

Sanctity and legality of transgender: Opinions of eminent scholars and jurisprudence institutions

1. Dr. Hafiz Hasan Madni, Associate Professor, Institute of Islamic Studies, University of the Punjab Lahore
2. Dr. Saeed Ahmad, Associate Professor, Institute of Islamic Studies, University of the Punjab Lahore
3. Dr. Bashir Ahmad, Assistant professor, school of history and Pakistan Studies, Minhaj University Lahore
4. Dr. Talib Ali Awan, Assistant Professor, MY University, Islamabad

Abstract: *The National Assembly of Pakistan in May 2018, the Transgender Protection Rights Act was passed and implemented across the country. Gender stands for gender and trans stands for: change meaning 'gender transition law'.*

Sometimes sex change is permissible and sometimes it is a serious sin. Instead of sex change, the most desirable situation should be called 'returning to the original gender reality' and this treatment has also been demanded in Islam. First, the real gender of an individual should be determined. Below is presented the fatwa of Muslim jurisprudence institutions and eminent personalities of the Nation of Islam on this issue.

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Ayat-e-Kareema and its interpretations

In Surat al-Nisa of the Holy Quran, Allah Almighty has presented the determination of Satan in these words:

God cursed him¹ He said: Do not take from your servants a prescribed lot. And we did not lead them astray, and we did not wish for them, and we did not command them, so let us pray to the call to prayer, and we did not command them, so we change the creation of God. The¹ And those who are taken by the Shaytaan, and those who are not without Allah, lose a clear loss. 100120 The devil is only pride, and the first of them is Hell. (Surah Al-Nisa:118 to 121).

"Allah has cursed them, when Shaytan said: I will definitely take the fixed share from your servants. And I will continue to mislead them and give them false hopes. And I will teach them to tear the ears of animals and I will tell them to distort the image created by Allah. Listen! Whoever abandons Allah and makes Shaytan his friend, he will sink into clear loss. He will continue to make verbal promises to them, and will continue to show him a green garden (but remember!) Shaytan's promises to him are absolute. There are deceptions. These are the people whose abode is hell, from which they will not get relief.

a Imam Muhammad bin Jarir Tabari (d310 AH) writes in the commentary of this verse that

"Abu Ja'far says that the best interpretation of the change of Allah's creation is 'abandoning the religion of Allah', and this interpretation of the verse of Surah al-Rum: There is a verse of 30 in which it is said that no one can change the creation of Allah. And if that is the meaning, it includes all that Allah forbids: from chastisement, what is not permitted to be castrated, and what is prohibited is from beauty and shame, and other sins.¹

When it means divine religion, its meaning includes committing acts forbidden by Allah, such as castrating an animal where it is not permissible, and sins such as tattooing, tooth spacing, etc. And this includes giving up all sins. Because Satan invites everyone to sin and prevents them from doing good. "

Hadiths in Tafsir al-Tabari no10438 to 10455 Commentary on the creation of Allah from the Companions and followers, 'Deen Allah' And change By 'prohibition of castration' is meant.

a Imam Hussain bin Masoud Baghwi (d516 AH) in his Tafsir Ma'alam al-Tanzeel interprets the same verse: Sayyidna Abdullah bin Abbas, Hasan Basri, Qatadah, Mujahid etc. have interpreted Khalq Allah from Deen Allah which is also mentioned in Surat al-Rum. Ikrama and other commentators said that change refers to the illegal castration of living beings, cutting off their ears and putting tattoos on the body. "

b Imam Abul Barakat Abdullah Nasafi (d710 AH) writes in his commentary that

"And we did not command them, so we changed the creation of Allah."¹ It means that the supporter (Nursand) would leave one eye open and not ride on it. Or castrate the slaves. It is valid in animals, but invalid in slaves. Or make pictures on the body by kissing. By denying the genealogy, they used to refer to other genealogies. Or dye the white hair black. Or by prohibiting and disbanding or neutralizing. Or the religion of Islam, which is the natural religion of Allah, would have changed it.²

c Maulana Hafiz Salahuddin Yusuf (AD 2020) writes in his commentary that

"In the same change, by sterilizing men and similarly by performing operations on women, depriving them of the ability to produce children." In the name of make-up, removing the hair of the eyebrows etc., distorting one's appearance and Vashm (i.e. kneading) etc. are also included. All these are evil deeds that must be avoided."

d Commentator Abd al-Haq bin Ghalib bin Atiya Al-Andalsi (541 AH) writes in his commentary:

﴿:1 وملاك تفسير هذا الأيا﴾ That every change is harmful in the verse and every change that is beneficial is permissible.³

¹ Jame Al Bayan By Muhammad bin Jarir Tabari, 9-222, 215, Al-Risalah Institute, 1420 AH

² Tafsir Madarak al-Tanzil By Imam Abul Barakat Nasfi: Under the mentioned verse

³ Muharrar Al-Awjiz fi Tafsir Kitab al-Aziz, Al-Kutub Al-Alamiya: 2/115

"The main interpretation of the change of God's creation is that every harmful change is included in the curse mentioned in this verse, while every beneficial change is permissible. "

The way Allah created every creature, it is not right to make any change in it that is not permitted by the Sharia. Because it is equivalent to not being satisfied with Allah's creation. Any type of change contrary to Sharia is not only illegal but also a cursed act and is a major sin. Imitating another gender and changing one's body parts to be like it are both major sins, and both of them have been cursed by Allah Ta'ala.

It has been mentioned in the above interpretations that the conversion of the people of Allah includes the cutting off of the body parts of a person to try to change his physical abilities.

Hadith of the Prophet

Some of the Companions inquired from him asking for permission to live separately.

On the authority of Sayyidina Saad bin Waqqas that

I mean, the Prophet, peace be upon him, rejected Uthman bin Mazoun, even if he was allowed to abrogate us.⁴

"The Prophet (peace and blessings of Allah be upon him) did not allow Sayyiduna Uthman bin Mu'zoon (RA) to live separately from women. If you had allowed them, we would have castrated ourselves."

The Messenger of Allah, peace and blessings be upon him, forbade Sayyidna Uthman bin Mazoun from becoming a vassal. Similarly, in other hadiths, the Prophet (PBUH) forbade rubbing the body, removing hair from the face, baring the teeth and pulling the eyelashes.

When for a human being to waste one of his organs and tampering with the teeth and hair on the body is change for the sake of Allah, which is unlawful, then what a great sin it is to leave one's original sex and change it to another sex. In which it is not only the wasting of several organs, but it is a nefarious attempt to modify and change the gender reality of the entire human body.

Fatwas of well-known scholars and institutions

Allah Almighty did not create any third gender apart from male. So every gender will be associated with male weight and their Shariah rulings will be issued on it. Impersonation of one gender with another or change in creation for it are cursed and illegitimate acts in Islam. As

a The Council of Islamic Ideology passed the 'Transgender Act' In his recommendations on 2018, he stated

⁴ Sahih Al-Bukhari: The Book of Marriage the amount 5074

that

"Provisions of the Bill, particularly the section containing definitions 377(A) creates a general impression that The characteristics The process of castration (being castrated or being castrated) is examined, although the process of castration is prohibited by the Sharia. It is necessary that this ugly practice should be declared legally prohibited."⁵

b Maulana Muhammad Taqi Usmani writes:

"There are fixed criteria for defining gender as male or female, so it is not correct [in this law] to define it as a third gender." "Allah knows

There is no recognition of a third gender other than male and female in Sharia law, and it is also known that it is unlawful and forbidden for a human being to change his gender or attribute himself to another gender. Therefore, male and female other than male testicles within the said amendment in the NADRA Regulations mentioned in the question Declaring Male Eunuch, Female Eunuch and Transgender Uni Sex as separate genders apart from male and female is completely against Sharia."⁶

If there is any gender disorder in the people, then getting gender treatment will sometimes be a good thing and sometimes it will be a sin. And it depends on their gender reality. By checking their gender reality with specialist doctors, if they want to complement their gender, this treatment will be called, which is desirable and rewarding in Islamic Shari'ah. If they want to make a change against their true gender, this change will be a cursed commandment and a sin as they belong to Allah. And from Sharia and medical point of view, it is not even possible to do so because it is impossible for a human being to change his true gender. Man can lose some of his attributes by using his temporary authority illegally, and he can get some external signs, but in fact, he cannot change the gender that has been assigned to him in the womb. This is a Muslim medical principle and Shariat also points out this eternal principle to prevent a person from harming himself.

c Mufti Muhammad Zakaria and Mufti Shahid Obaid of Jamia Ashrafia, Lahore write that

"If a man has some female physical signs or a woman has some male physical signs, then it is permissible for a

⁵ Recommendations of Islamic Ideological Council: Meeting no209, dated 17 January 2018 with reference to Recommendations of Islamic Ideological Council meeting no328, dated 18, 19 May 2022, point number 7

⁶ 'Islam The concept of a third gender in addition to male and female' Fatwa Jamia Darul Uloom Karachi, Namaul Balagah, Karachi, Issue of Rabi'ul Awwal 1444 AH, p. 165

man to become a perfect man by eliminating these female signs, and for a woman to become a perfect woman by eliminating the male signs. Whether this is through surgery or medication. Because the presence of feminine signs in a man or the presence of masculine signs in a woman is a defect. And correcting the defect is lawful. Therefore, in this case, the process of correcting your gender will be called 'change gender', rather than gender determination or gender correction.

