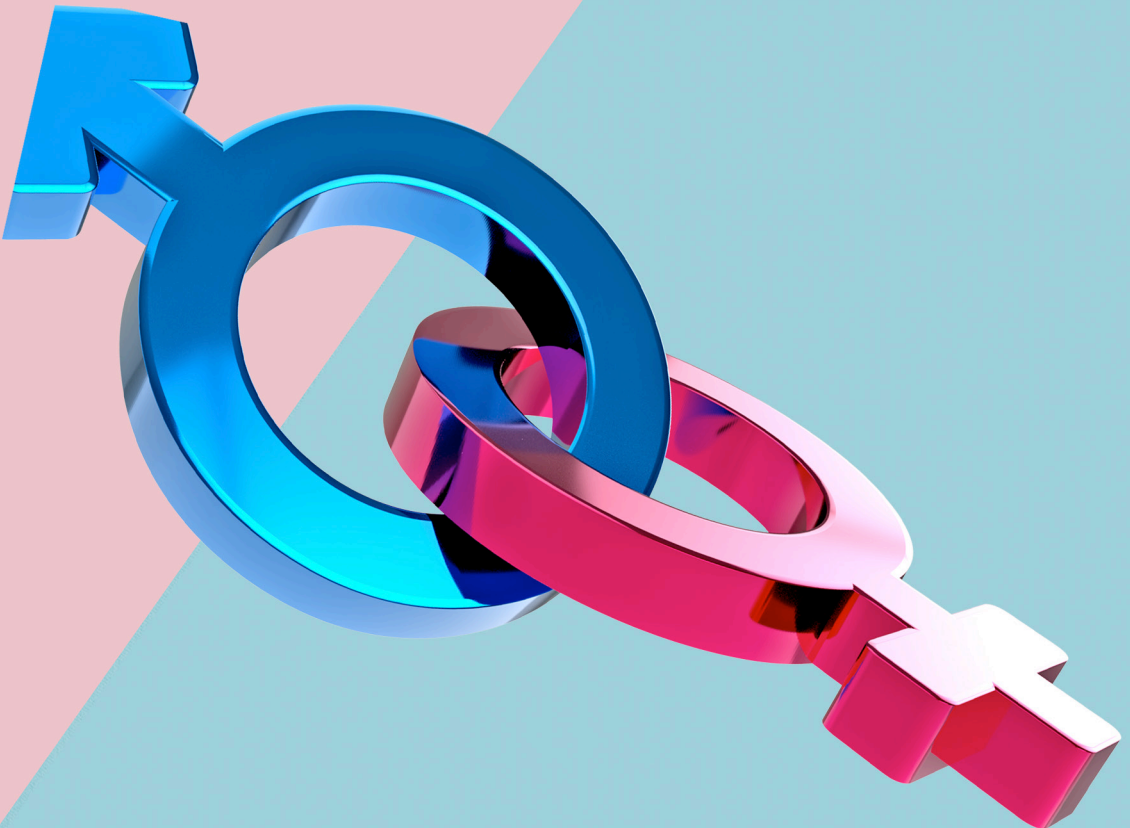


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# Religions

Published by the Doha International Center for Interfaith Dialogue

## The Identity of Human Nature and Transgenderism (A Religious Perspective)



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# **RELIGIONS**

**Published by the Doha International Center for Interfaith Dialogue**

**RELIGIONS** is an annual and bi-lingual (English and Arabic) publication in interfaith studies published by the Doha International Center for interfaith Dialogue with an emphasis on interreligious dialogue and the relation between Islam and the other faiths.

In a world of the religious misunderstandings, violence and hijacking of religious faith by political ideologies the **RELIGIONS** intends to provide a welcome space of encounters and reflections upon the commonalities and shared goals of the great religions of the world. The title of the Journal suggests religious diversity, while suggesting the need to explore this diversity to develop keys to both a deepening of one's faiths and a meaningful opening to other creeds. The Quran suggests a commonality of faiths and a striving for the Truth within the context of religious diversity:

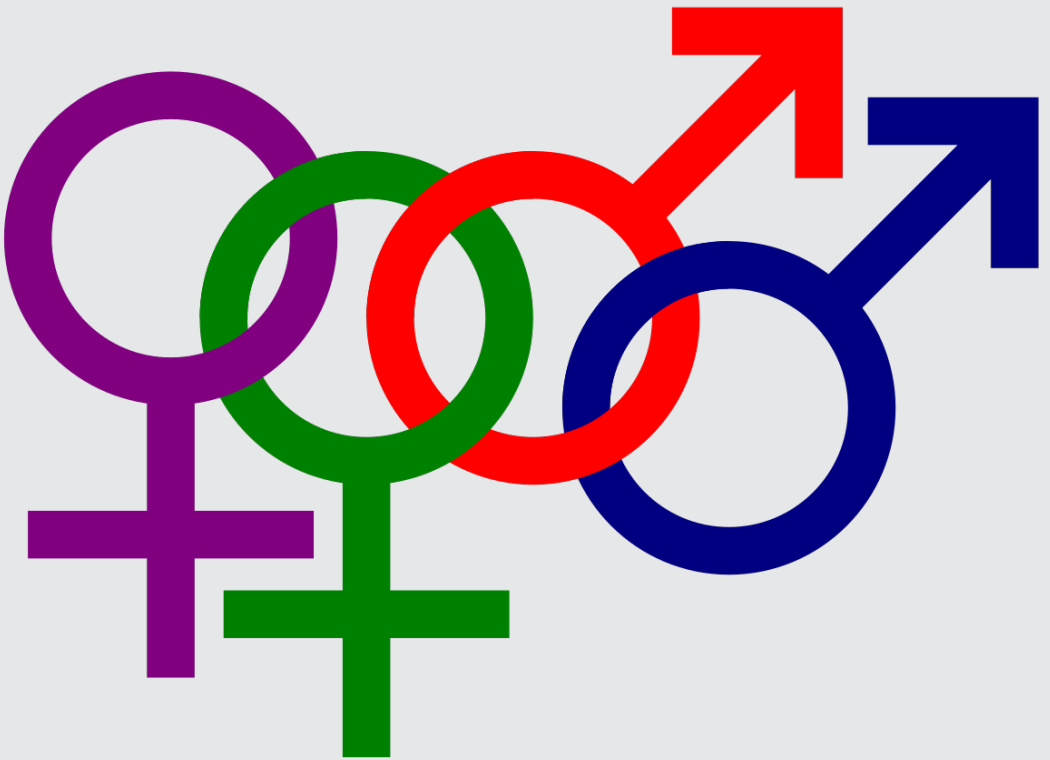
***“To reach among you, we have prescribed a law and an open way. If God had willed, He would have made you a single people, but (His Plan is) to test you in what He hath given you: so, strive as in a race in all virtues. The goal of you all is to God; it is He that will show you the truth of the matters in which ye dispute.”*** (The Table Spread: 48, version of Yusuf Ali).

As a refereed international publication published by the Doha International Center for interfaith Dialogue, **RELIGIONS** finds its inspiration in the universal message of the monotheistic broadly understood, while engaging the various religious faiths that share common principles and values within this broad defined context.

**RELIGIONS** encourages comparative studies and interreligious exchanges in a spirit of dialogue and mutual enrichment. Its aim is to promote understanding between religious faithful of various traditions by exploring and studying the rich field of their theological and spiritual common grounds, their mutual and constructive relationships, past, present, and potential future, a better understanding of the causes of their conflicts, and the current challenges of their encounter with atheism, agnosticism and secular societies.

In addition, **RELIGIONS** wishes to highlight and revive the universal horizon of Islam by fostering studies in the relationship between Islam and other religions and civilizations in history, the arts, and religious studies. This is also away to revitalize intellectual discourse in Islam, within the context of an interactive and cross-fertilizing engagement with other faiths.

The essays published in **RELIGIONS** exclusively engage the intellectual responsibility of the authors, and necessarily reflect the views of the **DICID**. They are published as part of an ongoing dialogue on religions, and should not be construed as the expression of the positions of any sponsoring organizations.



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# Editorial

The peer-reviewed journal “*RELIGIONS*, published by Doha International Center for Interfaith Dialogue, is pleased to present to its esteemed authors, readers, and all followers its seventeenth issue entitled *The Identity of Human Nature and Transgenderism: (A Religious Perspective)*. The issue is an attempt at serious academic inquiry to examine and clarify the attitudes of religions toward homosexuality. When bringing such a topic into academic discussion, it is essential to also discuss the issue of transsexuality and the attitude of religions toward it and to clarify the extent to which there is a difference between whether this transsexuality is a necessity or merely a sexual obsession under the pretext of freedom.

And with the escalation of worldwide campaigns calling for homosexuality to be accepted, even embraced and supported, and attempting to make it a human right, we are forced to confront the problem that not only have all monotheistic religions consensually forbidden homosexual acts, but also religions criminalize and punish the one who commits homosexual acts; because it violates the divine texts and constitutes a threat to the survival of the human race, apart from its social, health and psychological effects, since it contradicts - even before any religious or legal regulation - the instinct and human origin with which the creation of Adam and Eve began.

In fact, we have tried to cover all the different aspects of the subject in this issue, so that we can say that there is hardly any book or journal that contains what we have covered in this issue. Moreover, not only has the religious aspect been covered, which has undoubtedly been one of our priorities, but the reader will also find discussions of social and psychological aspects, and some research has also dealt with medical and legal aspects.

I hope that in this issue the reader will find profound discussions and analysis on one of the most important issues facing our world today, with platforms and laws to protect such issues in the name of human rights. I also hope that every researcher will find something in this issue that will enrich their culture, expand their knowledge, and open other wide horizons. I think that this issue is consistent with the philosophy and goals of the journal "*RELIGIONS*" and in line with our method of focusing on specific topics and exploring specific new and emerging issues that deal with religious viewpoints and touch on realistic issues that need further research and investigation.

Finally, I am pleased to present to our esteemed authors, readers, and all followers the sixteenth issue of our peer-reviewed journal "RELIGIONS", published by the Doha International Center for Interfaith Dialogue. It contains a variety of intellectual contributions and discussions in Arabic and English on the topic of "The identity of human nature and transgenderism: (a religious perspective)". I believe that this issue will add value to libraries.

**Prof. Ibrahim bin Saleh AlNaimi,**

Editor-in-Chief,

Chairman of the Board of Directors

Doha International Center for Interfaith Dialogue

The interview of “Religions” with ,

## Prof. Ali Mohiuddin Al-Qaradaghi

The Secretary-General of the International  
Union of Muslim Scholars

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Dialogue conducted in Arabic by Dr. Ahmed Abdelreheem

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Translated into English by Dr. Sekou Marafa Toure

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**Religions: Before dealing with the attitude of religion towards homosexuality, would you please briefly inform us about the concept of homosexuality, taking into account that the corresponding Arabic term is “Ālmithliyyah Al-Jinsīyah” or “Alshudhūdh Al-Jinsī”?**

**Prof. Ali Mohiuddin Al-Qaradaghi :**

The word homosexual literally means “of the same sex.” It is the characteristic of being sexually attracted to people of one’s own sex. Some widely used terms are sodomite, Achillean, Sapphic, Uranian, homophile, lesbian, gay, effeminate, queer, homoaffective, and same-sex attracted. Some of these terms refer to women, some to men, and some can be used to refer to both genders. Homosexuality includes the terms lesbian, gay, bisexual, and transgender (A transgender person -often abbreviated to trans person- is someone whose gender identity differs from that typically

associated with the sex they were assigned at birth.)

The term homosexuality is also used to refer to various forms of sexual intercourse that are considered unnatural, especially bestiality or historical homosexuality, but also (sometimes) anal or oral sex. Therefore, sexual orientation is usually divided into three categories:

- heterosexual (having emotional, romantic, or sexual attraction to members of the opposite sex).
- homosexual: gay/lesbian (with emotional, romantic, or sexual attraction to members of their own sex).
- bisexual (having emotional, romantic, or sexual attraction to both men and women).

Thus, “Ālmithliyyah Al-Jinsīyah” means same sexual attraction, namely gay or lesbian, while “Alshudhūdh Al-Jinsī” is applied to lesbian, gay, bisexual, anal or oral sex, sex with animals

(bestiality or zoophilia), and other unnatural sex.

**Religions:** There is no doubt that the monotheistic religions certainly have a position on homosexuality that needs to be explained and made clear, so what would you say about that?

**Prof. Ali Mohiuddin Al-Qaradaghi:** Homosexuality is forbidden in all monotheistic religions; in Judaism it is considered an abomination deserving death, as stated in the Torah: “Do not practice homosexuality, having sex with another man as with a woman. It is a detestable sin,” Leviticus (18:22). The same book itself in Torah mentions that: “If a man has sexual relations with a man as one does with a woman, both of them have done what is detestable. They are to be put to death; their blood will be on their own heads” (Leviticus 20-13). In the Old Testament (Genesis, chapter 19), the story

of the destruction of the cities of Sodom and Gomorrah because of their homosexual behavior is mentioned.

As for Christianity, although it is acknowledged teachings of the Old Testament, which contains the aforementioned stand and verses—and that alone is sufficient—we find in the First Gospel to the Corinthians (10:9:6) a mention of, “Or do you not know that wrongdoers will not inherit the kingdom of God? Do not be deceived: Neither the sexually immoral nor idolaters, nor adulterers, nor men who have sex with men[a] 10 nor thieves, nor the greedy nor drunkards, nor slanderers nor swindlers will inherit the kingdom of God” Corinthians (6 - 9m 10 and 11). Moreover, Jesus Christ (peace be upon him) says: In Mark’s Gospel, “It was because your hearts were hard, that Moses wrote you this law,” Jesus replied. 6 “But at the beginning of creation God ‘made them male and female.’[a] 7 ‘For

this reason a man will leave his father and mother and be united to his wife,[b] 8 and the two will become one flesh.’[c] So they are no longer two, but one flesh. 9 Therefore what God has joined together, let no one separate” Mark 10: 6 - 9.

The Orthodox Churches maintained their position rejecting homosexuality as a sin and immoral act, holding that the Church’s task is to reform the deviant, not to bless these wrong practices or find laws by allowing them.

As for homosexuality in Islam: we have already mentioned that homosexuality includes sodomy and lesbianism, and we shall mention their rulings in Islam in some details:

Sodomy is forbidden in Islam. God Almighty has called it obscene, and pointed out that the people of Lot are the first people and nation to commit this crime, and He said, “And (We sent) **Lūṭ** when he said to his people, “**Do you commit the shameful act in which**

nobody has ever preceded you from all the worlds? Surely, you come to men lustfully instead of women. No, you are a people who cross the limits”, 7: 80 – 81. God Almighty also said: “Do you go to the males (for having sex) out of the whole universe, and leave what your Lord has created for you, that is, your wives? in fact, you are a people who cross (all) limits.” 26: 165 -166. Furthermore, Ibn ‘Abbas and Abu Huraira reported God’s Messenger as saying, “**Accursed is he who does what Lūṭ’s people did.**”

The majority of **Shafi** jurists, the **Hanbalis**, **Abu Yusuf** and **Muhammad** held that the punishment for both persons involved in sodomy is the same as the punishment for adultery, and according to Abu **Hanifa Ya’zar** and the **Malikis**, their punishment is stoning to death; this is the case if it is proved by confession or by four witnesses.

There is no dispute among the jurists about the sanctity of

lesbianism and that it is one of the major sins, as **Al-Dhahabi** mentions in the Book of Major Sins, that the Prophet (peace and blessings of Allah be upon him) said, **“If a woman has sexual relations with another woman, then they are both guilty of zina,”** and his punishment is **ta’zir** by agreement of majority scholars, and a group of them said, “It is forbidden to mix with women until they repent.

**Religions: Perhaps the holistic picture is complete with an explanation of the legal view on homosexuality, do you see any compatibility between man-made law and what you have mentioned in the divine laws?**

**Prof. Ali Mohiuddin Al-Qaradaghi:** I have made it clear that homosexuality is forbidden and a crime in Islam and in all divine laws, and that the perpetrators are punished and deterred, and if we look at the laws in force in most countries of the world, we find that most of them provide

for the criminalization of same-sex relations, and most of them even result in the death penalty. 193-211 CE Roman Emperor Septimius Severus imposed the death penalty for homosexual rape throughout the Roman Empire, Roman Emperor Severus Alexander 222-235 CE deported homosexuals and increased penalties, Emperor Constantine 306-337 CE enacted a law to exterminate gay pagan priests in Egypt, and in 342 Constantius enacted the Theodosian Law (7, 3, 9 C.Th.), which forbade same-sex marriage and ordered the execution of same-sex couples.

In 380 CE the historian Ammianus Marseille Nous published the book “Res Gestae” in which he stated: “They learned that this sect - that is, the Persians - were a gay people, sunk in their country in a life of shame and obscenity; men mated with men in a union of unpalatable lust, and plucked the flower of their youth in shameful intercourse.”



In 390 CE the Christian Roman emperors (Valentinian II, Theodosius I and Arcadius) enacted laws prohibiting same-sex relations and provided for public burning alive as punishment for those found guilty." Defilement of male femininity... Thus, your great experience between the fire of vengeance in the presence of men, as required by the gravity of the crime, will punish all those who have given themselves to the desecration of their male body, which has been transformed into a female body to endure practices practiced for heterosexuality, which are no different from those

of women and which - we are ashamed to say - are practiced in brothels for men, so that everyone knows that the male spirit must be sacred to all and that a man who abandons his sex cannot aspire to another house without suffering the supreme punishment).

In 506 CE King Alaric II issued the Gothic law on burning homosexual couples at the stake and the punishments: general ostracism, shaving of the head, flogging and castration.

During the reign of Justinian in 533, he enacted the so-called Justinianic Law CE - IV. xviii.4",

which provides the death penalty for those who dare to commit evil lust with men.

