

Research Article

MUSLIM PATIENTS: FUNDAMENTAL CULTURAL ASPECTS AND REFERENCES IN GREECE'S HEALTH LAW

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ABSTRACT

The first part of the present study traces cultural components of health care issues in the case of patients who indicate Muslim in religion. It starts with a brief reference to Muslim population and the religion of Islam. Then, Islamic concepts on health and disease are presented, followed by a reference to the dress and examination code, as well as the dietary, fasting and medication rules that apply to Muslim patients. It should be noted that the above mentioned information is based on knowledge by acquaintance with the tradition of patients of different religions - especially in today's multicultural society with the global migratory flows - in order more effective health care services to be provided. In the second part, the concept of health is presented and determined as an individual right and social good. The right to health is protected by the Constitution of Greece and the Hellenic Presidential Decree (141/13) for both Greek and foreign patients, respectively, rendering such protection the foundation of human rights.

Keywords: Muslim Patients, Cultural Aspects, Health Care, Health law, Human rights.

INTRODUCTION

Definitely, people around the world leave their homeland and migrate, for a number of reasons, with the aspiration to find a place to host their dreams, hopes and expectations. Therefore, the challenges posed by migration¹ to the Greek or any other society, are numerous, as different cultures are compelled to meet each other and live together harmoniously and peacefully.² Undoubtedly, health care centers constitute a cultural meeting point. There, the medical and nursing staff gets to know the tradition of patients of different religions in order to provide more effective health services.³ The patients investigated in the present study are Muslims – as their faith affects all aspects of religious people's life.⁴ At the same time, the legal framework from which the right to health derives for both Greek and foreign patients is also investigated.

ISLAM AND HEALTH

Muslim populations

Muslim populations come mainly from three regions: Southern Asia (Bangladesh, India, Pakistan) Iran and the Arabic speaking countries. However, in the almost one hundred Islamic countries, Muslim populations are ethnically, culturally and linguistically diverse. Currently it is estimated that such population amounts to one billion people. The main reasons for the migration of these populations from their homeland are the devastating effects of war as well as the quest

for freedom, education and new opportunities.⁵ As far as Greece is concerned, although currently there are no precise demographics and statistics, a fairly large number of Muslims resides in the country. The above mentioned population is likely to reach 2% of the total population in Greece, comprising the Muslim Greek citizens of Thrace as well as both legal and illegal immigrants, who employ the Greek health services in different ways.⁶

The religion of Islam

Islam, Judaism and Christianity are the three major monotheistic religions of the world. Islam, with approximately one billion followers, comes second among monotheistic religions. Islam was founded by Muhammad in the 7th century AD in the city of Medina on the west coast of current Saudi Arabia and north of the city of Mecca. To Islam, Muhammad is the most influential leader and the final prophet of God.⁷ Muslims believe in other prophets as well, including Noah, Abraham, Moses and Jesus. In Arab world, Islam means total submission to the will of God (or *Allah*⁸ - meaning *the God* in Arabic language). All Muslims believe in one, unique, incomparable God and their holy book is the Quran. The latter was written about 14 centuries ago and maintains its original form and language, as it has not undergone any change or processing. The religion of Islam is based on five pillars, six principles of faith and some core values while it advocates peace, mercy, purity, submission and forgiveness. Muslims believe that consciously applying these five pillars will win them paradise after death.⁹

Islamic perception of health and disease

According to Islamic tradition, health is described as a state of physical, psychological, social and spiritual prosperity and is thought of as one of the greatest blessings of God to humans.¹⁰

¹Cfr "Most countries saw significant changes in their demography in the last century as a result of migration across nation borders, which resulted in them becoming multiethnic. This presents considerable challenges for those involved in health research, which needs to be responsible to the different needs, experiences, values and beliefs of ethnically diverse population". See Papadopoulos, I., Lees, S., (2001), 258-259.

²See Moraitou, M., Lamai, E., (2007), 2.

³Cfr "Culture clearly affects clinical care. The studies cited documents the impact that culture can have on outcome, quality of health care, and satisfaction with care. A goal for the clinician, therefore, is to provide culturally competent health care in the patient-physician encounter. Cultural competence is defined as recognition of and appropriate response to key culture features that affect clinical care". See Flores, G., (2000), 21.