Similarly, if a person has equal male and female characteristics (for example, having both male and female private parts) or not both parts of the private parts, which can determine his gender, which in the term is called *nakula moshlik*, then such a person It is Shariah permissible to become a full man or a full woman by dominating one of the sexes through surgery or treatment, because it is a defect to have male and female symptoms at the same time.⁷

d Maulana Fidaullah Sahib of Dar Uloom, Karachi writes that

Changing to a third gender would fall under the category of gender reassignment, which is obviously illegitimate and haram in the Shariah... Nowadays, through various medical tests, it is possible to find out that the symptoms of the dominant gender are within the difficulty. It can be understood. Therefore, if through medical tests, a male with difficulty is declared to be subject to one gender, then his ruling is clear that it is permissible for him to adopt the same gender as with male without difficulty.

It is permissible to correct external genitalia and physical symptoms in accordance with internal reproductive organs through surgery. First her gender will be determined based on the medical report, and since internal organs and hormones are considered in the medical report, her gender will be determined according to the internal reproductive organs and hormones. Therefore, in the external sex organs and symptoms, the organs and symptoms which are contrary to the sex proved by the medical report, will be in the order of excess organ, and will be considered as a defect due to causing doubt in the original sex. Therefore, it will be permissible to remove such organs through surgery rather than to correct them. Also, in this case, the removal of the above-mentioned sexual organs and symptoms and the process of correcting the organs according to the original sex will not be called sex change, but it will be called gender correction or sex correction."⁸

e Shia Ayatollah Ali Hosseini Khamenei (Supreme Leader of Iran) was asked that

"There are some people who appear masculine but psychologically possess feminine characteristics and perfectly feminine desires. If they don't change their gender, they will become illegal. Can such persons be treated by

⁷ Fatwa Jamia Ashrafia, Lahore... dated 29 September 2022

⁸ 'Change The problem of gender' Dar al-Tasneef, Jamia Dar Uloom Karachi, p29, 22 and 23

surgery?

Answer: There is nothing wrong with the said operation, if it is really for the disclosure and expression of sex, but with the condition that no other action is the cause of haram.

Question: What is the order of performing an operation to change a male or female female?

Answer: It is permissible in itself, but it is obligatory to refrain from haram cases.⁹

f The eleventh session of the 'Islamic Jurisprudence Academy' of Makkah (19 to 26 February 1989) this unanimous fatwa of prominent scholars of the Islamic world gives important guidance:

"First: It is not permissible to change the male gender whose male organs are complete and the female gender whose female organs are complete. Such a change is a punishable crime because it is a change in the creation of Allah. In the Holy Qur'an, Allah informed about this evil intention of Satan and declared it as a cursed act. And the Holy Prophet (PBUH) has cursed the women who knead and knead, pull their hair, and pluck their hair because of the change in Allah's creation.

Second: A person whose organs have combined the signs of both men and women, then look at him to the predominance of maleness, if he is dominated by maleness, treatment of maleness will be done with it. If male organs are more, it is permissible to remove the suspicion of female through medical treatment. And if the female organs predominate, it is permissible to remove the male organs through medical treatment, whether it is treated with surgery or hormones. Because this disease and its treatment are intended to cure it and not to change the creation of God¹⁰. Because it is a kind of disease and through treatment, healing is meant, not a change in God's creation.

This decision was made by prominent Saudi scholars: Sheikh Abdul Aziz bin Baz, Dr. Abdullah Omar Nassif, Dr. Bakr bin Abdullah Abu Zayd, Sheikh Saleh Fawzan, Imam of the Kaaba Sheikh Muhammad bin Abdullah Al-Sabeel and the famous jurists of the Islamic world Sheikh Mustafa Zarqa, Dr. Muhammad Yusuf Qaradawi. And tens of prominent scholars including Dr. Talal Umar Bafiqia did in their official meeting.

As if genital surgery can be performed for treatment, but it will be considered a return to the original gender reality rather than a sex change, because it is a treatment, otherwise it is a crime of changing the creation of Allah, which is a cursed act.