In 1232 CE Pope Gregory IX initiated the Inquisition in Italian cities and imposed punishments on those who practiced sodomy: Expulsion the first time, amputation of the penis the second time, and burning the third time.

In 1260 CE, in the Kingdom of France, loss of testicles the first time, circumcision of the penis the second time, and burning the third time were imposed as punishments for sodomy, and women were also executed if they engaged in homosexuality. These punishments were maintained in France until 1414 CE.

In Britain, the deposed English king “Edward II” was strangely killed by burning because he was accused of having sex with his lover “Pierce Gaveston” in 1327 CE, and in the Netherlands two men who practiced sodomy were

executed in 1370 CE, as well as in 1431 in Mexico the death penalty was imposed for homosexuals, and “Pope Nicholas V” allowed the Inquisition to persecute people who practiced sodomy, so also in Spain in 1497 CE.

In 1532, the Roman Empire continued to consider sodomy a crime punishable by death, and Henry VIII of England made it punishable by death throughout England in 1533.

The death penalty for sodomy remained in effect until 1860, when a law was passed in Germany criminalizing homosexuality throughout the German Empire under Section 175 of the Penal Code.

**In short, the death penalty or burning for homosexuality was applied in the West until the beginning of the nineteenth century CE until the beginning of the twentieth century, then passed to imprisonment, then to the abolition of penalties,**

then to insist, and strangely enough to adopt, and even criminalize those who reject it at the beginning of the twenty-first century.

Unfortunately, the Vatican quickly succumbed to homosexual desires and legalized and decriminalized homosexuality.

**Religions:** Perhaps the current reality and the support we experience for homosexuality is not only a media support, but also a legal support, especially in Western countries, under the pretext that it is an area of human freedoms and rights. What do you think are the most important and real motivations for this?

**Prof. Ali Mohiuddin Al-Qaradaghi:** The main motive for homosexuality is the Western philosophy (although we do not generalize) based on the principle of absolute freedom, detached

from religion, its values, teachings and morals, and on the principle of utilitarian pleasure. The great thinker Dr. Abdel Wahab El-Mesiri in his book: (My intellectual journey in its seeds, roots and fruits) explains in detail the rape, especially in a sexually open society, and he refers the cause to this utilitarian principle.

In my opinion, in the absence of a divine religion that controls the rights, sets the limits and establishes the standards, the human soul is never satisfied by the desires of the belly (money) and the desires of lust (pornography and perversion) and the desire for prestige, authority, and domination. The true religion is the one that emphasizes common sense and retains it, said the Almighty in Surat Al-Rum: **“So, set your face to the Faith steadily, this (faith) being the nature designed by Allah on which He has created the mankind. There is no change in Allah’s creation. That**

**is the straight faith, but most of the people do not know” 30: 30.**

Therefore, the West has not ceased to adopt the principle of (absolute expediency) and the principle of (absolute freedom), and has not stopped at any moral value when it comes to the question of money and sex, colonialism and occupation, except what the law forbids. The West went from a conservative society to absolute pornography and then paved the way for homosexuality, paved the way for strong campaigns for the liberation of women and their equality with men in all rights. Homosexuality was considered a crime and a mental illness and became a creed, an ideology and a law. In most Western and European countries, laws and court rulings were passed in support of homosexuality, and the media and even sports ridiculed it, carrying the slogan of homosexuality and its flag.

It is quite normal that after the destruction of the family,

the advent of homosexuality completes the war against the family and fights the commitment to it, as if the Quranic verses that were sent down against the people of Lot are repeated today, as if purification is a crime for them and the Almighty said: **“And (We sent) Lūṭ when he said to his people, “Do you commit the shameful act while you can see (its shamelessness)? Is it that you really come to men lustfully instead of women? No, you are a people committing acts of ignorance. So, the answer of his people was not but that they said, “Expel the family of Lūṭ from your town. They are a people who over-indulge in purity. So We saved him and his family, except his wife. We destined her to remain among those who stayed behind. And We rained on them a rain. So evil was the rain of those who were warned” 27:58.**

Homosexuality is no longer a crime, but an ideology supported by the media, money, influence



and law to destroy the world in favor of those behind it:

When we look at the wild worldwide campaign behind homosexuality and the unlimited support - financial, political, legal, international and by the media ... - one can only declare that behind it are dangerous secret organizations that seek to impose on the world - if they can - to weaken or destroy societies, and then the domination and control of these organizations remains, but the natural law that the Almighty has placed in such dangerous deviations is that it will not last long, as the Almighty said: **“And these stones are not far from the ‘pagan’ wrongdoers”**.

Man has been surprised by this dangerous change, contrary to nature and common sense, in Western societies and the societies that imitate them, how homosexuality has spread and even become a belief and an ideology, even though all heavenly laws and, until recently, even man-made laws criminalize

this immorality.

**Religions: After presenting the position of the monotheistic religions and the legal position on homosexuality, we must analyze and trace the negative effects of homosexuality; what are those effects?**

**Prof. Ali Mohiuddin Al-Qaradaghi:** Even among homosexuals, there is no doubt that this universe with everything in it, including humans and animals, is based on marriage (male and female), and the Almighty said in Surah Yasin / verse 36: **“Glory to Allah, Who created in pairs all things that the earth produces, as well as their own (human) kind and (other) things of which they have no knowledge.”** 36:36. Man is born and exists only from a man and a woman, this is a human truth that no one can deny. Therefore, homosexuality contradicts this instinct, nature and truth, and leads to the collapse of humanity.

And when we read the story of the people of Lot and how they reached a high rank in their deviation that was not surpassed by anyone, in the words of the Almighty in Surat Al-Ankabut / verse 28: **“And ‘remember’ when Lūṭ rebuked ‘the men of’ his people: ‘You certainly commit a shameful deed that no man has ever done before you,’”** and their attitude towards the call of our Lord, Lot (peace be upon him) to forbid them these immoralities, so they repelled and mocked him and expelled him and those who believed with him, because they are people who purify, where they said, as it says in Surat An-Naml / verse 56: **“But his people’s only response was to say, ‘Expel Lūṭ’s followers from your land! They are a people who wish to remain chaste!’”**

When we read the verses mentioned in the Holy Qur’an about the people of Lot, we are surprised by this extreme state of deviation, and today

this scene is repeated in the same way, but even more than that, where homosexuality has become a doctrine and ideology, and a law for which opponents are held accountable. Many imams have been expelled from the West just for giving advice in Friday sermons, and many children have been taken away from their parents because they accused them of being against or belonging to homosexuality. Homosexuality has become a policy and a criterion to help poor countries consider this issue.

And in the Sunnah of the Prophet (peace and blessings of Allah be upon him), where he explains in a hadith the disadvantages caused by these obscenities. where he said in a hadith narrated by Sunan Ibn Majah: **“Immorality never appears among a people to such an extent that they commit it openly, but plagues and diseases that were never known among the predecessors will spread among them.”**

The (GLMA) has warned of the harms of homeopathy, including the following:

(1) AIDS, where it has been proven that men who have sex with men are at increased risk of HIV infection. And the U.S. (C.O.C.P.) published in June 2000, "The majority of cases of malignancy in America involve men who have sex with men. And a 2014 report from the World Health Organization states on its website: "HIV infection rates are 19 times higher among homosexuals."

(2) Homosexuals are most likely to be addicted to drugs and intoxicants.

(3) They are most prone to depression, frustration, and suicide, especially among young people.

(4) They are more prone to transmission of syphilis, gonorrhea, chlamydia, pubic lice, prostate, testicular, and other cancers.

Since 1975, (APA) has confirmed on its website that homosexual tendencies are due to upbringing, environment, and society and are unrelated to genes, according to scientific studies.

According to medical reports, 80% of those suffering from syphilis are homosexuals and 33% of them are infected with the Simple MASH virus active in the region. According to a study published in 1990 in the Journal of Colorectal Diseases, 15.2% of gonorrhea patients are homosexual.

**Religions: Leaving aside the problem of those who claim that homosexuality is a disease or, as you have stated from a religious and legal point of view, a crime that must be punished and deterred, what treatment can be offered to confront homosexuality?**

**Prof. Ali Mohiuddin Al-Qaradaghi:** Treatment in Islam is based on two pillars, namely

prevention and actual treatment.

**Preventive side:**

As for the preventive side, it consists in instilling the Islamic faith, values and morals in the hearts of the young and old, educating them and making sure that these obscenities are hated in the souls, ugly in the minds and rejected in the society by adorning the good and beautiful morals. And hating evil and bad morals is one of the most important means for success in this field, and this is what the Holy Qur'an emphasizes regarding the importance of this psychological aspect of **Al-Rashad**, the Almighty said in Surat Al-Hujurat / verse 7: **"But Allah has endeared faith to you, making it appealing in your hearts. And He has made disbelief, rebelliousness, and disobedience detestable to you. Those are the ones rightly guided"**.

Moreover, as mentioned earlier, Islam has provided deterrent punishments for anyone who

tries to change the **Fitrah** (human nature).

Practical aspect of treatment:

I am not talking here about the application of sanctions as we explained above, but by practical treatment I mean the following:

1- Referring to the Sunan of Allah Almighty that He will destroy these people sooner or later, He said in Surat Hud / verse 82: **"When Our command came, We turned the cities upside down and rained down on them clustered stones of baked clay"**.

2- Religious treatment by offering education by people who are able to influence and change these deviant behaviors, and the Holy Qur'an has pointed out that deviation is against human nature, and integrity is the origin. Therefore, purification is the treatment. He said in Surat Al-Shams / verse 9-10: **"Successful indeed is the one who purifies their soul."** Therefore, emphasizing common sense and high morality is easy for those

who strive for it. In the hadith transmitted by Imam Muslim, the Prophet (peace and blessings of Allah be upon him) said: **“No child is born but upon Fitra. Then he said. Recited: The nature made by Allah in which He created man”**.

3- Encouragement by the positive effects of purity and chastity and the negative effects of taboos, especially homosexuality.

4- Psychotherapy, because many doctors agree that some cases of homosexuality are due to a psychological defect, so it is better to benefit from this treatment and not be excluded.

5- A good and righteous society, especially with influential preachers.

6- Home care and support to strengthen faith and morals.

**Religions: Finally, and with all thanks to Your Eminence for this interview, is there a brief statement that can be made about combating the spread of homosexuality?**

**Prof. Ali Mohiuddin Al-Qaradaghi:**

Although homosexuality was a crime in all heavenly laws that provide for punishment, unfortunately, it has spread in most countries of the world and has become a dangerous social phenomenon that threatens the stability of the family and marital relations and leads to an increase in divorces and also kills generosity, virility and masculinity, in addition to the serious damage in social, health and religious terms.

Therefore, we need the joint efforts of the Islamic countries, the conservative countries, the scholars, the sages, the politicians, the psychologists, the jurists, and the sociologists to solve this problem and to dry up its sources, to invalidate the idea from scratch and to refute the suspicions that are raised around it.



## Belonging to Opposite Sex: Islamic Perspectives on Gender Identity

Abdulkareem Idris Aiyetoro \*

### Abstract

The psychological feeling of belonging to the opposite sex which psychologists called gender identity disorder is one of the contemporary issues looming over many countries in recent years. This feeling has led some people around the world to agitate for their gender transformation to the gender they claimed. This transformation of one's gender to the opposite sex is known as transgenderism. Transgenderism has become a worry for many countries where it is getting rampant and spreading. Many strenuous efforts have been shown to discuss the prohibition of transgenderism from the Islamic perspective giving various evidence from the Holy Qur'an and the Traditions of the Noble Prophet (PBUH). However, is the feeling of belonging to the opposite sex normal? Moreover, what are the Islamic preventive measures against this illness? Therefore, to answer these questions, this study aimed to shed light on the following: (1) the Islamic perspective on gender identity disorder (the feeling of belonging to the opposite sex), (2) the Islamic preventive measures for the illness of gender identity disorder. To study these objectives, the current study used content analysis as the research method through library and database searches.

**Keywords:** gender disorder, transgenderism, opposite sex, gender dysphoria, gender transformation.

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## 1- Introduction

Transgenderism is the desire of an individual to be recognized and live with the opposite sex by transforming the biological gender to the opposite gender. This transformation is usually done by undergoing a surgical process or transforming the body shape and getting a hormonal injection (American Psychiatric Association, 2000; Ekins & King, 1997). Transgenderism seems to be a worrisome phenomenon in many countries around the world in recent years, especially how it is spreading and becoming a common norm between both men and women. Therefore, it tends to have a negative influence on the social structure and the well-being of people in society.

Transgenderism - sometimes-relates to gender identity disorder (GID) which is the ideology of being identified by a biological gender that is unmatched by one's gender identity, and therefore willing to get the opposite gender he or she wishes to be identified with. According to Benjamin (1966), cited in (Lev, 2006), transgenders are identified as people who had life-long gender identity disorders, and they are unlikely to adjust to their birth sex regardless of the

psychotherapeutic intervention aimed at curing them. Whatsoever, human beings are either male or female in their gender, and any desire to transform to another gender is against the Islamic religion and the normal values of a human (Muhammad, 2015). This has been explained in the Qur'an 49:13.

“O mankind! Indeed, we have created you from male and female and made you people and tribes that you may get to know one another. Indeed, the noblest of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted”.

The above-cited verse explicitly illustrates human beings' gender, which is either male or female, by which they can identify themselves. This gender identification is a divined decree which is beyond the control of human ability and wishes. Therefore, claiming of belonging to another gender rather than the biological gender identified from one's birth means an act of ingratitude. Consequently, Islamic law prohibits transgenderism in many injunctions from the Qur'an and traditions of the Noble Prophet (PBUH) which are the primary source of Islamic sharia. The Qur'an 4:119 says:

“And I will mislead them, and I will arouse in them (sinful) desires, and I will command them so they will slit the ears of cattle, and I will command them so they will change the creation of Allah”. And whoever takes Satan as an ally instead of Allah has certainly sustained a clear loss”

According to al-Qurtubi’s (1999) commentary on this verse, castration of human beings (surgical removal of one or both testicles) is unlawful (haram) because castration will emasculate the sense and power which tends to lead to ineffectiveness of the reproductive organ. As a result of this, he could not procreate children, which is one of the marriage significances as stated in the Prophet’s (PBUH) Tradition: “Marry one who is loving and fertile, for I will be the most multiplied by the nations on the Day of Resurrection” Imam Ahmad, (2008).

## **2- Statement of the problem**

Science and technology have become a great factor that contributes heavily to the development of almost every aspect of human life and makes life easier to live. However, science and technology are double-edged weapons, they can cause

destruction if not used wisely and with piety. Consequently, human thinking – with the help of science and technology – has surpassed transgenderism to transhumanism, which proves that humanness is in the mind. That is, it is not necessary to have human flesh to be identified as human, as it is not necessary for a woman to have a vagina since sexual identity is in the mind (Rothblatt, 2013).

Although there is a circumstance where tampering with gender is allowed under the Islamic law, when can this be allowed? Moreover, what is the Islamic perspective on gender identity disorder? These issues need a remarkable focus to study them and elucidatory explanations of Islamic perspectives. A few studies have been done regarding the Islamic perspective on transgenderism emphasizing how it is being prohibited by Islamic law (Sharia) through many injunctions of the Qur’an and Sunnah. Hence, this study aimed to study the extent to which Islam allows human beings to tamper with their gender and the Islamic preventive measures for gender identity disorder.

## **3- Methodology**

This study adopted qualitative



content analysis by evaluating the existing studies on a specific phenomenon. This technique is suitable for analyzing text data (Creswell, (2014), and because this study analyzed and reviewed existing documents on gender identity and transgenderism, qualitative content analysis seems appropriate for the current study. Before the researcher started analyzing existing documents, a rigorous and systematic search of existing literature was done through academic sites such as the Scopus database and Google Scholar. These academic sites contain high-quality documents which have undergone the necessary publication processes. This process improved the credibility and authenticity of the documents used (Creswell, 2009).

#### 4- Findings

The objectives of the current study are:

- 1, to know the extent Islam allows humans to tamper with their gender.
- 2, to know the Islamic preventive measures for gender identity disorder.

**Research question 1:** to what extent Islam allows humans to

tamper with their gender?

To begin with, gender identity ambiguity can be categorized into two categories:

The first category consists of those with gender abnormality; those that are biologically or physiologically with sex identity ambiguity). This group of people can be either (1) those who possess both male and female sex organs or genital (Kariminia, 2010) by which they are identified as males and females, known as *Khuntha*. According to Islamic jurisprudence, *Khuntha* can be ambiguous (those with equal genital or sex organs, by which none of the organs is outweighed the other) or non-ambiguous (those with both genitals or sex organs but one of the organs outweighed the other).

The second category consists of those with gender identity disorder; those anatomically males or females but exhibiting behaviors for the opposite gender (Ishak & Haneef, 2014), or gender dysphoria. However, Islamic jurisprudence only recognized the people under this category as *MukOhannath*; that is someone who resembles or imitates a woman in the languidness of his limbs or the softness of his voice (Alipour, 2017). According to psychologists, a person with

these characteristics is known as transgender. (Micallef, 2022) defined transgenders as those people whose gender identity and/or gender role do not conform to what is typically associated with their sex assigned at birth. Another definition says that transgenders are both women and men who feel that they are trapped in the wrong bodies and may decide to change their bodies through sex-reassignment surgeries (Alipour, 2017). Furthermore, (Barmania & Aljunid, 2017) argued that transgenderism is a desire of an individual to become the opposite of his or her original gender. This desire might cause him or her to transform gender through surgery or transforming body shape and get the hormonal injection. Looking at these definitions, it is very clear that in the case of this group of people, there is no ambiguity in their biological gender assigned to them from birth. However, these people might have an intense feeling that their gender is not appropriate for their social identity. Hence, they prefer going for gender transformation or body transformation or even both.