⁴See Marioras, M., Rosenberg, Th., (2013), 229.

⁵See Sirois ML., Darby M., Tolle S., (2013), 106.

⁶See Marioras, M., Rosenberg, Th., (2013), 229.

⁷See Sirois ML., Darby M., Tolle S., (2013), 106.

⁸See Al-Shahri M.Z., Khenazian A. Al., (2005), 432.

⁹See Sirois ML., Darby M., Tolle S., (2013), 106.

¹⁰See Rassool H.G., (2015), 13.

Furthermore, God is considered the source and destination of all humans. If a human being, in the course of life, suffers from some physical or mental illness and is treated accordingly¹¹, it is also the result of God's will. Death is also a matter of God's will and comes only at God's permission. Thus, life is sacred¹² and therefore the concern for health is considered as a religious duty¹³ and so is saving the life of another human being and nursing care for patients.¹⁴ As far as health care is concerned, Muhammad left a legacy of several rules on the promotion of the Muslims' health. These rules comprise the obligation of every person to take care of his/her body, eat well, exercise and sleep – in other words to lead a healthy life. Yet, when sick, Muslims can seek doctors' care¹⁵ and follow their instructions. If in pain, medication is permitted; although in Muslim tradition pain is considered to purify the soul from sin.¹⁶ As for death, disease and pain are part of the cycle of human life and God's test to humans.¹⁷ God is the one who determines the boundaries between life and death for all human beings. In this sense, Muslims welcome death¹⁸ as part of their journey towards God.¹⁹ According to this tradition, each human being's destination has been predetermined at birth²⁰ yet prayer can sometimes change such destination.²¹ As for disease, it is considered to be God's test to humans through which sin can be removed²². Specifically, Muslims consider disease as a challenge for human faith to God, a form of atoning for past sins and an opportunity for spiritual empowerment. Therefore, Muslims anticipate disease with stoicism reading the Quran and praying for forgiveness.²³ It is worth mentioning that even non-religious Muslims look for spiritual or religious intervention when challenged with some life-changing experience.²⁴

Islamic dress code

Islam requires *male* and *female* adherents to adopt modest dress when in public or with people of the opposite sex outside their family. However, men and women are subject to *different* standards of *modesty* in dress. For Muslim men modest dress usually means to cover the area of the body from the navel up to the knees, while for women it means to leave exposed only their face, hands and feet. Such clothing habits may affect specific health examinations, as

¹¹Cfr "Muslims believe that cure comes solely from Allah, even if this is delivered via a health professional". See Rassool H.G., (2015), 15.

¹²Cfr "According to Islam, God is believed to have created human beings and given them their bodies as gifts to be cared for. Thus individuals who are ill are expected to seek solutions to restore their physical and mental wellbeing". See Inhorn Marcia C, Serour Gamal I., (2011), 936.

¹³See Rassool H.G., (2015), 13.

¹⁴See Bloomer J.M., Mutair A. Al., (2013), 194.

¹⁵Cfr "Muslim patients are encouraged to seek medical solutions to their health problems. Medical advancements are considered to be God's creation and physicians the enablers of God's handiwork. Physicians who treat Muslim patients need to be sensitive to a variety of religious issues that directly affect clinical care". See Inhorn Marcia C, Serour Gamal I., (2011), 941.

¹⁶See Miklancie, A.M. (2007), 415.

¹⁷See Rassool, H.G., (2015), 12-15.

¹⁸See Miklancie, A.M. (2007), 415.

¹⁹See Rassool, H.G., (2015), 13.

²⁰Cfr "Muslims know that cancer and other serious or fatal diseases may be influenced by environmental factors, but when afflicted, they believe it is fate and the will of God". See Mckennis, T.A (1999), 1191.

²¹See Miklancie, A.M. (2007), 415.

²²Cfr "Muslims believe in divine predestination and attribute the occurrence of pleasure and suffering to the will of Allah. They generally perceive suffering as a way of atonement for one's sins, as the Prophet (...) said, "No fatigue, no disease, nor sorrow, nor sadness, nor hurt, nor distress befalls a Muslim, even if it were the prick he receives from a thorn, but Allah expiates some of his sins for that". This interpretation helps patients and families to cope with serious and life-limiting illnesses. However, it does not belittle the fact that every effort should be made to relieve suffering". See Al-Shahri, M.Z., Khezaizan, A. Al., (2005), 432.

