1182 - Ruling on enforced isolation of those who have AIDS and on those who deliberately infect others

the question

We have recently seen the spread of AIDS, which has many repercussions on society. This raises a number of questions, such as whether the person who has AIDS should be forcibly isolated from people who do not have the disease. What is the ruling on a person who deliberately transmits the disease to others? Is the person who has this disease considered to be suffering a terminal illness, because this is a factor in matters of divorce and financial transactions?

Detailed answer

Praise be to Allah.

Firstly: isolation of the sick.

The medical information that is currently available states that the AIDS virus is not transmitted through living with a person or touching him; it is not airborne; it is not transmitted through insects or through sharing food, drink, swimming pools, seats, eating utensils, and whatever else has to do with the ordinary details of living together day by day. The disease is primarily transferred in one of the following ways:

1. Sexual contact, of whatever kind.
2. Transfusion of infected blood or blood products.
3. Using infected needles, especially among those who use drugs; using infected razors.
4. AIDS may be passed from an infected mother to her child during pregnancy or childbirth.

On the basis of the above, it is not necessary to isolate infected people from their healthy colleagues if there is no fear of them passing on the disease. The patient may be dealt with according to regular medical procedures.

Secondly: deliberately transmitting the disease.

Deliberately passing on AIDS to a healthy person is the deliberate commission of a haraam (forbidden) deed, and is counted as a serious major sin. It requires a punishment in this world, to be determined in accordance with the level of the crime and its impact on individuals and society as a whole.

If the intention was to spread this terrible disease in society, this is counted as a kind of aggression and spreading mischief on earth, which should be met with one of the punishments referred to in the aayah:

“The recompense of those who wage war against Allaah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off on the opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter.” [al-Maa’idah 5:33]

If his aim is to deliberately infect a specific person, and this is what happens, but the person who has been infected has not yet died, the person who did this should be punished with ta’zeer (a punishment to be determined by the qaadi or judge). If the infected person dies, then the matter of execution should be looked into.

If his aim is to deliberately infect a specific person, but this does not happen, then he should be punished with ta’zeer.

Thirdly: considering AIDS to be a terminal illness:

In sharee’ah, AIDS is counted as a terminal illness once it is full-blown and the patient is no longer living a normal life and death is approaching.