### **Islamic perspective on gender ambiguity**

These categories of gender ambiguity illustrate various kinds

of ambiguous gender which attacks humans' congenital structure. Here, the Islamic perspectives on this will be discussed regarding their gender ambiguity.

**Firstly**, it is strongly emphasized that humans are all creatures of Allah (SWT), and He creates what and how He wishes. Therefore, being created with any physiological or biological crisis, is a divine decree from Allah (SWT) which is beyond the capability of human to change. This has been clearly explained in Qur'an 42:49-50.

“To Allah belongs the dominion of the heaven and the earth; He creates what He wishes. He gives to whom He wishes female (children), and He gives to whom He wishes males «49» Or He gives to whom He wishes both males and females, and He makes whom He wishes barren. Indeed, He is All-knowing and Competent«50».

Moreover, sometimes Allah (SWT) tests human faith with various health crises and different disabilities, among these disabilities is gender ambiguities. For a person whose faith is being tested by one of these crises, need to be patient towards that calamity because being tolerant and patient upon calamity is one

of the categories of patience (*as-sabr alal musibah*). This testing is to know those that truly have in-depth faith from those that are liars, Qur'an 29:1-3 says:

“Alif, Lam, Meem «1» Do the people think they will be left to say, “We believe” and they will not be tested? «2» But We have certainly tested those before them, and Allah will surely make evident of those who are truthful, and He will surely make evident of the liars «3».

Therefore, patience is expected from human upon the gender cruises, because thinking otherwise might get them involved in transgenderism which is totally re-creation and Qur'an has classified it as the Devil's plan to lead human astray by getting them embarked on transgenderism and body transformation while human have been warned against Devil misleading, Qur'an 2:208 says:

“O you who have believed, enter into Islam completely (and perfectly) and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy”.

**Secondly**, it is conditionally allowed under the Islamic law to undergo medical treatment for those with ambiguous gender, this treatment is referred to as **gender**

**correction** which is different from gender transformation or transgenderism in another term. This gender treatment (gender correction) is quite peculiar to *khuntha* (those with both male and female genital organs), after ascertaining of the real gender, this can be known through (1) the external sex organs or genitals (when one of the organs outweigh the other), (2) laboratory gender affirmation. As a result of this, the outweigh gender of the non-ambiguous khuntha is real biological gender, and other gender can be surgically removed as a treatment for the gender illness. For the ambiguous khuntha (those with equal genital) in the other hand, gender affirmation would be more appropriate to reveal his or her biological gender. This is because it has been scientifically proved that human sexuality is binary, every cell in the body of a man is XY and every cell in the body of a woman is XX. There are at least 6,500 genetic differences between man and woman which cannot be changed either by surgery or hormones (Micallef, 2022). Hence, a biological gender which was assigned from the birth can be ascertained through gender affirmation even if a person carries both equal sex organs or genitals.

Thus, gender correction aims to correct the wrong situation, or the defect gender of a person who does not know his status since birth, whether he or she is male or female, who has been tainted by a congenital defect. This is supported by Qur'an 5:2:

“And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And be conscious of Allah; indeed, Allah is severe in penalty.

This verse emphasized the importance of cooperation among the believers on what is beneficial for the entire Muslims, especially their wellness. Undoubtedly, gender correction sounds very beneficial for *khuntha* who has been tainted by congenital defect to be given an opportunity to live normal live as male or female. Since it is not a mere psychological desire to change from one gender to another, as the case of transgenders, who are anatomically or biologically perfect, but it is the correction of the ambiguous gender to reveal the real gender. In addition, this notion is also supported by the Prophet tradition which is narrated by Abu Hurairah (R.A), the Prophet (PBUH) said: “There is no disease that Allah has created, except that He also has created

its treatment” (al-Bukhari, 2002). That is, there is no disease which has no treatment, though people might have not discovered it. Therefore, gender correction is a treatment for the illness of gender ambiguity to reveal the real gender through gender affirmation.

*Mukhannath* or transgender in the other hand, is classified as unlawful (*haram*) under the Islamic law because it is not a treatment or correction to an ambiguous gender, but it is a mere desire to transform from the real gender to opposite gender through surgery, body shape transformation or both. In Qur'an 4:119, Allah (SWT) gave rigorous warning against this sinful act, emphasized that it is the Satan trap which he has set for human. “And I will mislead them, and I will arouse in them (sinful) desires, and I will command them so they will slit the ears of cattle, and I will command them so they will change the creation of Allah.” And whoever takes Satan as an ally instead of Allah has certainly sustained a clear loss.”

In addition, Ibn Abbas (R.A) narrated that: the Prophet (PBUH) made curse on the men who are effeminate and the women who imitate men (Ibn Maja, (2002). In another narration by Imam

Bukhari (2002), the Prophet cursed men who copy women and cursed women who copy men. According to Abu Daud's (2009) narration: "The Prophet cursed a man who is wearing woman's dress, and cursed women who is wearing man's dress. These three hadiths strongly emphasized on how sinful the act of is being imitating opposite gender, to the extent that the Prophet (PBUH) made curse on those embarking on such unlawful behavior.

According to Micallef, (2022), transgender ideology or the idea that people can be born in the wrong body does not hold any scientific value. Thus, it lacks an evidence base. He explained further that a child's emotional and psychological development is impacted by positive and negative experiences from infancy onwards. Because the high discordance rate among identical twins proved that no one is born pre-determined to have gender identity disorder let alone pre-determined to be identified as transgender or transsexual. In addition, Venkataramu & Banerjee (2021) reported that gender identity disorder (gender dysphoria) is a social constructed and depends on childhood experiences, upbringing, social

experience, belief, family environment and peer interactions. Moreover, the American College of Pediatricians stated that there is no inner gender identity disorder. Even-though previous studies suggested that most of the gender-confused children nearly 85% - 98% likely to revert to their birth sex when they reach puberty stage.

**Research question 2:** what are Islamic preventive measures for gender identity disorder?

According to the previous discussion and the scientific prove that there is no inner gender disorder, and that the idea of being born in wrong body is baseless, With the regard to the injunctions proven it a Satan plan to mislead human. Therefore, gender identity disorder seems to be a non-biological gender crisis, otherwise it is a result of an individual social experience or even individual wish and interest. Nevertheless, there are many preventive measures which can protect human against the evil of the gender dysphoria and transgender ideology by complying with these measures even before the birth of a child:

1. Selecting a righteous partner. Studies on genetics proved

that children inherit parent's moral, physical intellectual characteristics and even health issues. Therefore, children grew up bearing the same characteristics of their parents. That is, a man's sperm is like a seed, while the woman is like a soil. The kind of the man will determine the type of the seed, and the kind of the woman will determine the kind of soil where the seed would be planted and determine the kind of plant. However, the prophet (PBUH) had advised selecting a righteous partner based on religion. The Prophet said: "A woman is sought for marriage for four reasons: her wealth, her noble birth, her beauty, and her religion. So, get a religious one and you will be blessed") Imam Muslim, 2006). This is a fact that the type of the parents would determine what they beget such as 'a like beget like', a bisexual will beget anomaly.

2. Parent duties during childbirth. Such as:

i. Seeking refuge from the devil during sex-intercourse. Among the duties of the parent towards the fulfilling the child right is to seek refuge by Allah from Satan during sex intercourse. The Prophet said: "if anyone of you on having sexual relation with

his wife said (and should be said before starting) 'In the name of Allah. O Allah! Protect us from Satan and protect what you bestow upon us (i.e., the coming offspring) from Satan, and if it is destined that they would have a children's then, Satan will never be able to harm that offspring'" (al-Bukhari, 2002).

ii. It is highly recommended as one of the duties of the parents when they have a newborn baby to call *Adhan* in his right ear and *iqama* in the left ear. This was practiced by the noble Prophet (PBUH) when Al-Hasan (RA) was born. The reason for this is that the child will be protected from being harmed by Satan because *Adhan* weakens Satan and chases him away.

3. Introducing the children to what is lawful and unlawful matters. This might make them grow up observing Allah's commandments, keeping themselves away from whatever He forbade and get closely bound to the rulings of Shariah.

4. Keeping the children away from watching pornography and any prohibited viewing. What children watch in the cinema, television, computer, and mobile phones tends to be among the great factors that cause perversion.

This includes exposing to men or women nudities and other pornography related content. Human has been warned against viewing what is prohibited in Qur'an 25:30.

“Tell the believers to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts), this is purer for them. Verily, Allah is All-Aware of what they do «30» And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts), and do not show off their adornment ...”

5. Keeping the children away from being exposed to others' nakedness. The nudity of a man is between his navel and his knee, and the nudity of a woman is all her body except the face, palm and the toes. Consequently, it is prohibited Islamically for a man to look at other's nakedness being it a man or woman. As it also not allowed for a woman to gaze at other's nakedness whether same sex or opposite sex. This is established from the teaching of the noble Prophet (PBUH) when he says: “A man is not to look at the private parts of (another) man, and a woman is not to look at the private parts of (another) woman” (Imam Muslim, 2006).

## 5- Conclusion

Gender identity disorder or the idea that someone can be born in the wrong body does not hold any scientific value, it stems from a baseless claim. Therefore, body shape transformation (transgenderism) based on gender identity disorder or self-wish is unlawful (haram) because it is the act of tampering with the biological gender assigned to human from the birth which is prohibited under the Islamic law (Sharia).

However, tampering with gender is only allowed under the circumstance whereby someone suffered an ambiguity of gender identity from the birth, such as the case of *khuntha* (the ambiguous and non-ambiguous *khuntha*). Hence, it is allowed after the clarity through gender affirmation to undergo gender correction as a treatment to reveal the real gender.

Islam enjoins Muslims to be conscious of the transgenderism phenomenon and its consequences so far, such as lesbian, gay, homosexual, bisexual, and other sinful acts which is widely spread around the world, by being restricted to the Islamic preventive measures and the teachings of the religion in order to be prevented from these perverse ideologies.

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## Sexual Reassignment Surgery: Revisiting Ayatollah Khomeini's and Sayyid Tantawi's Fatwas

Adam Olowo \*

### Abstract

The question of transgenderism has, in recent years, acquired wide currency and continues to pose a series of disquieting challenges in the modern contemporary world. In the early 1980s, the story of a 19-year-old student at the medical faculty of al-Azhar - Sayyid Muḥammad 'Abd Allāh - aroused a huge interest in the media and attracted divergent views from among religious authorities. While claiming a gender ambiguity problem and complaining of extreme depression, he sought the medical help of psychologists who diagnosed him with psychological hermaphroditism (*al-khunūthah al-nafsiyyah*) commonly known as gender dysphoria. After 3 years of collective treatment and careful deliberation, the psychologists arrived at a unanimous judgment that the best alternative course of action that guarantees Sayyid's cure would be to undergo sex reassignment surgery (*taghyīr al-jins* or *taḥwīl al-jins*). Nevertheless, the surgical operational procedure was set in motion and Sayyid re-emerged as Sally with a newly developed urinary orifice and artificial vagina. Now, this situation constitutes a legal dilemma given the fact that the approach of traditional Islamic scholarship to the issue of transgender sex reassignment surgery was mostly that of condemnation and prohibition. Conversely, in the late 1980s, contrasting opinions emerged with the legalization of transgender sex reassignment surgery in Sharī'ah law by the fatwas of Ayatollah Khomeini in Iran and Sayyid Muḥammad Ṭaṇṭawī in Egypt. While recognizing that the issue of transgender sex reassignment surgery is modern and constitutes an important subject in contemporary Islamic

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intellectual debate, the legality and ethical questions raised by the emergence of SRS in the modern period has not been sufficiently addressed. This paper, therefore, revisits the fatwas of Khomeini and Ṭanṭawī with the aim of disclosing the irregularities and complications that may arise from their legalization of SRS for the transgender community. By highlighting the context and cultural assumption that guided their judgements, this study has the potential to answer various contemporary questions related to transgenderism/transsexuality as the demand for sex reassignment surgery continues to proliferate.

**Keywords:** transgenderism, sexual reassignment surgery, SRS, transsexuality, Islam

### **Introduction**

While the extraordinary advancements made in the field of medicine over the past few decades cannot be over-emphasized, it has also given rise to serious legal, social, and ethical issues that were unfounded in the pre-modern period (Kusum 1983, 73). The issue of transgender sex reassignment surgery is one of the recurring themes that continue to foster an evolving discussion

in various theaters of Islamic jurisprudence while attracting divergent views from among religious scholars. It follows the story of a 19-year-old student at the medical faculty of al-Azhar - Sayyid Muḥammad ‘Abd Allāh who was diagnosed with psychological hermaphroditism (*al-khunūthah al-nafsiyyah*) commonly known as gender dysphoria (the condition of feeling one’s psychological identity is opposite to one’s biological sex) (Mayer and McHugh 2016, 94), and was recommended to undergo sex reassignment surgery as a remedial measure. The surgical operational procedure was set in motion and Sayyid re-emerged as Sally with a newly developed urinary orifice and artificial vagina (Skovgaard-Petersen 1997). Now, this situation constitutes a legal problem given the fact that the idea that a person could be trapped into a body of the wrong sex (Gender Dysphoria) and could be transformed into the opposite sex by sex reassignment surgery (SRS) is in disparity with the categories established by the Islamic societies in the classical period. Besides, the approach of traditional Islamic scholarship to the issue of sex reassignment surgery was

mostly that of condemnation and prohibition. Conversely, according to Anderson “it is rapidly becoming a mainstream view that social and medical “transition” is the appropriate treatment for people, including children, who feel at odds with their biological sex” (Anderson 2018, 1). This is easily ascertained in the 1987 fatwas of one of the leading Shī‘ī neo-traditionalist scholar Ayatollah Khomeini in Iran. The fatwa instigated the process that culminated in new state-sanctioned medico-legal procedures regarding transgenderism and sex change in Iran (Jafari 2014, 32). While recognizing that the issue of transgender SRS is modern and constitutes an important subject in contemporary Islamic intellectual debate, the legitimacy and ethical questions raised by the emergence of SRS in the modern period has not been sufficiently addressed. This paper, therefore, revisits the fatwas of Ayatollah Khomeini with the aim of disclosing the irregularities and complications that may arise from his legalization of SRS for the transgender community. It highlights the context and cultural assumption that guided his judgment, and why this has changed. It also introduces

arguments to substantiate why this fatwa needs to be revisited and how submitting to it could instigate further complications. Additionally, the significance of this paper is also deducible in its potential to answer various contemporary questions related to transgenderism/transsexuality as the demand for sex reassignment surgery continues to proliferate.

### **Part I: Mainstream View**

#### ***Outline of the mainstream view, the text and range of arguments***

In order to represent the mainstream position on transgender SRS, I draw primarily on the fatwa of one of the leading 20th-century Shī‘ī scholar - Ayatollah Khomeini who led the 1979 Iranian revolution to become the country’s supreme leader; a position he retained until his death in 1989. The fatwa legalized sex-reassignment surgery (SRS) in Shari‘ah and/or in state law on the condition that a medical justification is provided. Khomeini developed a range of arguments in order to support his position; he invoked scriptural text, juridical reasoning, scientific consideration, utilitarian arguments, and pragmatic arguments. Below reflects Khomeini’s methodology for providing the transgender

community with such a fatwa.

### **Arguments**

To begin with, the first argument to be derived from Khomeini's methodology is the ambiguousness of the Islamic scriptures on the issue of sex reassignment surgery. While some Iranian Shī'ī scholars contended that transgenders are clearly mentioned in the Qur'an (42: 49-50), Khomeini's judgement has more to do with what was omitted in the verse; sex change is not mentioned anywhere in the holy book, thus offers no legitimate reason to consider it illegal or immoral. Therefore, on the discretionary ground that there is no specific indication of its unlawfulness in the Islamic sources, it would be uncharitable to condemn the surgery prematurely without proper investigation (Jafari 2014, 27).

Secondly, juridical reasoning that stem from the Islamic legal maxim (*al-Qawā'id al-Fiqhiyyah*) features predominantly in Khomeini's methodology as well. This is because SRS is a modern phenomenon, and there is nothing in the Qur'an or Hadīth that completely addressed the issue or provide a solution. Consequently,

by his level of *Ijtihād*, he deemed it necessary to return the subject to *al-Qawā'id al-Fiqhiyyah* (Islamic legal maxims) in order to provide a solution and arrive at a concrete judgment. Khomeini possibly considered the "principle of permissibility" (*isālat al-ibāḥah*) which means that the foundation of all things is – "permissible", and actions or things that cannot be clearly determined as being forbidden or permissible is allowed as lawful. On this basis, according to Khomeini, it is safe to conclude that transgender SRS is permissible and legitimate in Islam. Another principle that Khomeini may have considered in the Islamic legal maxim is the "principle of dominant" (*isālat al-taslīṭ*). This principle assert that every individual has right or control over his or her body and property, if men wish so intensively to change their sex to the point that they believed they were trapped inside the wrong body, then they should be granted permission to relieve themselves of their misery (M. Alipour 2017, 98).

Khomeini was not the only Islamic scholar that takes this position; his position was also strengthened by the fatwa of one of the leading Egyptian Sunnī

Islamic scholar Sheik Muhammad Sayyid Ṭaṇṭawī the Grand Mufti of Egypt from 1886-1996, who was appointed Grand Imam of Al-Azhar from 1996 until his death in 2010. Ṭaṇṭawī on the other hand, invoked deductive reasoning (*Qiyās*) in approaching the issue of transgenderism. He extended the ruling applicable to a hermaphrodite to the problem of transgenderism given the fact that both issues share the same operative or effective cause (*'illah*). To put it differently, Ṭaṇṭawī contended that if the operative cause for legitimizing SRS for hermaphrodite was to reveal a buried organ, therefore anything that aims to reveal a buried organ is permissible (*halāl*). Founded on this premise, Ṭaṇṭawī legalizes SRS provided that the motive is to reveal a buried or covered organ (Skovgaard-Petersen 1997).