²³See Bloomer J.M., Mutair A. Al., (2013), 194.

²⁴See Rassool, H. G. (2015), 13.

patients may be reluctant to expose their bodies. Furthermore, some women patients prefer a family member to be present during their examination. However, modest dress code may not be followed by all Muslims as some of them consider dressing habits should be adapted to the society they live.²⁵

Patient examination codes

Muslim patients ideally prefer to be examined by a physician of the same sex. Alternatively, they are allowed to be examined by a physician of the opposite sex. However, health staff has to ask for the patient's permission to carefully expose any part of his/ her body to a minimum. Even more care should be taken so as not to expose the patient's private parts,²⁶ unless absolutely necessary.²⁷ In the patriarchal family system, a female patient must have her husband's or her father's permission and stick to the following: 1. To be examined unaccompanied by a Muslim female physician. 2. If no Muslim female physician is available, she should be examined by a Muslim male physician. However, the patient must be accompanied by another woman or, if no other woman is available, by her husband. 3. In case of medical examination by a non-Muslim female physician, she must be definitely escorted. 4. In case there is no Muslim female physician, she may be examined by a non-Muslim male physician, yet definitely escorted. In any case, any eye contact is expressly prohibited between a female patient and a man even if he is the physician.²⁸ Therefore, the presence of a female physician helps to overcome several obstacles, facilitating the whole examination process for female Muslim patients.²⁹ When a person is sick, friends and family have a religious duty to visit the patient, either at home or in hospital.³⁰ Often, visitors bring traditional food and pray for the patient.³¹

Dietary and fasting rules

Islam has rules about the type of food permitted (*halal*) or prohibited (*haram*) to be consumed by Muslims. Pork meat and its derivatives are expressly prohibited; and so are alcohol, animal fats and the meat of animal not slaughtered according to Muslim laws. Contrary, meat and its derivatives when slaughtered according to Muslim laws, fish, eggs, and vegetarian food are allowed.³² Fasting, which constitutes an integral part of Islam, is considered as a body and soul purifying means. Such fasting is followed during the holy month of

²⁵See State of Queensland, Queensland Health and Islamic Council of Queensland, (2020).

²⁶Cfr "Modesty is very important in Islam. Muslim men and women may be shy about being naked and very reluctant to expose their bodies to a stranger. Some Muslim patients may not wish to have physical contact with, or expose their bodies to, the opposite sex. Muslim (both men and women) may be accustomed to being examined by a health care provider of their own gender, and if possible, this should be arranged. In the event of this not being possible, health care providers should show sensitivity and understanding for modesty concerns. Women may be especially reluctant to be examined by a male health care provider for sexual or reproductive health matters". See State of Queensland, Queensland Health and Islamic Council of Queensland, (2020).

²⁷See Al-Shahri M.Z., Khezaizan A. Al., (2005), 433.

²⁸Cfr "Avoidance of eye contact between a female patient and a male healthcare provider should not be misinterpreted as lack of trust or a sign of rejection but rather as a common sign of modesty in this patient population". See Al-Shahri, M.Z., Khezaizan, A. Al., (2005), 433.

²⁹See Marioras, M., Rosenberg, Th. (2013), 230.

³⁰Cfr "Visiting the sick is an important part of a Muslims's duties and is required by Islam. It is considered a communal obligation and a virtue to visit the sick". See State of Queensland, Queensland Health and Islamic Council of Queensland, (2020).

³¹See Miklancie, A.M., (2007), 415.

³²Cfr "Many Muslims may refuse to eat hospital food if it is not – halal and may prefer to have meals brought from home. If this is not possible and halal food is not available, they should be given the option of having seafood, eggs, fruits and vegetables". See Rassool H.G. (2015), 14.

