the penalties and punishment enforced on prisoners must be within an acceptable level of human rights parameter. The inmates are also human beings, and they are entitled to be treated with dignity and provided with their rights. Generally, the outside world would not know what is going on inside the prisons and the inhumane treatments inflicted on the prisoners. This type of mistreatments has led to increased suffering of the prisoners. The law prevailing in the international community appears to be ineffective in addressing the problems of prisoners efficiently. Otherwise, the enforcement of such laws would have solved many of the mistreatments taking place in prisons today. This paper attempts to examine some of the common complications faced by prisoners and suggests a conceptual frame work of solutions from an Islamic point of view. The article is divided into two parts. The first part deals with the importance of preserving rights



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