Furthermore, the text of the 1987 fatwa goes without leaving a scientific trace. Anyone can easily deduce from the original text, some scientific arguments that were instrumental in enabling Khomeini to arrive at a concrete conclusion concerning transgender SRS. Khomeini's reliance on medical/scientific observation was the

sole determinant of his final decision in the end; permitting sex reassignment surgery on the basis that it serves as a treatment for the transgender community (Javaheri 2010, 368). Besides, just as it is permissible for hermaphrodites to undertake the surgery, so is it permissible for a transgender on the premise that he/she is also suffering from psychological hermaphroditism or gender dysphoria (Saeidzadeh 2016, 253). What Khomeini is also doing here is elevating the role of scientific knowledge and giving it precedence over traditional subjectivism. He allows the expertise of a doctor to speak in a space that was previously controlled by religious figures, granting autonomy to the medical diagnosis, and prioritizing the care for the individual patient as most important. Another thing to consider from the 1987 fatwa is that Khomeini is not only elevating the role of medical professionals as a key determinant factor in this subject, but he is also relying upon their diagnosis as a condition for SRS legality.

Apparently, Khomeini may have also considered a utilitarian approach before arriving at a conclusion. Given the emphasis of the Islamic Republic

of Iran on binary relationships and the presumption that God divided the world into two sex/genders (Jafari 2014, 36), it is justified to conclude that the approval of sex reassignment surgery mirrored Khomeini's strategy to ensure binary relationships (wife-husband, brother-sister) in Iran. The construction of a dual relationship significantly depends on fitting into the social construct of a binary world, and legitimizing SRS serves as a perfect technique to eradicate an ambiguously gendered Iran. Additionally, the consequence of legalizing transgender SRS is also discernible in its ability to achieve social control and maintain public morality. Sex reassignment surgery provides a platform by which ambiguously gendered bodies are forced into socialization thus allowing these bodies to carry out the task of everyday Muslim life including marriage, prayer, burial and inheritance (Jafari 2014).

Lastly, an important inclusion in Khomeini's methodology of *ijtihad* (independent legal reasoning) is pragmatism or practical jurisprudence (*fiqh al-waqi'*) the applicability of sharia rulings to the context of "time and space"

in religious judgments. According to Khomeini, a characteristic of *ijtihad* (independent legal reasoning) is its ability to adapt to cultural conditions that are liable to change over the passage of time and variation of place. Sometimes a subject can attract a specific *hukm* (rulings) in a particular time and space, at the same time, the same subject might call for a different approach in another setting because of the difference in the political or social arrangement. Khomeini had applied this principle to different kinds of sharia problems such as - laws on music, chess, and women's leadership - in the past. Transgender SRS is one of these cases Khomeini saw as pertinent to the new situation; post-revolutionary culture could provide it with a new fatwa (M. Alipour 2017, 99).

### ***Context and Cultural Influence***

History shows that Iran's medical system had already certified and practiced sex reassignment surgery thirty years earlier before it was finally legitimized by Khomeini (Saeidzadeh 2016, 252). SRS initially featured in the Iranian press as early as the 1930s and it forms an important backdrop to the subsequent

history of transgenderism in Iran (Najmabadi 2008, 25). Ayatollah Khomeini's first statement on SRS was first published in 1967; however, this statement issued by an exiled Khomeini did not exert any influence on the policies of the legal and medical institution in Iran.

A few years after the Islamic revolution of 1979 in Iran, Khomeini became a politically unchallenged supreme authority and was prompted to re-issue another fatwa owing to his meeting with Maryam Mulkara in his residence. Having consulted medical and the Islamic legal maxim, he declared SRS permissible for the entire transgender community but to be approved by a reliable medical doctor. Whether this fatwa would have evolved without his meeting with Mulkara is debatable, however, this fatwa set in motion the process that instigated new state-sanctioned medico-legal procedures while opening previously non-existent spaces for many trans people (Jafari 2014, 32; Abedinifard 2019, 1635).

Furthermore, it would be diabolical to exempt Khomeini from any cultural or environmental influence. Khomeini, Ṭanṭawī as do the majority of traditionalist

jurist in Iran share the same presumption that God divided the world into two sexes/genders (Tolino 2017, 231), and whatever may challenge this setting should be strongly avoided. Farrah and Kate also supported this claim; Khomeini's approval of SRS reflects his idea of a binary relationship, thus constituting no place for an ambiguously gendered Iran (Jafari 2014, 36; Hashemi 2018, 2). Therefore, Khomeini's decision to fit Mulkara into the binary system reflects a culturally influenced idea of a heterosexual society, and most importantly as highlighted by Carter, to serve as a means of normalizing homosexual men and women in the Iran society (Carter 2010).

## **Part II: Reexamination and Arguments**

### ***Why the mainstream view should be revisited?***

After a meticulous reading and comprehensive understanding of Khomeini's methodology and having carefully observed the procedure of sex reassignment surgery in recent literature, we have reasons to believe that Khomeini's legalization of SRS leaves much to be desired thus needs to be revisited. Therefore,



in a bid to revisit Khomeini's fatwa on sex-reassignment surgery, I draw on the writings of traditional Islamic scholars including al-Qardāwī who is a prominent Egyptian Islamic theologian and the chairperson of the International Union of Muslim Scholars. I also put to good use the accounts or follow up study of Lawrence Mayer; a professor in the department of psychology at the Johns Hopkins University School of Medicine, and Ryan Anderson; a senior research fellow at The Heritage Foundation in the United States - regarding post-surgery patients. While their load of arguments prohibits SRS for the transgender community, it also complicates Khomeini's fatwa by disclosing the high level of uncertainty regarding the SRS procedure. The ranges of arguments invoked to support this position are - theological arguments, scientific consideration, slippery slope argument, and observational studies. These arguments will be discussed at length in the paragraph below.

### *Arguments against the mainstream position*

To begin with, there are a number of Quranic verses and hadith that

are explicit concerning the subject of this paper and which are often invoked by modern Islamic jurist and theologians when dealing with this topic. While this argument can be classified as a theological argument, it also stands as the strongest defense among others. The Islamic Fiqh Council of the Muslim World League has looked into the matter of changing a male into a female and vice versa, after research and discussion amongst its members, the final recommendation of the 1989 conference stated that SRS for transgender is strongly prohibited in Islam as it amounts to changing of God's creation (*taghyīr al-jins*) (Alipour 2017, 168; Kalbasi-Isfahani and Deleer 2016, 170). Al-Qardāwī also supported this claim in his book "The lawful and the prohibited in Islam", he affirmed that a person remains either male or female based on the sex assigned naturally at birth (except for hermaphrodites) (Al-Qaradawi 1999, 50), and that no kind of SRS cannot change one's essential nature. This argument derives legitimacy from Q4:119 among other verses that are often invoked in the discussions on SRS including Q30:30, Q42:49 etc. In this regard, these arguments contradict Khomeini's ruling

based on the proposition that the gender/sex of a transgender has been clearly assigned physically, and that the attempt to intrude God's creation through sex reassignment surgery is a crime the perpetrator of which deserves to be punished.

As for the scientific/medical argument, a study shows that the transgender community is suffering from a disorder called "disorder of assumption" like those other disorders familiar to psychiatrists. According to Anderson, a disordered assumption is similar to the faulty assumptions of those who suffer from "anorexia nervosa", who believe themselves to be overweight when indeed they are dangerously thin. He described the phenomenon as a "delusion" in need of psychiatric intervention not surgical (Anderson 2018, 100). Anderson continued by asserting that people who undergo sex reassignment surgery do not change from men to women or vice versa rather they become feminized men and masculinized women. He argued that SRS neither re-assign sex nor changes our deeper biological reality which includes our DNA and fetal development unfolding in every bodily system. Bearing in

mind that "sex" is scientifically understood based on an organism organization of reproduction, Anderson contended that people who undergo SRS do not become the opposite sex because they do not change their organismal organization for reproduction; they merely acquire the outward appearance of a change in bodily organization (Anderson 2018, 104). In this regard, it becomes evident that sex change is only assigned at birth and cannot be re-assigned, and that an individual's belief about his/her gender identity has no bearing on their sex. From the foregoing, we have come to understand that to provide a surgical alteration to the body of these people (transgender) is to collaborate with a mental disorder, and if this is held to be true (which is), then it complicates Khomeini's fatwa.

Another argument that indicates why Khomeini's fatwa needs to be revisited is the slippery slope argument (*sadd al-dharā'i'*). This argument was advanced by al-Qardāwī with the intention of revealing the consequences of such a change and its effect on religious duties. He asserted that legalizing sex reassignment surgery would undoubtedly prevent procreation,

and whatever hinders paternity, and maternity is illicit because it is a deviation from the innate nature and divergence from sharia. Allowing SRS would be to make same-sex marriage licit which is considered one of the most strictly forbidden things in Islamic law (Tolino 2017, 239; Sachedina 2009, 194).

Furthermore, in order to disclose the deficiencies or insufficiencies of Khomeini's fatwa and why its re-visitation cannot be bargained, it is indispensable to provide some observational studies which demonstrate the high-level uncertainty of SRS procedure. The result of the follow-up studies conducted on post-surgery patients illustrate some medical complication, they include the following:

- A controlled and follow-up study conducted by Vanderbilt University and London's Portman Clinic reveals that 80-95% of children with a gender identity problem will grow out of it if they are not encouraged to transition (Mayer and McHugh 2016, 106; Anderson 2018, 123).
- Anderson in his book

“When Harry Became Sally” introduces several people who have spoken and written in-depth about their experiences of transitioning and de-transitioning, the common and recurrent themes that emerged from their respective stories were feelings of regret, sorrow, and disappointment (Anderson 2018, 58).

- John Hopkins University also launched a study in the 1970s comparing the outcome of those who had the surgery with those who did not, while most of the patients felt satisfied at first (after the surgery), their subsequent psychosocial adjustments were no better than those who didn't take the surgery (Anderson 2018).
- According to a study conducted by Dhejne and Colleagues, statistics show that sex reassigned individuals were 4.9 times more likely to attempt suicide, and 19.1 times more likely to die by suicide (Mayer and McHugh 2016, 111; Dhejne et al. 2011).

- Karolinska Institute in Sweden also illuminated this position through their observation of 324 people who underwent SRS, they concluded that SRS patients began to experience mental difficulties 10 years after the surgery and that their suicide mortality rose almost 20-fold above the comparable non-transgender population (Mayer and McHugh 2016, 111; Anderson 2018, 108; Dhejne et al. 2011).
  - In 2009, a study carried out by Annette Kuhn and colleagues from University of Bern in Switzerland on the quality of life in 52 MtF and 3 FtM transsexuals fifteen years after sex-reassignment surgery reported lower satisfaction with their general quality of health and with some of the personal, physical, and social limitations they experienced with incontinence that resulted as a side effect of the surgery (Kuhn et al. 2009).
  - Besides, according to a comprehensive review of SRS conducted in 2004 by Birmingham University's aggressive Research Intelligence Facility (ARIF), it was reported that evidence was too sparse to allow any conclusion regarding the beneficial nature of SRS and that there is no good scientific evidence to support surgical modification (Wenger n.d.; Mayer and McHugh 2016, 109).
- Besides, Khomeini, due to his improper understanding of the surgical procedure and his shortsightedness of what may become after undergoing SRS, may be guilty of scientism. While recognizing that science is indeed an important medium, Khomeini, on the other hand, awarded too much trust and precedence to science over Islamic traditions, thereby granting science access to a position that is usually occupied by religion (Mohammed Ghaly 2015). Wenger in his research asserted that protocols calling for social affirmation, hormone treatment and SRS reflect ideology and activism, not evidence-based medicine. He continued: our

brain and senses are designed to bring us close to reality and that thought that deviates from reality is abnormal as well as potentially harmful to individuals and others (Wenger n.d.).

### *Context and cultural interpretation*

The context that guided Khomeini in declaring the legalization of SRS has changed significantly within the past years. Unlike Khomeini who was ruling based on the insufficient medical advice presented to him in 1987 which neither guarantees the safety of the post-surgery patients nor their psychological stability, the context that guides the theology of opposition significantly rely on a comprehensive analysis of the procedure and a follow-up study of post-surgery patients. Khomeini may have been guilty of scientism, but not to be blamed because his ruling was restricted to the context of the time he served. The world continues to advance, and studies have shown the inconsistencies attributed to the surgical procedure and why it has to be suspended to avoid an even worse situation.

### **Conclusion**

In this paper I have investigated the issue of transgender sex

reassignment surgery and tried to expose the complexities that may arise from the legalization of SRS by Khomeini in Iran. I engaged with Khomeini's arguments diligently and introduced Ṭanṭawī's standpoint in order to comprehensively represent Khomeini's position. It was uncovered that Khomeini's was influenced by his need to preserve the heteronormative societal structure of the Iranian society, thereby avoiding a third gender. While Khomeini's approval reflects his idea of a binary relationship, the available medical awareness about the SRS procedure was minimal, hence revealed no complications. Conversely, recent psychological research shows differently, for a number of complexities and uncertainties have been linked to the procedure, thus complicating Khomeini's fatwa.

In light of recent medical discourse on the procedure and also from a scriptural viewpoint, this paper has succeeded in exposing the complexities and convolutions of Khomeini's fatwa on the legalization of sex reassignment surgery (SRS) for the transgender community, and most importantly why his fatwa needs to be revisited.

## Appendix

### *Text of the Fatwa*

#### **Khomeini 1964**

The first time Khomeini deals with sex reassignment surgery was in 1964, he stated: *“It seems that it is not forbidden for male to is not forbidden (haram) [in Islam] and vice versa, and it is also not forbidden for a khuntha (hermaphrodite/intersex) undergoing it to be attached to one of the sexes and woman/man obliged to undergo the sex-reassignment surgery if the woman finds in herself [sensual] desires similar to men’s desires or some evidence of masculinity in herself—or a man finds in himself [sensual] desires similar to the opposite sex or some evidence of femininity in himself? It seems that [in such a case] if a person really [physically] belongs to a [determined] sex, a sex-reassignment surgery is not an obligatory (wajib), but the person is still eligible to change her/his sex into the opposite gender”* (Tolino 2017, 231; M. Alipour 2017, 96; 2017, 170).

The fatwa seems to permit SRS without making it obligatory for transgender people also but remains somehow ambiguous. For this reason, Maryam Mulkara (d. 2012), a MtF (male to female) transgender who wanted to clarify her case, managed in 1979 to meet

Khomeini in person. She made her position clear to Khomeini that she did not have any physical ambiguity. Khomeini then issued another fatwa. He stated:

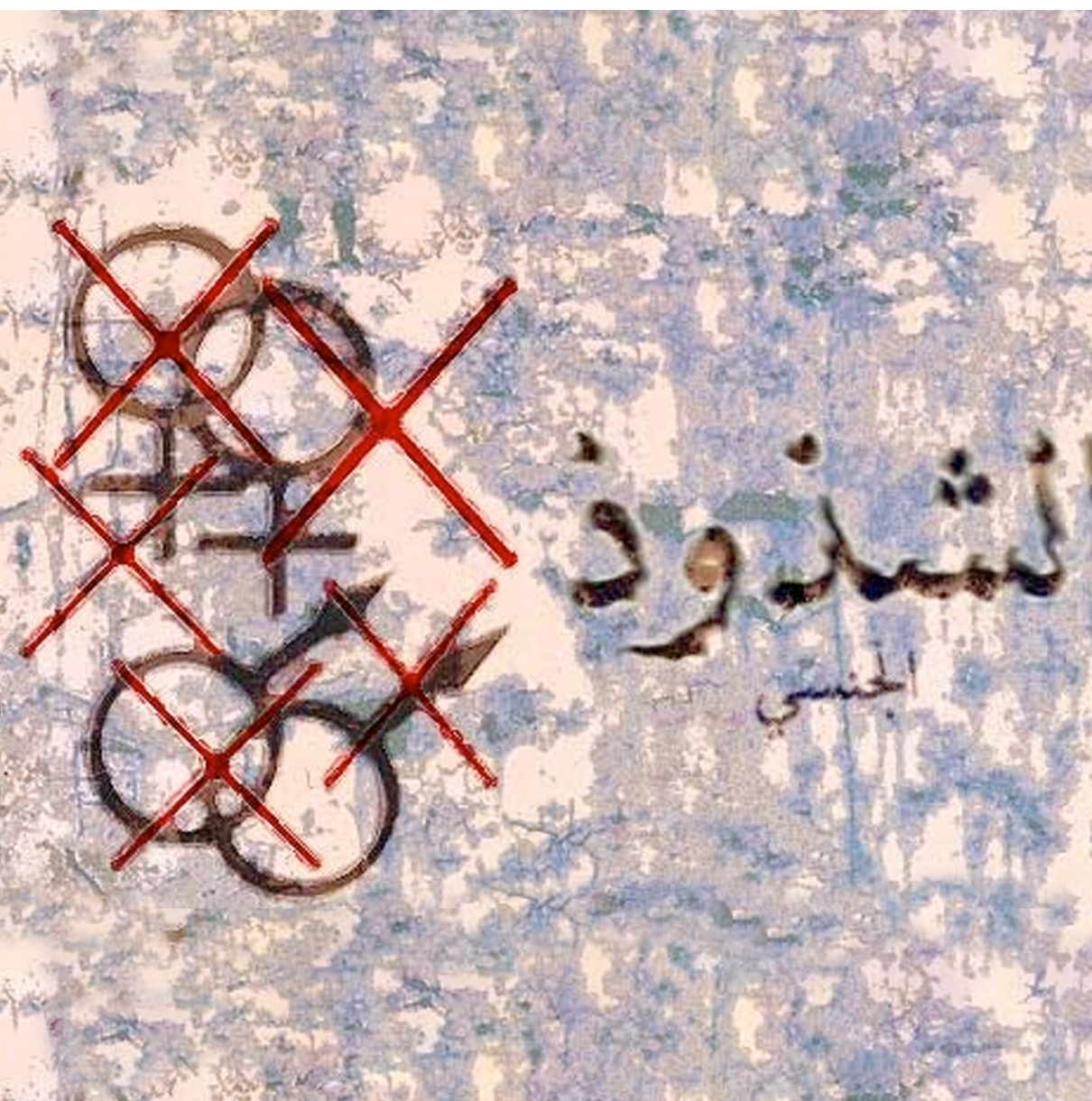
#### **Khomeini 1987**

*“In the name of God, Sex-reassignment surgery is not prohibited in shari’a law if reliable medical doctors recommend it. Inshallah you will be safe and hopefully the people whom you had mentioned might take care of your situation”* (M. Alipour 2017, 96; 2017, 170).