Ramadhan,³³ and is compulsory for all healthy, adult Muslims. However, there are other fasting periods as well, yet not compulsory. During Ramadhan Muslims are not allowed to eat or drink anything – not even water – from dawn to dusk. Yet, it is common practice for Muslims to have a meal before dawn. Nonetheless, youths, the elderly and patients are excluded from fasting to safeguard their health. Pregnant and nursing women, women in menstruation, or currently ill people and travelers are also exempt from fasting. In any case, all of the above should fast later on.³⁴

Medication rules

Islamic tradition allows patients to use medicines provided they are alcohol-³⁵, gelatin- and pork-free³⁶ while narcotics are prohibited³⁷. However, in case of emergency and in absence of an alternative therapy, such restrictions are lifted, provided the patient is informed accordingly.³⁸ In any case, medicine manufacturers provide information on the composition of their products stating their active and inert ingredients, preparation processes and any animal origin.³⁹

THE RIGHT TO HEALTH CARE

Health care as an individual right and a collective good

The Constitution of the World Health Organization (WHO) defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity.”⁴⁰ Up to early 20th century, health was considered an individual right. Health services were offered in hospitals, as well as in charities for the elderly, poor, disabled and orphans. Public intervention aimed only at regulating health protection against infectious and contagious diseases, especially epidemics. However, from early 20th century on, the idea of health as a collective good and national wealth starts dominating. At the same time, health gains both an individual and social dimension and therefore is one of the main objectives of the State.⁴¹

The constitution of Greece as a source of the right to health care

The fact that the individual and social right to health is recently constitutionally recognized and protected proves the significance attributed to it by Greek law. The right to health refers to the principle of human dignity and worth, while its individual and social aspects as well. The individual right to health means the right to refrain from any form of interference with an individual's personality, physical and mental integrity and freedom. The social right to health means the right to the provision of healthcare services.⁴²

³³(...) Ramadan is a month of spiritual consciousness and social responsibility for fulfilling one's fasting and charity obligations, two of the five fundamental pillars of Islam. During this month Muslims believe the Prophet Muhammad received the Holy *Qur'an* from Allah". See Sirois ML., Darby M., Tolle S., (2013), 111.

³⁴See State of Queensland, Queensland Health and Islamic Council of Queensland, (2020).

³⁵Cfr “As for medicines containing alcohol, opinions are divided: most ban them on the grounds that the Quran forbids the state of intoxication, while others allow them when no alcohol-free medication is available». See .MariosasM., Rosenberg Th., (2013), 231.

³⁶SeeRassool, H. G. (2015), 15.

³⁷SeeHammoudM., White C.B., Fetters M.D. (2015), 1310.

³⁸SeeRassool H.G., (2015), 15.

³⁹See State of Queensland, Queensland Health and Islamic Council of Queensland (2020).

⁴⁰ Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on 7 April 1948. See World Health Organization (2020).

⁴¹SeePaparrigopoulou – Pechlivani, P. (2009), 36-37.

⁴²SeeMitrossiliM. (2009), 29-30.

In the Constitution of Greece⁴³health issues come under the general Part II: *Individual and Social Rights*. Specifically, the aforementioned Constitution states the following: 1) protection of human life without any discrimination: *Article 5, par. 2*: “All persons living within the Greek territory shall enjoy full protection of their life, honour and liberty irrespective of nationality, race or language and of religious or political beliefs. (...)”, 2) right to health protection: *Article 5, par. 5*: “All persons have the right to the protection of their health”, 3) punishment in case of any damage caused to health: *Article 7 par. 2 I*: “Torture, any bodily maltreatment, impairment of health or the use of psychological violence, as well as any other offence against human dignity are prohibited and punished as provided by law”,⁴⁴ 4) state care for the citizens' health: *Article 21, par. 3 II*: “The State shall care for the health of citizens and shall adopt special measures for the protection of youth, old age, disability and for the relief of the needy”.⁴⁵

The hellenic presidential decree as a source of the right to health care for third-country nationals

In 2013, Greek legislation was adapted to European Union directives on the recognition of third-country nationals or stateless persons⁴⁶as beneficiaries of international protection⁴⁷. Under Presidential Decree No. 141, several forms of protection were granted to third-country nationals, one of which concerns health care. Specifically, this decree states:

Chapter G/ Content of international protection

Presidential Decree 141, article30:*Social assistance*: Beneficiaries of international protection shall receive the necessary social assistance on the same conditions as provided to Greek nationals.

Presidential Decree 141, article31, par. 1.*Health care*: Beneficiaries of international protection shall have access to health care under the same eligibility conditions applicable to Greek nationals.