⁹ Explanation of Al-Masail by Ali Hosseini Khamenei, p381, Publisher: Al-Massita Al-Islamiyya, Lahore

¹⁰ Jurisprudence of the Academy of Islamic Jurisprudence, Makkah: p322, EFA Publications, Delhi 2006

Treating people with real disabilities?

Most people with gender dysphoria can be cured, because their cells have a clear gender, but sometimes it is possible that even with a clear gender and every treatment, a person cannot perform all gender functions. . So such people are like the real disabled people, who have to live with their excuses, without sight or hearing for the rest of their lives. For such people, on the Day of Resurrection, Allah Almighty has prepared a great reward. In the Holy Quran, Allah Ta'ala has mentioned them in this verse

And He makes whom He wills barren.¹¹He is all-knowing, all-powerful, 00050﴿ (Al-Shura:50)

"Allah makes whomever He wills barren. Indeed, He is All-Knowing, All-Powerful.

Such genuine people are few in number, but they are still called disabled, and instead of being cast as a new category on account of their gender, as far as and as many gender norms and practices are possible for them. Orders and actions of the same kind are legitimate. About one such person, the Saudi Fatwa Council wrote that

If it is expected in this person that the state of maleness and femaleness will not differ after the operation, and it is not possible to marry him as a man or a woman, then the operation should not be performed at this time; Because the actions are then futile, but delaying their implementation until it changes to the present is expected to be different from its implementation, and benefit from it; According to the words of the Prophet, peace be upon him: "Indeed, your blood, your wealth, your symptoms, and I share them are forbidden to you." Hadith.¹¹

If it is expected about such a person that despite the operation, his male or female characteristics will not be complete, and it will not be possible for him to marry a man or a woman, then in these circumstances he should not be operated because such Operation is a futile effort. He should avoid operation until he realizes gender discrimination and clear benefit from it. Because the Prophet ﷺ said: "Your blood, wealth, honor and skins have been forbidden to you" (Sahih Bukhari:7078)

As long as people with gender problems can fulfill their marital rights and duties, marriage is permissible for them if they inform their spouses before marriage. As sterility is a gender defect that man cannot procreate. But it is permissible for an infertile man and woman to marry. And if they are aware of this defect, then it is necessary to inform their husband about this defect before marriage. This gender defect of theirs will not be a hindrance for them in marriage.

And a person who is not able to perform sexual acts even after the operation, then such a person should

¹¹ Fatwa of the Permanent Committee:25/49, Fatwa No. 9085, Department of Scientific Research and Afta, Riyadh
458 | Page

avoid marriage, the jurists write that

``Al-Anna: It means not having an anarchy: According to the public jurists, this is a defect that gives the wife the option of separating from her husband after giving a grace period of one year. have decided that the woman currently has the option of termination.

Jamhooor has argued from the tradition of Sayyiduna Umar, in which he fixed a period of one year for a person incapable of disorder; And because the purpose of the wife is to choose chastity and chastity by getting married, and from this she can get chastity for her own self, and such a marriage completely eliminates the purpose of marriage. In this, the party has the right to terminate the contract. And the scholars agree that if even a small amount of money goes away due to defects in buying and selling, then the authority is proved in it.¹²

İIn the same way, gender dysphoric people should clarify their gender with medical doctors before marriage, so that they don't get married to their own gender in ignorance, like Sheikh Muhammad Saleh Uthaymeen.□ writes that

"There is a possibility that she herself is a woman, and a woman cannot marry a woman, nor can she marry a man, because there is a possibility that she herself is also a man, and a man cannot marry a man. He remains unmarried until his case becomes clear, and when it becomes clear, if he is among men, then he should marry a woman, and if he is among women, then he should marry a man. Until his case becomes clear.¹³

Therefore, it is not permissible to not accept it and to try to change it according to the gender and type of creation that Allah has created for men and women. However, if a person develops a disorder or disease related to his gender, it is correct to seek treatment for it. Because this is not a change in creation, but a return to the original creation and the end of resemblance to another gender. In the same way, if a man's potency decreases, then there is no harm in treating him, or if a woman becomes disabled from pregnancy, then she should be treated and treated for this purpose.

¹² Kuwaiti Al-Musau'a al-Fiqhiya:31/16, Ministry of Endowments and Religious Affairs, Kuwait 1427 AH

¹³ Al-Sharh al-Mu'ta by Sheikh Muhammad Saleh Al-Uthaymeen:12/160, first edition 1428 AH