Another neo-traditionalist scholar Sayyid Tantawī also issued a similar fatwa in 1988 in Egypt, legalizing SRS for hermaphrodite/intersex and transgender communities.

#### **Tantawī 1988**

*“... That being so, the rulings derived from these and other noble hadiths on treatment grant permission to perform an operation changing a man into a woman, or vice versa, as long as a reliable doctor concludes that there are innate causes in the body itself, indicating a buried (matmura) female nature, or a covered (maghmura) male nature, because the operation will disclose these buried or covered organs, thereby curing a corporal disease which cannot be removed, except by this operation”* (Skovgaard-Petersen 1997, 330).



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## Through the Prism of Progressive Judaism

Andres Boaz Munoz Mosquera \*

### 1. Introduction

The DICID poses a question that elicits intense debate across the world among followers of many religious traditions. The DICID focuses on the subject of why there is an “escalation of worldwide campaigns calling for homosexuality to be accepted, even embraced and supported, and attempting to make it a human right, we find ourselves forced to address an issue that all monotheistic religions have consensually forbidden,”

Since DICID refers to transgenderism and homosexuality, it is necessary to highlight that the topic under discussion lacks, in general, an appropriate linguistic approach, which is caused by the variety of expressions used by people who do not feel they belong to the classical binarism of men and women. In the current state of affairs, the highest civil world instances, the United Nations and the Human Rights Council, have recognized that there are several circumstances relating to sex and gender identity and these give rise to different expressions.

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Homosexuality is one part of that complex reality, i.e., lesbian, gay, bisexual, transgender and intersex denomination ('LGBTI'). Although definitions are elusive, in order to construct an argument, the following three definition should help us understand the present paper's objective:

**Intersex:** people born with physical sex characteristics (anatomy, hormonal/chromosomal patterns) that do not fit typical definitions for male or female bodies. Intersex and LGBT populations overlap.

**Transgender:** people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as heterosexual, gay, lesbian, bisexual, etc.

**Transsexual:** Transsexual refers to a person who experiences a mismatch with the sex they were born with and the sex they identify with. A transsexual sometimes undergoes medical treatment to change their physical sex. Not

all transsexuals, however, have or desire surgery.

The fact of being an LGBTI person is not a human right per se. Actually, one has human rights for the mere fact of being a human being. Therefore, it makes no sense to make LGBTI a human right, but to enforce the human rights to all persons regardless, whatever their sex or gender identity. Of relevance in this regard is relevant the seminal resolution of the United Nations General Assembly of 17 November 2011, where it is confirmed the universality, equality and non-discrimination principles of the Universal Declaration of Human Rights, apply to "all people, including lesbian, gay, bisexual and transgender (LGBT) persons" and they "are entitled to enjoy the protections provided for by international human rights law, ..." This universal trend has not been excluded in Islam. The 1990 Cairo Declaration on Human Rights in Islam explains, among other circumstances, why Muslim sages, before and after the Declaration, produced legal arguments "most conducive to creating a space for future rulings on transgender rights in

the Islamic world.”

Attitudes to LGBTBI people in Jewish circles have gradually changed over the years, tending to be more visible in the progressive and conservative denominations, and evolving together with the civil society. The Central Conference of American Rabbis (‘CCAR’), formulating progressive Jewish law, *halakhah*, argues that not long ago, the majority of scientists believed that transgender persons were experiencing a mental or psychiatric disorder. According to the CCAR, transgenderism is a communal and personal challenge rather than a scientific or bioethical one. As a result, progressive Judaism handles this issue by searching the Torah’s principles to accept the stranger as members of the Jewish people.

Therefore, it seems obvious that the modern definition of sex or gender identity goes beyond just being physically or psychologically male or female and that the idea of a universal prohibition is and cannot be categorical. The question, rather, is what religions have done when societal developments

have overcome the literal interpretation of their sacred texts? Because of this, it is important to learn why there are restrictions and what justifications underlie them. Since the effect of LGBTBI is too important to overlook, this paper examines the issue through the prism of Judaism, focusing in particular on its progressive approach.

## 2. Jewish Sources

### 2.1 Androgynos and *Tumtum*

Abarbanel submits that there are grounds to suggest that Plato had Jewish knowledge roots, particularly in his momentous encounter with the prophet Jeremiah, which recurs often in modern Jewish culture. He claims that Plato took the ‘fabric’ of the androgynos myth from the fact that there are two biblical versions of the creation of Adam and Eve (Genesis 1:26–30 and Genesis 2:18–24). Later, the Greek tale of the androgyne was employed by the midrashic commentators in Genesis Rabbah 8:1 (Rabbi Yirmiyah), and other sources, to explain the apparent exegetical difference between the two versions. The

two versions were combined, and it was asserted that each one represented a distinct stage of the same process: Genesis 1 describes the formation of an androgynous entity in the first stage, followed by the separation of this creature into a man and a woman in the second stage, Genesis 2. However, the sages, went farther in their examination of Adam's androgyny and, consequently, that of God.

Rabbi Yirmiyah's stated that Rabbi Shmuel bar Nahman said: "When the Holy One created the first adam, he created it two-faced and then (later) sawed it (in two) creating for it two backs, a back here and a back there. They asked him: But what of the verse "and he took one of his ribs, tzela, (צלע)?" He answered: "he took one of the flanks (צלע)."

Rabbi Yirmiyah shows that Adam was a fully integrated androgynous entity, male and female solely to the extent that it held the entirety of human potential, with all the powers, and was therefore sexually unequalled. Rabbi Shmuel also describes the adam as having two faces that are not entirely

merged. It is a dual-perspective entity. The one androgynous earthling described in Genesis 2 will eventually be divided; the two will unite in love and become one flesh. Why was the plan altered, if God's original intention was to create just one person? Greenberg, argues that this original androgynous, Adam, may have been too complete and too similar to God. The longing for togetherness and a love that is impervious to death was then born.

Unlike the androgynous, whose sexual identification is always ambiguous, the *tumtum* (טומטום) is either a male or a female, depending on what is determined after the corporal covering of the sex organs is removed. Nevertheless, in the Talmud, we find expressed two variant opinions concerning the *tumtum*: a) this is a person whose gender is in doubt, or b) this is a different kind of person altogether, *briah bifnei atzmo* (בריה בפני עצמו). Normative halakhah rules that a *tumtum* is treated as doubtfully female, a factual doubt, *safek*, (ספק) which has to follow the stringent opinions as they apply either to males or to females. But even without a

penis outside the body, if there are testicles in the right position, practically all *halakhah* regards the person as male. Jewish law requires the *tumtum* to do all commandments, *mitzvot*, as they pertain to males, even those that women are excused from. He must, for instance, wear phylacteries, *tefillin*, and study the Torah.

The CCAR, in the seminal responsum of the *Circumcision of Transgender Female* presents the androgynos, and explains that the Greek term suggests having both male and female physical characteristics. The Committee reminds us that the Mishnah Bikurim 4:1 considers that the androgynos is sometimes classified as a man, sometimes as a woman, sometimes as both, and sometimes as neither. The term was employed specifically to describe those who span the gender spectrum, which occurs the same with *tumtum* and *saris* (סריס). This suggests that in spite of the traditional Jewish presumption of only two genders, the rabbis were aware that not everyone neatly fits inside the specified gender norms of man and woman. However, the Committee reminds us that

the rabbis did not have a concept of ‘transgender,’ as a sense of identity distinct from birth sex. The *halakhic* literature was divided, but the predominant idea states that an androgynous person is a case of *safek*, may be either male or female, and as a result, their ritual and legal status are suitably decided.

The androgynos, who has both male and female genitalia, is prohibited from marrying men according to Mishnaic law (Bikkurim 4:2 and Yevamot 8:6). The likelihood of a woman marrying another woman was preferred to the likelihood of a man marrying another man. This teaches us that not only did the Mishnah not take into account the possibility of celibacy for the androgynos, but that this also represented a situation where two persons of the same gender, namely women, might marry one another.

However, for progressive Judaism, which believes in gender equality, this discussion doesn’t have a real effect in the real world. In contrast to orthodox Judaism, progressive communities grant the same ceremonial responsibilities to both men and women. Therefore, there is no need to judge the

actual gender of anyone or to cast doubt on anyone's gender self-identification. In these cases, the community will respect the sexual or gender identity chosen by individuals. If an individual decides to live entirely as a man or as a woman, their decision is the element that establishes their gender identification.

## **2.2 Is there Abomination? Sources and Jewish Denominations**

### **2.2.1 The Sacred Texts and the Abomination**

It might be claimed that the law against homosexuality is derived from Genesis 19 on Sodom, and also from Judges 19, both seemingly referring to rape more than homosexuality. Or derived from Deuteronomy 23:18, but this is more concerned with what is acceptable in the Temple than with the broader purity of sexual life. Some scholars assert that the issue of the cult prostitute existed until the time of the First Temple, based on 1 Kings 14:24; 1 Kings 15:12; 1 Kings 22:47; and 2 Kings 23:7, which may have only been remedied with the

Deuteronomic regulations put in place by King Josiah. However, it seems that the verses found in Leviticus are considered to form the core of the halakhic ban on homosexuality, whether or not this may be recognized as a historical account.

The prohibition of homosexual behavior originates in the Rabbinic understanding of the term 'lies with', *tishkab* (תשכב), in Leviticus 18:22 and 20:13. As is evident from the gemara in Sanhedrin (54a-b),<sup>17</sup> the expression 'lies with' teaches that Leviticus 18:22 presents "two manners of lying with a woman for which one who engages in intercourse with a woman forbidden to him is punished, vaginal and anal intercourse." Therefore, anal sex is legally considered to be real sex, and it is so when it is performed either with a man or a woman. According to Milgrom, the expression indicates that male-to-male anal activity has the same legal standing as sexual activity with a woman. One could have assumed that the passive partner's gender made a difference. According to the Torah, it does not constitute a sexual interaction.

Milgrom contends that Leviticus does not refer specifically to homosexuality, but rather to the fact that male-male sexual relations are just as much banned as male-female sexual relations, when the latter relationships are incestuous or adulterous as enumerated in Leviticus 18 and 20.

The halakhic literature is strongly against having sex outside of marriage. Most perspectives held that it is prohibited. The Torah cites a number of prohibited relationships including incest, adultery, homosexual activities, and bestiality. They are prohibited since there is no likelihood that they will be 'sanctified' by marriage. A person cannot wed an animal, or a man another man. What is significant is that none of the prohibited relationships have the chance to find fulfillment as a result of social expectations. In light of this, the Torah declared that homosexual acts are prohibited along with all other forms of sex outside marriage. Nowadays, however, we are witnessing same-sex domestic partnerships and marriage, therefore, cultural standards can occasionally change.

*Abomination.* Leviticus 18:22 and Leviticus 20:13 have long been regarded as authoritative texts used to ban sexual relationships between males. The Torah refers to homosexuality as an 'abomination', *to-evah* (תועבה), and for that reason many argue that homosexuality is a serious sin. However, the Torah uses *to-evah* 122 times in total and in many different contexts: eating certain food is 'abominable,' a lady who marries again after going back to her previous 'abominable' spouse, to offer a sacrifice that has flaws on God's altar is an 'abomination,' lying, gossip, and envy are 'an abomination.'

According to orthodox Jews, who believe that the Torah is God's given word, these Levitical verses on male-to-male sexual intercourse are binding on God. For them, same-sex male relationships were not only forbidden, but also dangerous, since those men imperil the security of their families, and their communities. However, even though it posed far less of a threat, sex between women was nonetheless viewed as a breach



of the custom. And because there is no explicit biblical text that refers to lesbian sexual relations, the legal situation is less complicated. If only in the laws, men who engaged in sexual activity with one another were deserving of the death sentence.

In the Jewish sources, there appear several justifications for forbidding same-gender relationships. The Talmud Bavli offers the opinion of Bar Kappara in Nedarim 51a that the biblical term ‘abomination’, *to-evah* (תועבה), is a contraction of *בה אתה תועה*, i.e., “You are lost because of her/this”. Following Geller *et al.*’s enumeration of the sources, among the sages “[s]ome believed that the word *ba*, (בה), ‘her’ referred to the entire list of sexual violations with various women enumerated in the Bible text rather than זכר משכב [male-to-male, *shachar m’sachab* (זכר משכב),] ... However, Tosafot, Rosh and Ran viewed the antecedent of זכר translated as “this” to be זכר משכב using almost identical phrases to explain the scriptural prohibition. In the words of Tosafot, זכור משכב אצל והולכין “They abandon

their wives to pursue sex with men ... Or the Torah’s prohibition of זכור משכב could have been about a rejection of the mitzvah of procreation.”

On the latter, Geller *et al.* go on to argue that Bar Kappara was understood by the Rishonim to read the Torah verse to apply to married males and it was about the neglect of two specific mitzvot that devolve upon them, rather than any abhorrence with homosexual activity as a despicable, repugnant or unnatural act. If the concern was indeed about [adultery and] procreation, one may well wonder if the prohibition of male-to-male relationships should include married men whose wives are pregnant or who have already fulfilled the mitzvah of procreation. The prohibition would hardly seem applicable to those unmarried males who, because of their homosexuality, are unlikely and possibly unable ever to take wives in marriage to procreate. Bar Kappara was silent about sexual relationships between women, who are not bound by the mitzvah of procreation.

## 2.2.2 Jewish Denominations

First, among Orthodox Jews there are different understandings on gender identity, and they address this question as ‘homosexuality’ and not as LGBTBI. While there are differences in the boldness of some modern Orthodox rabbis, the majority have seen the recent acceptance of homosexual and lesbian persons as a sign of societal decay and corruption. However, homogeneity is far from being the norm, at the least, internally.

Boetech argues that the worry about homosexuality that is present among many religions or within the different denominations of certain religions, results from a basic misunderstanding of sin. Two tablets were used to deliver the Ten Commandments in order to symbolize the moral and religious transgressions that can occur. On the first tablet, human beings’ religious offenses between God and human beings are reviewed, including the sins of idolatry, blasphemy, and Sabbath violation. Adultery, theft, and murder are among the moral transgressions listed on the

second tablet. Sexual orientation is a religious sin, not a moral one. Injury to an innocent party is a moral offense. When two independent and consenting people get together, who suffers? Although homosexuality is not inherently wicked, it does go against the will of God, just as it is forbidden to build a fire on the Sabbath or eat leavened bread during Passover.

For his opinions on this matter, orthodox Rabbi Aaron Feldman of Baltimore has recently faced significant criticism. He submits that non-practicing LGBTBI Jews have a significant contribution to make to Jewish culture. He submits that while Judaism condemns homosexual behavior, it does not condemn homosexuality itself.

Second, in 1996, the [Conservative] Committee on Jewish Law and Standards (‘CJLS’) of the Rabbinical Assembly rejected homosexual involvement in the Jewish conservative community life considerably more vehemently than previous works on matters relating to homosexuality. On 2006, however, a seminal

responsum confronted the CJLS's Consensus Statement on Homosexuality and ruled that "[i]t seems to us that homosexuality as a general condition, or "orientation," need not be a halakhic problem. While certain sexual types such as the castrated male or the androgynos are identified as unique categories in halakhic parlance, the homosexual or the lesbian is not. There exists, in fact, no Hebrew word for "homosexual" other than the transliteration, evidence that such a category never existed in Jewish law." The responsum goes on to say that the Levitical "prohibition of זכר משכב [male-to-male] ought not to become the basis for the exclusion of homosexuals from Jewish life and leadership." The enforcement of the biblical prohibition in our day, if it is to be enforced, should not justify the elevation by the Conservative movement of זכר משכב above every other prohibitions, *issur* (איסור) and its violators should not be singled out for restrictions and exclusions never imposed on those who do not live in accordance with other demands of halakhah."

The responsum submits that

the term 'abomination', *to-evah* (תועבה), in the Torah refers to a variety of prohibited behaviors, including homosexual sex, although it was not absolute, but rather contextual to the community and era. The halakhic system acknowledges that some realities evolve throughout time in order to heal irreparable damage to ordinary individuals. Therefore, the Levitical ban ceases to exist when society's attitudes evolve and, this case, LGBTBI relationships are no longer viewed as abomination by many and/or higher institutions, such as the United Nations and its specialized agencies. The responsum concluded that intimate relations between two men or two women are permitted within the context of a recognizable consecrated relationship,

Third, Progressive Judaism, through the CCAR, has emphasized the necessity of LGBTBI people's full integration in conformity with Jewish tradition. A responsum from 1978 confirmed that a rabbi may officiate at the wedding of two Jews if one partner has transitioned to the gender with which they identify, as opposed

to the one they were assigned at birth. According to a 1990 responsum, being transgender by itself is not a reason to prevent someone from converting to Judaism.

In 2009, the CCAR held that “like the Rabbis [Sages], we [CCAR], too, are obligated to find a place within our midst for ... the Jew who does not seem to fit within the established boundaries and social categories upon which our communities are normally based. ... We have no need as a community ... to question any person’s expressed gender identity. ... Our concern, quite simply, is to welcome [each person] into the midst of the community of Israel.”