⁴³Apart from the Greek law on health care, there are also international conventions functioning as sources of health care law with increased power, constituting an integral part of Greek law. In Addition, there are European sources with non-binding instruments, such as recommendations from International Organizations with indirect effect on domestic law and influence on the legislative output of the country. These organizations, which proclaim several health issues, are the UN, the World Health Organization (WHO), the United Nations Organization for Education, Science and Culture (UNESCO) the International Labor Organization (1919), the Red Cross (1863), etc. For further detailssee Mitrossili, M. (2009), 35-38.

⁴⁴SeeHellenic Parliament, “The Constitution of Greece, PartII: Individual and Social Rights”, (2016).

⁴⁵Cfr“the patient has the right to have his religious and ideological beliefs respected and recognized”. The National Printing House, Laws and Decrees. See“Law 2071/G.G. Issue 123/92 volume I/Article 47/7”. (2016).

⁴⁶**Article 2, par.(e)**:“Refugee” means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom article 12 does not apply.”SeeThe National Printing House, Laws and Decrees, “Presidential Decree 141, Volume I, leaf no. 226, (21-10-2013), (P.D. 141/13 G.G. Issue I 226)”, (2016).

⁴⁷**Article 2, par. (b)**:“Application for international protection” or “asylum application” or “application” means the request for protection by the Greek state submitted by an alien or a stateless person whereby s/he requests to be recognized as a refugee under the Geneva Convention, or the granting of subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of this Decree, that can be applied for separately.”

Article 2, par. (a): “Geneva Convention” means the Convention relating to the Status of Refugees signed in Geneva on 28 July 1951, and ratified by the Legislative Decree No. 3989/1959 (G.G. I 201), as amended by the relating New York Protocol of 31 January 1967, which was ratified by the Obligatory Law 389/1968 (G.G. I-125).”SeeThe National Printing House, Laws and Decrees, “Presidential Decree 141, Volume I, leaf no. 226, (21-10-2013), (P.D. 141/13 G.G. Issue I 226)”, (2016).

Presidential Decree 141, article 31, par. 2. *Health care*: Beneficiaries of international protection who have special needs, in particular pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence, minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman or degrading treatment or persons who have suffered from armed conflict shall be provided with adequate health care, including treatment for mental disorders, when needed, under the same eligibility conditions as Greek nationals.⁴⁸

CONCLUSION- DISCUSSION

Global migratory flows are an increasing trend beyond any doubt and Muslim populations from several regions across earth are among them. In Greece, it is believed that Muslims reach about 2% of the total population of the country, including the Muslim Greek citizens of Thrace. Islam, the second major monotheistic religion, is based on a number of pillars, principles of faith and core values. As far as human health is concerned, Islamic tradition describes it as a state of full prosperity and is considered as one of the greatest blessings of God to humans. God is the one who determines human life and death and thus, disease and pain are anticipated with stoicism, prayer and reading the Quran, for they are regarded as a challenge for human faith to God, a form of atoning for past sins and an opportunity for spiritual empowerment. All health issues are impregnated by religious beliefs and therefore stipulate from examination to dress codes, as well as dietary, fasting and medication rules, for the patient. It should be noted that tracing the cultural aspects of Muslim patients' health gains knowledge with the tradition of patients of different religions in order more effective health care services to be provided. In the second part of the present paper, the definition of health according to the World Health Organization (WHO) is presented, according to which health is a state of complete physical, mental and social well-being. Accordingly, health is anticipated as an individual right and social good, protected by law. In particular, the Constitution of Greece is a source of the right to health for Greek patients, while the Hellenic Presidential Decree 141/13 is a source of the right to for third-country nationals-patients. The above mentioned decree in 2013 was the basis for the transposition into the Greek legislation of EU Directives on minimum standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection against any form of persecution. One of such forms of protection is the beneficiaries' access to healthcare, under the conditions applicable to Greek citizens. Undoubtedly, the Constitution of Greece and the Hellenic Presidential Decree 141/13 are exponents of the legal protection governing health care issues for patients – both Greek and third-country nationals. Such legal protection demonstrates the adaptation of law to the needs of the contemporary multicultural society and the historical request for the promotion of human rights as well.

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⁴⁸Transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337) on minimum standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast). See The National Printing House, Laws and Decrees, «Presidential Decree 141, Volume I, leaf no. 226, (21-10-2013), (P.D. 141/13 G.G. Issue I 226)», (2016).