CCAR responsa and resolutions are consistent with biblical tradition, which teaches that all people were made in the image of God, *b'tzelem Elohim* (בצלם אלקים). According to Genesis 1:27, “And God created humans in God’s image, in the image of God, God created them.” The CCAR through progressive halakhah has shown its vocation to protect every person from prejudice that results from ignorance, fear, insensitivity, or hatred. Leviticus 19:16 says: “do not stand idly while your

neighbor bleeds”, in light of the fact that LGBTBI members are frequently singled out for discrimination, high rates of violence, and even murder, this is actually a clear violation of human rights.

### 3. Conclusion

All three denominations of Judaism are now aware of the incontrovertible fact that people who identify as LGBTBI in some way must be recognized not only in civil society, but also in the religious realm. Human beings have a spiritual side and, therefore, thinking that civil rights will suffice to all members of LGBTBI is denying the spiritual needs of the human race.

There are LGBTBI people in Orthodox, Conservative and Reform communities. The last two Jewish denominations have made significant strides in areas relating to LGBTBI individuals. Jewish orthodoxy, however, appears to be closed off to the issue, but the ‘denial’ is not uniform, and voices are being raised to contextualize the sacred texts, dialogue with traditions and provide room for LGBTBI persons. The conservative and

progressive denominations have turned from tolerance to integration by incorporating the challenge of embracing, without judgment, LGBTI individuals who have felt alienated from Jewish community life. Both denominations acknowledge the need to allow for unrestricted sexual expression as long as the holiness and dignity of a sexual partner is respected and protected.

For progressive Judaism, this does not imply the promotion of LGTBI behaviors, but rather embracing and welcoming such members in social settings in general, and in the Jewish communities in particular, as well as bringing in the sincere redress of an injustice. It is now possible to address this *tikkun*, reparation, thanks to the maturity of contemporary societies and all the advancements they have made in the social and scientific spheres. The ‘idea’ of LGBTI is not a new human right, since the applicable human right already exists and guarantees and provides against sex-based discrimination - 1948 Universal Declaration of Human Rights, i.e., non-discrimination without distinction of any kind, such

as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Moreover, this takes place on the understanding that the idea of sex is also broad and all-encompassing. The idea of sex combines the subjective and objective aspects of each individual; and because we are all unique individual beings, there are cases where the first weighs more heavily than the second and vice versa, and, therefore, the scales of sexual or gender identity are only skewed by the individual’s free will.

This is enough reason for the adjustment of the Jewish law to the life of those it regulates. For that reason, the rabbis of all times have been able to adapt the halakhah, including the abrogation of biblical law. This is so since in our societies, with no exception all around the world, religious laws have the potential to influence or be influenced by internal or external theological currents, by new archaeological and scientific-technological-medical discoveries, by new ethical standards, by philosophy

and psychology, as well as by the different regional climates. Halakhah is no stranger to this universal norm, which is why it is presented as yet another living proof of the scars of Jewish history and the continuous encounter of the human with divinity, the contiguous revelation is taking place here and now. The rabbis have never detracted from their conciliatory mission between religion and life, contextualizing sacred texts and traditions with their compass pointing to ethical behavior and facilitating life.

There are basic dynamic principles on the interpretation of halakhah treasured by the rabbis over time. These principles dismantle the very partial and non-progressive image projected about Judaism by Orthodox Judaism and seen by non-Jews as the true Jewish tradition, but nothing further. Three readings from the Talmud, and others, illustrate the diversity, flexibility and creativity of Jewish law: a) Hillel and Betaria, (Pesachim 66a), the sages recognize the power of the community and their manners in the creation of halakhah when the sages are in doubt on what law to apply;

b) Ajnai's Oven (Baba Metzia 59b), Rabbi Yehoshua reminds us that we are usufructuaries of the Torah, the Torah is not in heaven any longer (Devarim 30:12) and that the God's voice in the Torah is no longer valid, God has already spoken on Sinai, and now it is our task to make law; and c) Rabi Dosa (Rosh Hashanah 25a), teaches us that we are responsible for the time that we have to live and do our best during that time and stop waiting for the former times judges to come and solve our problems.

Judaism is the unwavering commitment to cherish the present without revoking the past or losing hope for the future. Its motto is 'Dor Dor veDorshav,' (דור דור ודורשיו) each generation with its interpretation. Men and women of today, and their religious leaders, must provide answers to today's questions. Every generation has its sages, its leaders, and each generation values the one moment it has to live. It is futile living in periods that do not belong to the present and that serve only as justifications for avoiding the only reality: the present. Not every past was necessarily

better, and not every future will necessarily be better.

Each individual human being is the image of God, *b'tzelem Elohim* (בצלם אלקים), a reflection of the non-sexual God, and unique with an everlasting purpose and significance adding to the body of humankind as a whole.

Every one of us, regardless of their religion or denomination, possesses a divine essence, and Muslims, Christians and Jews may agree on believing in this non-sexual God, and that we are God's image. Therefore, LGBTI human beings can only be seen as *Imago Dei*, the image of God, and love is what they deserve.





Christianity, Sexuality, and Postmodernity:

## The Case of Nigeria

**Enoch Olujide Gbadegesin \***

### **Abstract**

In this paper, I explore the disjunction between Christianity and postmodernity, focusing especially on the ethics of sexuality. While Christianity is a belief system with a body of doctrines on right and wrong conduct, Christian ethics takes its source from the Mosaic laws which cover every aspect of life, including human sexuality, forbidding bestiality and homosexuality. Jesus Christ, the son of God according to Christian belief, who was the origin of the Christian faith, declared that he did not come to destroy the (Mosaic) laws but to fulfil them. With this, it is the belief of Christians that Mosaic laws of sexuality are valid for all time. Postmodernity, on the other hand, eschews the notion of an absolute value and dismisses ethical fundamentalism as a mistake. On this, it sees both secular ethics and Christians on par even though, unlike secular ethics, Christian ethics anchors its doctrines on the authority of a divine being. Postmodernism finds the defence of absolute values in both secular and divine ethics as wrong-headed. My interest is not to adjudicate in the matter of the dispute between Christians and postmodernists. Rather, I am interested in why Nigerian Christians in particular and African Christians in general, insist on the scriptural doctrines on sexuality, including transsexuality/transgenderism which critics dismiss as archaic

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and outdated. I argue that with the injunction in Matthew 24:35 from the author of their faith, and the declaration in Revelation 22: 18-19 about the fate of doctrinal revisionists, believing and practising Christians really have no choice than to follow the biblical injunctions, including those on sexuality. In the end however, I solicit a level of mutual respect on both sides to the debate.

**Keywords:** postmodernism, sexuality, religion, Christianity, Nigeria, homosexuality

### **Introduction**

In this paper, I explore the disjunction between Christianity and postmodernity, focusing especially on the ethics of sexuality. While Christianity comes as a belief system with a body of doctrines on right and wrong conduct, Christian ethics takes its source from the Mosaic laws which cover every aspect of life, including human sexuality, forbidding bestiality and homosexuality. And Jesus Christ, the son of God according to Christian belief, who was the origin of the Christian faith,

declared that he did not come to destroy the (Mosaic) laws but to fulfil them. With this, it is the belief of Christians that Mosaic laws of sexuality are valid for all time.

Postmodernity, on the other hand, eschews the notion of an absolute value and dismisses ethical fundamentalism as a mistake. On this, it sees both secular and Christians on par even though, unlike secular ethics, Christian ethics anchors its doctrines on the authority of a divine being. Postmodernity finds the defence of absolute values in both secular and divine ethics as wrong-headed. My interest is not to adjudicate in the matter of the dispute between Christians and postmodernists. Rather, I am interested in why Nigerian Christians in particular and African Christians in general, insist on the scriptural doctrines on sexuality, including transsexuality/transgenderism which critics dismiss as archaic and outdated. I argue that with the injunction in Matthew 24:35 from the author of their faith, and the declaration in Revelation 22: 18-19 about the fate of doctrinal revisionists, believing and practising Christians really

have no choice than to follow the biblical injunctions, including those on sexuality. In the end, I solicit for mutual respect on both sides to the debate.

### **Christian Ethics of Sex and Sexuality**

Religious leaders of all traditions espouse ethical norms as guiding principles for their followers. On their part, community of believers accept their leaders as the final authority, based on the scriptures, in things that pertain to ethical principles around which humans' lives should be ordered. For Christians, the Bible is the final authority on how they should live their lives and conduct their daily affairs with their fellow human beings. As Barth argued many centuries ago, "Man (sic) knew about God only through revelation, only as God spoke to him in the Bible or acted upon him through Jesus Christ." (Baumer, 1977, 445)

The Christian injunctions, then, are not only about what to believe but also about how such beliefs should be translated into concrete actions that avoids hypocrisy. Christian theologians believe that in their pursuit of right conduct outside the grace of

God through Jesus Christ, human beings are doomed to failure. As Luther once put it, "if there is a positive and demonstrable value in natural abilities, then the devil too is the image of God (Thielicke, 1966, 252)." Hence, the constant resort to the grace of God to obey the commandment of God as enshrined in the Christian scripture-the Bible. The commandments of God given to Moses in the Old Testament and unequivocally upheld by Jesus Christ in the New Testament, cannot but be obeyed by believing Christians. One of such commandments is that sex and sexual desires should be within the confine of marriage alone which can only be consummated between a man and a woman. Any other form of sexual desires and expressions is not acceptable as far as God is concerned based on Christians' understanding of the Bible.

Georgia Harkness defines Christian ethics as "a systematic study of the way of life exemplified and taught by Jesus, applied to the manifold problems and decisions of human existence."<sup>1</sup> He also identifies what he refers to as its six frames of reference: (1) the

best in the moral philosophy of all ages and places, (2) the moral standards of Christendom, (3) the ethics of the Christian Church and its many churches, (4) the ethics of the Bible, (5) the ethics of the New Testament, and (6) the ethical insights of Jesus. These six frames of reference point to the importance which Christians attach to the injunctions of Jesus Christ as they form the foundations of their moral compass. As W. P. Heath puts it, “Christian Ethics is a study of the conduct which should characterize the true believer in Christ in view of statements, principles, and implications of Scripture properly interpreted and rightly divided.”<sup>22</sup> Common to both definitions is the fact that the ethics must be based on or grounded in the Bible, the Christian scripture. On his part, Helmut Thielicke (1966, 26) noted that the unique element in Christian ethics is to be found not at the level of acts, with its interchangeability and ambiguity, but at the level of motives: “man (sic) must first be put into a *motus* (movement) or history by God, if he is to be able to do anything “Christian.” Man must first be the object of justification, if he is to be the subject of sanctification. Only

in this context can we speak of the level of motives as that in which the unique element in Christian action and in Christian ethics is to be seen (Thielicke, 1966, 26).

Christian sexuality is unique and restrictive, confined to marriage. As Stanley J. Grenz (1999, 15) defines it, marriage “is a lifelong covenant between two sexually different but equal persons. There is a subjective reality to their bond: they love each other, find each other attractive (physically, emotionally, spiritually), and agree to pursuing life together. But there’s also an objective reality that marriage represents; the stuff that God has designed marriage to be.” Significantly, from this perspective, unlike contemporary conception, for which sex is a private affair; Grenz, drawing from scriptural injunctions, sees sex as a public affair. But this appears counter cultural. How can something most people see as private be construed as public? In making this counter intuitive claim, Christians mean to suggest that while sex is a private act, it is not closed to public scrutiny. Even prior to the Christian era, some sexual acts are forbidden by various communities. These

include adultery and bestiality.

Christians typically link sexuality to marriage, stripping from it any connection to the romantic. Their reference point is the view of marriage in Genesis 1:28 when God reveals that his purpose and blessing for marriage is procreation (See Marva J Dawn, 1993: 42). Dawn also shows how “God’s design for our sexuality certainly includes desire and sexual fulfilment, but these factors are not supreme. To recognize larger purposes in marriage enables us to avoid the sexual idolatries that characterize our culture.” (Dawn, 1993: 50) Sexual idolatries refer to sexual activities between male and female outside of marriage, and those that countervail Biblical prescription of marriage, including bestiality, homosexuality, prostitution, and incest. From Judeo-Christian teaching, adultery, prostitution, incest, and sexual interaction between same-sex persons are aberrations from God’s injunction in both the Old and New Testaments, with the latter going on to condemn, not just the physical act, but also the motive and intent, especially in the case of adultery.

This Biblical conception of sex and sexual acts has been superseded in secular thought, which canvases and celebrates the declining social importance of religion. It is important, however, to note that the significance and influence of secularization is relative. While secular thought is dominant in the Western hemisphere; in Africa, it hardly has much impact, and Africans are still, as Mbiti proclaimed more than half a century ago, “in all things religious.” (Mbiti, 1962) In African societies, religion has not been moved to the fringes of society as it is in Europe and America. And African Christians are now championing the idea of reverse evangelization where Africa may send missionaries to Europe and America in obedience to the Great Commission. (See McGrath, 2002: 35)

### **Postmodernity**

Postmodernity is characterized by a rejection of grand narratives including metaphysical, epistemological, and ethical truths, which they see as conditioned by time and space. In the words of one of its founding scholars, Lyotard (1984, xxiv)

postmodernism is “incredulity toward metanarratives.” Glen Ward (1997, 171 cited in Surrency, 2002), sees postmodernism as a challenge to metanarrative, which is “. . . an over-arching story which can supposedly account for, explain, or comment upon the validity of all other stories, a universal or absolute set of truths which is supposed to transcend social, institutional, or human limitations.” Thus, moral relativism is a fundamental feature of postmodern philosophy, which rejects universal ideas of truth, reality. Just as there are pluralities of cultures, there are pluralities of moralities and therefore, the idea of a grand theory of ethics which is true for all times and all peoples is rejected. To the extent that the modern philosophy which came on the scene in the 17<sup>th</sup> century sought to build such grand narratives, this new mode of intellectual approach is a move away from the 17<sup>th</sup> century modernity; hence, post-modernity. For this new discourse, every theorized notion of absolute truth, including the various “isms”—empiricism, idealism, realism, materialism, Marxism—are suspect. But here, of course, there is the danger of postmodernism,

with its own “ism” getting caught in a quagmire of self-negation. For, in a sense, postmodernism is soon itself becoming a grand narrative, whose truths must be suspect!

### **Postmodernity and Christianity**

From the foregoing, it appears that postmodernity, with its disdain for and rejection of grand narratives and the notion of objectively universal truths would be at variance with Christianity. After all, Christianity proclaims faith in God as the only means to heaven and believes in the sonship of Jesus Christ as the only way to salvation: “I am the way, the truth, and the life; no one comes to the Father except through me. (John 14:6) This is the kind of absolute truth that postmodernity denies. Therefore, there seems to be no meeting of minds between Christianity and postmodernity. On the other hand, however, there are Christian efforts to appropriate postmodernity as partner against the Enlightenment rationality of the 17<sup>th</sup> century. Some have argued that enlightenment rationality with its emphasis on reason alone as the determinant of truth is responsible for the assault on

Christianity by atheistic-leaning movements such as Marxism. If postmodernism is right, then, the door is open for a plurality of approaches to the truth and religious approach should be one. What is missing from these efforts to ally with postmodernism by Christians is the recognition that while a plurality of approaches may grant Christianity a place where enlightenment rationality has displaced it, it would still have lost that unique character of being the only way and truth to God. A plurality of approaches means that no one approach is the truth. Postmodernity, therefore, erodes Christianity's truth-claim concerning God and morality, including sexual morality.

There is a connection between secularization and postmodernity. Secularization gave rise to postmodern thinking, but in a different mode. While secularization contributes to the decline in subscription to religion, in postmodernism, religion is active as a private affair.<sup>3</sup> For postmodernism, religion is a matter of private choice and private consumption away from the public realm. Therefore, those acts such as gay sex,

transgenderism/transsexuality, bestiality, which Christianity seeks to eradicate are seen as valid choices for free agents. For Christians, on the other hand, these acts violate Mosaic Law and Christian doctrine. It appears then that there is a complex relationship between postmodernism and religion. On the one hand, the protest against metanarratives is a rejection of religion, and therefore, Christianity. On the other hand, some Christian theologians have tried to take on the offer of postmodernism for a pluralistic approach to truth and reality, a move which affords Christianity a place at the table of truths.

Now, there is a resurgence of religion and religious beliefs in the forms of fundamentalism and traditionalism, Pentecostalism, and various New Religious Movements in many parts of the world. This is a focus of David Lyons (2000, 3) in *Jesus in Disneyland: Religion in Postmodern times*, in which he sees postmodernism as the reshaping of modernity through growth of consumerism and the development of information and communication technologies. For

him, Disneyland, a “social and cultural symbol of our times.... is a trope for the democratization of culture, including religion.” Not only this, but Lyons also shows how postmodernism makes possible the growth of the holistic milieu and the nature of New Age religious movements: these are increasingly like companies selling spirituality as a commodity. The new age religious movements are redefining religion as a cultural resource that makes it valuable again, rather than a failing of a bygone era (Lyons, 33).

This feature of postmodernism challenges secularization theory which consigns religion to the margin of the society. For here, religion is not only visible, but also an important aspect of the lives of majority of African and Latin American people. Religion is now seen as a source of crucial identity where other sources of identity – nationality, gender, class, and ethnicity are breaking down. Indeed, postmodernism treats all these, including sexuality as fluid and fragmented identities. Religion has held its own as an undeniable source of identity. Thus, while it appears that the intent of postmodernism

is to reject metanarratives and thus undermine the foundation of religion, among others, there are ways in which religion, especially Christianity, has appropriated the postmodern approach for its own end. The question must however be raised, how does Christianity see the postmodern approach to sexuality? And, for my purpose here, what is the reaction of Nigerian Christians in general and the Nigerian evangelical and Pentecostal Christians to postmodern sexuality?

### **Postmodernity and sexuality**

Though I have touched briefly on the ethics of sexuality from Christian perspectives compared to postmodern perspectives, it is important to flesh up a few details. First, if there are no absolute truths and no absolute values, it follows that there can be no absolute sexual norms for all time and for all places. For postmodern ethics, we must be conscious of the foundations of ethical thought in the power relations that prevail and predominate in societies. Right and wrong are relative because they are fruits of power structures.

According to postmodernists, this is also true of sexual relations and norms of sexuality. Therefore, the norms of heterosexuality must be seen from this perspective. For postmodernists, there is nothing sacred or sacrosanct about monogamy, heterosexuality, etc., and there is nothing ethereally abominable about homosexuality, same-sex marriage, etc. This is consistent with the emphasis on a multiplicity of approaches and perspectives, none of which has the monopoly of truth-value. For Christians, of course, there is an abiding truth revealed in the scripture through the Mosaic Laws and Jesus Christ. This is the position of Nigerian Christians and Evangelicals.

### **Conception of Sexuality among Nigerian Christians (Transsexuality / Transgenderism, in particular)**

Christianity has existed in Africa since the beginning of the first century, albeit, in the minority. It begins to flower since the middle of nineteenth century, when the European missionaries came to “evangelize” the black continent

which they wrongly assumed had no genuine religion. But as Thomas Oden (2007, 9-10) observed, “Christianity would not have its present vitality in the Two-Thirds World without the intellectual understandings that developed in Africa between 50 and 500 C.E. The pretense of studying church history, while ignoring African church history is implausible.”

The evidence seems to contradict the wrongly held notion that only Europeans first had the privilege of the knowledge of Christianity. Elizabeth Isichei (1995, 17) links the birth of Christianity to Africa since the taking of Jesus Christ as a baby to Egypt by his parents during the persecution by Herod, and goes further to show that through the Copts, we know that St. Mark was the first apostle to Egypt. Corroborating Isichei’s position, Oden (2007, 14) declares that if you “cut Africa out of the Bible and Christian memory ... you have misplaced many pivotal scenes of salvation history. It is the story of the children of Abraham in Africa; Joseph in Africa; Moses in Africa; Mary, Joseph, and Jesus in Africa; and shortly thereafter



Mark and Perpetua and Athanasius and Augustine in Africa.”

Moving beyond its origin in Africa, Van Klinken (2015, 129) avers that, the explosion of Christianity in Africa in recent decades is phenomenal, both in relative and absolute numbers. Citing Jenkins, Klinken declares “Clearly, Africa has made a major contribution to the shift of the centre of gravity of Christianity to the global South taking place in the twentieth and early twenty-first century (Jenkins 2007).” While Christianity has been growing phenomenally since its inception in Africa, however, its rapid growth in Nigeria can be traced to the emergence of Pentecostal Charismatic Christianity since 1970s. (Ojo, 2006)

Since their emergence, Pentecostal Charismatic Christians have continued to grow by leaps and bounds in Africa, and to also wield social, economic, and political influence among their members. Paul Gifford (1998) clearly shows those great influences of Pentecostal and Charismatic Christians in Africa.

Ogbu Kalu (1998) documents that Pentecostal (some scholars call them Neo-Pentecostals), came in three phases, namely: the spiritual or prophet-healing churches (from the early twentieth century), the churches resulting from American Pentecostal denominations’ missionary work (from the first half of the twentieth century), such as the Assemblies of God and the Apostolic Faith Mission, and the wave of so-called Pentecostal-Charismatic (from the 1970s–1980s) which has recently attracted so much scholarly attention.

It should be noted that Pentecostalism originally is a holiness-oriented movement, putting a strong emphasis on morality in general, and specifically on issues related to sexuality. Matthews A. Ojo (2006, 2) shows how dynamic they are in Africa generally and in Nigeria in particular. According to him, since their emergence, the creative center of Christianity in Nigeria has shifted from the mainline Protestant and Aladura churches to these movements. He convincingly demonstrates how the Charismatic Christians were

more intentional about evangelism and provide alternative moral atmosphere when public morality has completely broken down. In “Sexuality, Marriage, and Piety among Charismatic in Nigeria”, Ojo shows how Charismatics took sexuality seriously since the late 1970s, when most married couples were no longer active in their organizations (Ojo, 1998, 180-197). Among important issues Ojo discussed under Nigerian Charismatic sexuality are marriage, sexual purity, and a brief mention of homosexuality.

According to Ojo, at the initial formation of Pentecostal and Charismatic movements in Nigeria, “homosexuality is rarely discussed because it is contended; such an abhorrent act is not a lifestyle among Africans.” Ojo, (1998: 186) quoting from Herald of the Last Days, no.32; 21 in support of his position showed how Rev. S. G. Elton underscored the belief of many Nigerian Christians when in a question-and-answer session, he declared, “There is no excuse for such things in Nigeria, and those who practice it can only expect judgement from God.” In another

paper, Ojo (2005) further observes that “Pentecostals believe that lesbianism, homosexuality, sexual pleasures for its sake, and oral sex, all of which are part of the sexual revolution, as having satanic origin. Consequently, unbridled sex assumed a religious significance from the belief that it is rooted in satanic control and has therefore attracted the Church’s opposition.”

Ojo is a Nigerian Christian professor of Religion. His writings on this topic are sociological and anthropological analyses of the positions of Nigerian Christians. His accounts are however vindicated in the scholarly works of non-Nigerians who corroborate his accounts without necessarily endorsing the position of Nigerian Christians. One of such works is by Adrian Van Klinken and Ezra Chitando in their jointly edited *Christianity and Controversies over Homosexuality in Contemporary Africa*. In his introduction, Klinken describes one of the postures of African Christians against homosexuality as, the monolithic picture of an ‘African homophobia’ that is fueled by religion (2016, 1-17 see

p. 2). Van Klinken (2016, 2) sees,

“An undeniable fact, that in African Christian circles strongly politicised and public discourses on homosexuality abound. From all parts of Africa where Christianity is popular, examples can be given of prominent pastors and church leaders warning against ‘the dangers of homosexuality’, opposing gay and lesbian human rights advocates and calling on tough measures from their governments to ensure that homosexuality is and remains a criminal offence and will not become accepted in their countries.”

In trying to further analyze what he refers to as African homophobia, he observes in (Klinken, 2015, 148) thus:

“...the most recent trend is that African Christianity in the twenty-first century has increasingly become the site of controversies over issues of homosexuality and sexual diversity more broadly. While in most of the twentieth century homosexuality was hardly a major issue for Christian

churches or political leaders anywhere in Africa, in the past one or two decades this has changed dramatically. In many different African countries, from Nigeria to Zimbabwe and from Uganda to Cameroon, church leaders have publicly spoken out against the acceptance of homosexuality and the recognition of ‘gay rights’, Christian politicians have proposed anti-homosexuality legislation, and the popular opinion among the general public is that homosexuality is both ‘un-African’ and ‘un-Christian’.”

On their part, Samson O. Olanisebe and Adewale J. Adelokun (2013, 191-209) offer an interpretation of Sodom and Gomorrah passages in the light of the contemporary homosexual controversy and argue that “top on the list of sins in Genesis 19 is homosexuality as it is clearly stated in the passage.” Contending with scholars who interpret the sin of Sodom and Gomorrah in Genesis 19 as inhospitality and not homosexuality, they object that such interpretation is inadequate, based on the orthodox interpretation. They traced biblical references to

homosexuality from the Old Testament and the New Testament and came to the conclusion that homosexuality was seen as an abhorrent sin; too abhorrent that in 2 Peter 2:6 the apostle Peter mentioned that the two cities were turned into ashes because of their immoral behaviour. In their conclusion, they were able to establish that the most grievous sin of Sodom and Gomorrah is sexual perversion that reached its climax in homosexuality.

Besides these scholarly perspectives, the Nigerian society does not in any way support homosexuality or transgenderism/transsexuality. In Nigeria, transgenderism/transsexuality is seen as a serious offense so much that on November 29, 2011, the Nigerian Senate sponsored a bill and passed the same to legislate against it. The punishment for violating this legislation either by the offenders or those who support them is a 14-year jail term.<sup>4</sup> This was, according to Van Klinken, a move that Nigerian Christians welcomed wholeheartedly. As he noted, “It is easy to imagine how African Christian leaders, especially in countries like

Nigeria, who are critically aware of Muslim proselytizing strategies, feel the need to speak out vociferously against homosexuality, to prevent their Christianity from being associated with a ‘morally degraded West.’” (Klinken, 2015, 148-49)

### **Conclusion**

Majority of Nigerian Christians do not view sex and sexuality as a private affair but a public one, just as it is being viewed by many bible-believing Christians in African nations. Majority of Nigerian Christians believe that the prophetic declaration of Jesus in Mathew 24:35 that “Heaven and earth will pass away, but my words will never pass away” is a clarion call for them. They must heed that call and avoid being instruments or tools that cause the word of their Master and Saviour to pass away unfulfilled. Therefore, for these Christians, there is an injunction to stay the cause with the hope that their Master and Saviour, Jesus Christ, will continue to guide their lives and conduct as bible believers. Similarly, the injunction in Revelation 22: 18-19 is even more direct in its implication for Christians. Here Jesus, through

his revelation to John, pronounced a curse: <sup>18</sup>“For I testify unto every man that heareth the words of the prophecy of this book, If any man shall add unto these things, God shall add unto him the plagues that are written in this book.<sup>19</sup> And if any man shall take away from the words of the book of this prophecy, God shall take away his part out of the book of life, and out of the holy city, and from the things which are written in this book.” Even if they don’t want to obey because of their love for God, they want to obey to avoid the curse, despite the face of changing and passing fads of the contemporary world order.

There then appears to be a gulf between postmodernists and Christians, especially Nigerian and African Christians in the matter of the norms of sexuality. This gulf can only be removed or filled with a mutual respect that understands where each is coming from, Nigerian Christians coming from their understanding of the authority of the scripture, and postmodernists coming from their understanding of freedom and individuality. If there can be no agreement, at least there ought to be respect.

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## Endnots

1. See <https://www.religion-online.org/book-chapter/chapter-1-what-is-christian-ethics/>
2. <https://tcmusa.org/publications/heath/TopicalStudies/ChristianEthics.pdf>
3. Bruce later criticized those theorists of secularization such as David Martin, Bryan Wilson and Peter Berger as overstating the influence of secularization; showing how religion has remained vibrant and popular in many parts of the world. See *Religion in the Modern World: From Cathedrals to Cults*. (Oxford and New York: Oxford University Press, 1996) cf. McGrath, who argues in his book, *The Future of Christianity* 22-35, that religion not only remains stable but there is also a resurgence of religion in Korea, Africa and Latin America.
4. See <https://www.theguardian.com/world/2011/nov/29/nigeria-same-sex-marriage-ban>, the bill was approved by the lower house on May 30, 2013 <https://www.premiumtimesng.com/news/136971-nigerian-lawmakers-approve-14-year-imprisonment-for-same-sex-marriage-couples.html?tztc=1> and was signed into law by the Nigerian President Goodluck Jonathan on January 13, 2014, <https://www.theguardian.com/world/2014/jan/13/nigerian-president-signs-anti-gay-law>.

# The Identity of Human Nature and Transgenderism:



## A Religious Perspective

**José A. R. Dunker L. \***

### Abstract

In this review, I study the theological positions of the Abrahamic religions on transgenderism and same-sex attraction: Judaism, Islam, and Christianity, concluding that the three religions define homosexuality as a sin. I then revised the psychological and medical data about this exceptional sexual behavior and concluded that this is learned behavior which meets the criteria normally used in psychopathology to define abnormality.

### Introduction

Before getting into the subject, it is necessary to define some terms about which there may be confusion.

Milton Diamon, a representative author of the current postmodern worldview, make a good definition: “Sexual identity speaks to the way one views him or herself as a male or female” (Diamon 2002). It is necessary to differentiate *sexual identity* from *biological sex*, and from *gender identity*:

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(\*) A medical scientist, family therapy, social psychology.



a) biological sex classifies us by external genitalia, regardless of what one perceives oneself to be, and from this point of view there are only two possibilities: male, and female; b) gender identity is the subjective way in which the individual perceives his sexuality, even if that perception does not coincide with his biological sex, and, it can be as diverse as there are individuals, and, c) sexual identity includes biological sex, gender identity, and sexual orientation, so, it is a broader and more inclusive term.

So defined, sexual identity manifests itself by the way of dressing, by manners culturally related to biological sex, by the way in which ones perceives oneself, and by the sexual partner that is chosen, as I will show next. By the way of dressing, we have two possibilities: that the individual wears clothes that culturally correspond to his biological sex, or that he wears a way of dressing that culturally does not correspond to his biological sex, and it is what is defined as *transvestic*. By manners or stereotypes, the person could identify with his biological sex, or with the opposite sex, and that is when we will talk about effeminacy, in the case of men,

and masculinization, in the case of women. By the way in which one perceives oneself, leave us with two possibilities: the person identifies with his biological sex, or doesn't accept his biological sex, which means a *transgender*. By the sexual partner that is chosen whether it is of the opposite sex, as happens with heterosexuals, or that the sexual partner is of the same sex, as happens with homosexuals, gay or lesbian.

## **The Abrahamic religions: Judaism, Christianity, and Islam**

### ***Judaism***

Moses in the Pentateuch presents three passages condemning homosexuality. The first passage is the story of Sodom and Gomorrah. Lot had moved to the prosperous city of Sodom, without taking into account that this city was in a moment of sexual depravity, as it is said in the narrative: "their sin has become extremely aggravated" (Gen.18.20). In this city took place the incident with the angels: "the men of the city surrounded the house, the men of Sodom, all the people together, from the youngest to the oldest" (Gen.19.4), obviously an express exaggeration, indicating that it was a general

depravity. The expression: “Bring them out so that we may know them” (Gen.19.5) must be understood in the same sense that Moses uses this expression elsewhere (Gen.4.1,17,25; 19.8), referring to the sexual act. Prophet Ezekiel confirms that it was an “abomination” (Ez.16.50), and Judas, in the New Testament, defines it as “fornication” (Ez.1.7), all of which points to the sin of homosexuality. The other two passages are explicit and define the homosexual act as an “abomination”: “You shall not lie with a man as with a woman; it is an abomination” (Lev. 18.22); “If anyone mates with a man as with a woman, they have done an abomination; both are to be killed; their blood shall be upon them” (Lev. 20.13).

### *Christianity*

Paul, in the epistle to the Romans, denounces homosexuality as something shameful and unnatural: “For this reason God gave them up to shameful passions; for even their women exchanged the natural use for that which is against nature, and in the same way also the men, leaving the

natural use of the woman, burned in their lasciviousness one with another, men committing shameful deeds with men, and receiving in themselves the retribution due to their error” (Rom.1.26-27). In 1 Corinthians Paul includes homosexuality in a list of sins, from which some christian had been washed away: “Do you not know that the unrighteous will not inherit the kingdom of God? do not err; Neither the fornicators, nor the idolaters, nor the adulterers, nor the effeminate, nor those who lie down with men, nor the thieves, nor the greedy, nor the drunkards, nor the revilers, nor the swindlers, shall inherit the kingdom of God. And this was some of you; but you have already been washed, you have been sanctified in the name of the Lord Jesus...” (1 Cor.9-11). It is clear then, that the christian New Testament also defines homosexuality as a sin.

### *Islam*

According to some sources, the Koran makes several allusions to homosexuality, especially with Lot, in the case of Sodom and Gomorrah: “You approach men instead of women” (7.80-84); “You get close to men... and you neglect

your wives” (26.160-175). The condemnation of homosexuality is quite explicit. In the ‘prophet’s comments’ (hadiths) compiled by his successors, the death penalty for homosexual practice is declared: “If you find someone doing what Lot’s people did, kill the one who does it and the one who is doing it” (Sunan Abu Dawood 38:4447). “If a man who is not married is caught committing sodomy, he will be stoned to death” (Sunan Abu Dawood 38: 4448). Due to this clarity expressed in hadiths, there is a consensus among scholars about the condemnation of homosexuality, and for these reason in no Islamic country homosexual marriage exists, much less the right to adopt minors, although the sentence can range from months or years in prison to capital punishment. In any case, there are some attempts to modernize the interpretation of these texts in order to accommodate them to the context of our days.

Now I am going to review the current scientific information to see if it contradicts or coincides with the Abrahamic religions.

First, the scientific data shows that homosexuality and other exceptional sexual behaviors are

learned. The assumption from the beginning was that it was a natural and hereditary condition. Guss & Drescher (2000) are both affirmative therapists for same sex attraction, and obviously they hold the inheritance of homosexuality: “In looking at the etiology of sexual orientation, most new research indicates that a homosexual orientation is not learned and is not a result of any family or social pattern. There is continuing and growing evidence that homosexual orientation may have genetic, biological, and biochemical components” (p.8). “New research continues to support the genetic, biological, and biochemical contribution to substance use disorder. It is possible that the genetic materials for sexual orientation and substance abuse are chromosomally linked—explaining the possible higher incidence in the gay population” (p.8).

However, the outcome of the investigations clearly favors a learned condition. The scientific data point three moments: first, failure to find a causative gene; second, identical twins shows a higher frequency than biological brothers, which suggest some innate form of vulnerability, and, third, polygenetic studies

confirmed vulnerability, not a genetic determination, as Andrew Buncombe (2019) summarizes in Science magazine: “There is no such thing as a single ‘gay gene’ researchers have said, but genetics – along with Environment factors – can influence a person’s sexual preferences... The researchers said non-genetic factors, including upbringing, personality, and nurture, had far more influence on a person’s choice of sexual partner. The researchers, writing in science, suggested genetic may account for as much as one-third of the various factors that determine whether someone is attracted to same-sex partners”. The clear point is that homosexuals did not inherit but develop the same sex attraction.

Second, nature provided five control mechanisms to ensure correct sexual identification. The first mechanism for sexual identification is the sex chromosome: XX for males, and XY for girls. This is called sexual dimorphism, and there are only two normal possibilities: a boy with XY will have penis and testicle, or a girl with XX will have ovary and vagina, and this influence the other stages of development. The second mechanism is the sex hormones,

which begins with pregnancy: testosterone from the testicles, the male hormone, which produce masculinization of the brain; while the estrogen from the ovary has no influence on the brain, but, if the mother is subjected to stress during pregnancy, this mechanism could fail. The third mechanism is the modeling of men and women in the family of origin, which demands the presence of both parental figures at home. The absence of the father, or unattractive mother images could create problems with sexual identification. Fourth, integration into the peer group at school reinforces and consolidates parental modeling at home, but failure in this mechanism favors wrong sexual identification. Finally, according to previous experiences, the brain tends to mark its sexual preference towards the first erotic experience, and this is why sexual abuse or homosexual harassment favors same-sex attraction.

Nature provided these five mechanisms to ensure the development of sexual identity. The first two are biological, but the others mechanism is influenced both by hormones and by social experiences, and when these last

three mechanisms work as they should, the result is the correct sexual identification. The negative experiences that affect sexual identification are the following: (1) stress of the mother between weeks 6-12 of pregnancy; (2) absence of the father figure or unpleasant mother figure from 12 to 36 months of life; (3) failure of integration in the peer group, (4) sexual abuse or homosexual harassment in childhood or adolescence. Other factors that affect the correct sexual identification are: (5) the exhibitionism of the mother before her sons in the first years; (6) untimely loss of a parent who acted as emotional support, and (7) the cultural attitude and modeling. Without these seven negative experiences, all boys and girls will develop a normal identification with the biological sex.

Third, homosexuality meets four criteria usually used in psychopathology to define abnormal behavior. The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) use specific criteria: (1) distress (e.g., a painful symptom); (2) disability (i.e., impairment in one or more important areas of functioning); (3) a significantly increased risk of suffering death, pain, disability; (4)

an important loss of freedom; (5) a syndrome that is a manifestation of a behavioral, psychological, or biological dysfunction, or (6) in some cases, a statistical deviation could be seen as a dysfunction. Same sex attraction covers all these six criteria.

- Distress: gays and lesbians have three times more depression or distress than the general population: “Homosexuals outperformed heterosexuals by a wide margin in the following illnesses: depression, the 71.4% compared to 14.5% for heterosexual males; illicit drug dependence, 42.0% compared to 11.1% in heterosexuals; suicidal ideation, 71.4% against just 10.9% for heterosexuals; suicide attempts, 28.6% among homosexuals, against just 1.6% in the general community” (Fergusson 2005).
- Disability: homosexuality implies the impossibility of reproduction, an important area of functioning, and, as a matter of fact, if all of us were homosexual, humans will extinguish.

- Risk of death: Homosexuality implies a significantly increases Risk of suffering death: “Despite dramatic reductions in AIDS-associated mortality over the past decade, our study shows that same-sex-marrying Danish men and women have overall mortality rates that are currently 33% to 34% higher than those of the general population” (Frisch 2009).
- Loss of freedom: homosexuality implies sexual compulsion or promiscuity. A study with 5,000 homosexuals and lesbians, revealed chilling data on promiscuity between homosexuals: only 15% had had less than 10 sexual partners in a lifetime; 37% had had between 11 and 50 partners; 31% had between 51 and 1000 partners, and 17% had had “several thousand lifetime partners” (Jay & Young 1977). This is sexual compulsion, which means a form of addiction.
- Homosexuality implies behavioral dysfunction, as we find in Statistics Canada (2005) on domestic violence: “violence in homosexual couples is two to three times more common than in heterosexual married couples”. Also, Guss & Drescher (2000) report on addiction: “Most studies... reports... reviews... and the experiences of most clinicians working with gay men and lesbians... estimate an incidence of substance abuse of all types at approximately 30%, with ranges of 28-35%. This estimate contrasts with an incidence of 10-12% for the general population”. We also have data from Spain that “homosexual couples marry less and divorce more” (Ortiz, 2016), which suggest an addictive compulsion rather than an alternative sexuality. Homosexuals report medical dysfunctions, for instance, many studies show an excess of sexually transmitted diseases in gay and lesbians (Craine 2009; Keystone 1980; Hull 1977); gays and lesbians show an excess of all kind of mental diseases (Sandfort 2001; Pitts 2006; King 2006); and gay and lesbians also presents an excess of medical conditions, not only genital cancer and venereal diseases,

but also strange conditions (Altman 2008; Bernard 2008; Bonfield 2001).

- Homosexuality is a deviant conduct, which is clear because 98% of the population go in one way, and they go in the opposite way.

In summary, under the criteria normally used in psychopathology (deviation/ dysfunction/ loss of freedom/ risk of death/ disability/ distress) homosexuality is a pathological behavior.

Forth, the clinical experience consistently confirms that homosexuality and other unusual sexual behaviors are reversible. In the years of the APA decision to normalize homosexuality in 1973, I remember that the Archives of General Psychiatry regularly published papers on which renowned psychiatrists presented their success in the therapy of same sex attraction, and authors from the various psychological schools reported cases of cure. For example, Albert Ellis (1956), pioneer of Cognitive Therapy; pioneers of sex therapy, with a case mix of 67 homosexual clients and

a therapeutic success rate of 76%.

Robert Spitzer (2003), the psychiatrist who assumed the claim of the Gay Liberation Front before the APA, was challenged by a group of ex-homosexuals to do an investigation with them, and he take 200 cases that fit scientific research criteria, and conclude that in the following way: “Three quarters of the ex-homosexuals interviewed had heterosexual marriages, and half of the women”; depression, common in homosexuals, disappeared in most of the interviewees. Contrary to conventional wisdom, some highly motivated individuals, using a variety of change efforts, can achieve substantial changes in multiple indicators of sexual orientation, and achieve good heterosexual functioning”.

A cohort study (Add Health) with a nationally representative sample of over 20,000 adolescents who were in grades 7-12 during the 1994-95 school year, show that 80% of adolescents who declare themselves homosexual, later report themselves as heterosexual. Lisa M. Diamond (2008) is a psychologist and feminist, and her study with 89 non-heterosexual women, aged 16 to 23, lesbian or

bisexual, and in the end reported the following: “Among lesbians, in the end they all admitted occasional attraction to men”; “Almost 2/3 of the lesbians in the first interview ended up having sexual contact with at least one man in the following years”. DSM-5 (2013) describes, in relation to gender dysphoria: “Rates of persistence of gender dysphoria from childhood into adolescence or adulthood vary. In natal males, persistence has ranged from 2.2 to 30%. In natal females, persistence has ranged from 12% to 50%”. So that, sexual orientation is not a fixed or immutable condition, but fluid and changing, even without any therapeutic intervention.

A strong argument for therapy is the self-help groups as Exodus International, Sex Addicts Anonymous, and Homosexual anonymous, groups with the same success as Alcoholics Anonymous (AA) and using a similar technique. I had, as a psychiatrist and family therapist, a case study of more than 200 clients with same-sex attraction, and the usual response was the reversal of homosexual attraction.

Fifth, the decision of the APA in 1973, to declassify homosexuality,

was not based on scientific reasons, but on political reasons. Ronald Bayer (1981) describes the history: “In 1973, after several years of bitter dispute, the board of Trustees of the American Psychiatric Association decided to remove homosexuality from the Diagnostic and Statistical Manual of Psychiatric Disorders, its official list of mental diseases. Infuriated by that action, dissident psychiatrists charged the leadership of their association with an unseemly capitulation to the threats and pressures of Gay Liberation groups and forced the board to submit its decision to a referendum of the full APA membership. And so, America’s psychiatrists were called to vote upon question of whether homosexuality ought to be considered a mental disease. The entire process, from the first confrontations to the referendum demanded by orthodox psychiatrists, seemed to violate the most basic expectations about how questions of science should be resolved. Instead of being engaged in a sober consideration of data, psychiatrists were swept up in a political controversy” (pp.3). “The result was not a conclusion based on an approximation of the scientific truth as dictated by reason but was instead an action demanded



by the ideological temper of the times” (pp.3-4). APA’s decision was produced in the middle of the hippie’s movement, and the so called ‘sex revolution of the 60s’. The explosion happened in 1969 “after a raid on a bar in Greenwich Village by the New York city police. The gay community fought back, and the Stonewall Bar on Christopher Street assumed the symbolic status of birthplace of a new phase in the homosexual struggle” (pp.92-93). Here started the Gay Liberation Front (GLF): “Soon after, Liberation Front groups were organized across the country in Berkely, Boston, Los Angeles, and Minneapolis”. They soon gained the support of the women’s movement and the civil rights movement, whose methods of struggle they took over. The point of attack was concentrated in the annual meetings of the APA, in San Francisco (1970), in Washington (1971), and in Dallas (1972). Then Dr. Robert Spitzer led a group of psychiatrists who opened the dialogue with the Gay Liberation Front, until they became their spokesmen before the APA, and finally came the decision in 1973. A final referendum was won by the Gay Liberation Front by a small margin, but enough to change history: 5,854 votes in

favor (58%), 3,810 votes against (37%), 367 abstention (3%), 9 null votes, 51 blank votes = 10,091 total votes.

It was a true ‘guerrilla’, since there was no scientific discovery to justify it, but, on the contrary, the best available evidence was contradicted to give in to the radical groups that assaulted the once solemn conventions of the APA, turning them into picketing scenes. and violent actions.

Six, APA’s decision for the declassification of Homosexuality produced a domino effect on others professional organizations. Ronald Bayer (1981) says: “The same persistence that had forced upon the APA a rethinking of homosexuality compelled religious and professional groups throughout the United States to confront their own antihomosexual biases. Churches were urged to make whatever doctrinal changes were necessary to accommodate homosexuals as congregants, and to ordain to the ministry those previously condemned as sinful. Professional societies were urged to defend the prerogatives of their members regardless of sexual orientation” (p.156).

Protestant churches as the Society of Friends, the Lutheran Church in America, the National Council of Churches, and the National Federation of Priests Councils joined the new agenda, and the same thing happened with the American Medical Association and the American Psychological Association. An important step was when the Democratic Party in USA assumed the homosexual agenda, in Obama Government, and the same thing happened with the Cuban Communist Party, and with Spanish Communist Party. In the 1995 women congress United Nation assumed the gender ideology of the feminist groups, and that also open the door the homosexual agenda. As a result of this, with the combined forces of liberal parties, United Nations, and liberal churches, today the gay agenda dominate the western world.

Seventh, the National LGBTQ Task Force has become in United States and other western countries, a strong and intolerant political power.

- The first step was to take over elementary schools to teach kids that being gay is good. This includes pro-gay

sex education; teachers who show up at school with their homosexual partners, and teachers forced to assume a position of gender neutrality, that is, to respect the identity that the student or other teachers assume.

- The second step has been to prohibit parents with a teenage son who declares himself gay from taking him to therapy. Several states in the United States and other countries have legislated against the so-called conversion therapy, and even to penalize professionals who offer therapy to homosexuals.
- The third step is the penalization of pastors for giving a Bible study about the sin of homosexuality, as hate speech. This has happened in Sweden, Canada, Netherlands, Germany, and the United States, countries that in the past built their democratic systems based on the Christian Scriptures.
- The fourth step is the censorship in publishers, professional events, universities, and

hospitals against professionals who differ from the official position. The APA does not allow psychiatrists who differ from the official position on homosexuality to exhibit at its events, and they no longer publish books by dissident authors in their publisher. Jesse Singal (2016) account the history of how Dr. Kenneth Zucker, an internationally renowned Canadian psychologist, editor of the Archives of Sexual Behavior, was fired from his position because he differed on only one point from the established agenda: his refusal to use sexual reassignment surgery on adolescents. He was accused by a former patient, and fired from his job, and although he later had to be compensated for not proving the accusation, he could not return to his position. The same has happened in hospitals and universities in the United States and Canada.

- The fifth step, finally, has been the attempt to pressure Christian universities that promote the therapy of homosexuality. This is what Human Rights Campaign

(2020), an agency for the promotion of LGBTQ, has suggested: "...the department of education should issue a regulation clarifying that this provision, which requires accreditation agencies to 'respect the stated mission' of religious institutions, does not require the accreditation of religious institutions that do not meet neutral accreditation standards including nondiscrimination policies and scientific curriculum requirements".

Although the initiative has not been considered, it shows how far it could go in the near future.

Eight, countries that assume the postmodern worldview about homosexuality show a clear reflux in their welfare conditions. This war against the nuclear family is causing a reflux of social welfare in the United States. In 1983 the AIDS epidemic began; in the 80s and 90s, serial criminals appear; since the year 2000, mass murders begin; in recent years, there has been an epidemic of young people dying from drug poisoning; since 2017 life expectancy has decreased, and in the last two elections the

losing candidate has alleged that the winner had committed fraud.

Europe achieved in the Modern Era the greatest general well-being in the entire history of humanity, but in recent years it has been experiencing a general ebb: Sweden, Spain, France, and other European countries observe an increase in social violence. In several European countries, life expectancy is decreasing, and a population of people living alone appears, sometimes reaching 1/3 of the adult population. As usually happens with great empires, in their decline, which coincides with sexual depravity, so it is today in the United States and the West.

Nineth, many studies show the nuclear family as the basis of social development. Freud was the first one to observe, in Europe, that nations that developed were following a Victorian morality, with no sex before marriage, and no sex outside of marriage, something that contradicts his scheme on sexual repression as the origin of neurosis. He suggested and explanation suggesting a new defense mechanism: sublimation, which means that the brain transforms repressed libido into cultural energy.

Joseph Unwin (1934) took 96 societies to test Freud hypothesis, 80 were uncivilized societies, and 16 were civilized. He divided these societies into four groups, one of them being governed by absolute monogamy, that is, sex restricted to marriage both to the man and to the woman. To his surprise, none of the 80 ‘uncivilized societies’ were ruled by absolute monogamy, while all the 16 ‘civilized societies’ were ruled by that condition: “When marriage is a compulsory lifelong association of two equal partners, and a woman knows no man except her husband, and a man knows no woman except his wife, sexual opportunity is reduced to a minimum...” (p.82). “There is only one example of a polygamous society displaying productive social energy, that of the Moors; but in their case the women whom the men took to wife had begun reared in a monogamous tradition. The energy of the Moors faded away when the mothers spent their early childhood in a less rigorous tradition” (p.345-346). The conclusion of this study is clear: absolute monogamy is the most beneficial arrangement for society.

Max Weber observed in the “The Protestant Ethic and the ‘Spirit’ of

Capitalism” (2002) the important role of the nuclear family of the Protestant nations, in the industrial development of Europe, and the stagnation of the Catholic nations with the predominance of the extended family, as the editor’s note says: “Protestants were successful not simply because of the state’s processes of selection or because of the historic preponderance of Protestants in German cities but because a community and home environment had fostered the peculiar mentality most suited to business acumen and professional advancement” (p.xi). He says it more clearly in *The Religion of China* (1951): “The great Achievement of ethical religions, above all of the ethical and asceticist sects of Protestantism, was to shatter the fetters of the sib” (p.237). For Weber, according to Randall Collins (1986): “the traditional family structure had to be overcome in order for rationalized capitalism to emerge” (p.269). In other words, the nuclear family, when a man with a woman raises their own children, is the best opportunity for society development.

## Conclusion

The revelation in the sacred

scriptures of the three Abrahamic religions coincides with the best scientific information of our time, defining exceptional sexual behaviors as sinful and harmful to society, and supporting the nuclear family.

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# The identity of the hermaphrodite and its outcomes in Mālkī jurisprudence and its relationship to transsexualism in contemporary Fatwas



**Sekou Marafa Toure \***

## **Abstract**

One of the most important issues shaping contemporary and prevailing civilization is the question of human rights. Perhaps one of the most important challenges of this contemporary civilization is the primacy of individuality and individual rights over institutional, social, and familial character. This challenge has accelerated with scientific progress in general and medical and technological development in particular, and questions have arisen that were once difficult to imagine. The issue of male and female sexual identity, its determinants, and the right and freedom of choice is one of the most important issues threatening the family and challenging contemporary Islamic thought in the absence of a study of this issue in the Islamic tradition and the need to take a stand without forgetting the strong campaign to promote this phenomenon. Although this issue does not appear in the Islamic books of the tradition, it is noteworthy that classical Islamic thought has dealt in depth with the issue of hermaphroditism. This article attempts to anchor the issue of transsexualism, clarify the agreed framework, and open space for the study of various relevant issues. The scientific

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approach that is perhaps closest to the Islamic heritage in the study of transgenderism is the identity of the hermaphrodite, which is opposed to the normal man and woman. So, what is the standpoint of Islamic thought regarding the hermaphrodite in selecting a clear case from the two genders in which he was created and carrying out the process of transsexuality accordingly, how is his male or female status weighted in determining his sexual identity in Islamic heritage, and how can even modern medicine be used for this purpose? The researcher identified the framework of the study with Islamic heritage and the Maliki school, as it is the first Islamic thought based on the *athar* "text". The researcher followed an inductive, analytical, and descriptive approach in the study. Among the research findings is that Islamic heritage has not turned away from this issue and is not ashamed of it, but has studied it scientifically and systematically, and that human beings in Islam are either male or female, and that hermaphrodites often end up in one of these two genders, and that each of them has special characteristics and rules related to their gender in the field of family, sexual relationship and identity preservation. The researcher cited

the terms that contain the relevant provisions. The gap that can be further investigated is perhaps to what extent the sexual orientation mentioned in Islamic jurisprudence (one of the main pillars of modern medicine in identifying gender) affects the identification of the hermaphrodite, and what if the two sexual organs function in him by nature and creation and without medical intervention?

**Keywords:** Hermaphrodite, transsexualism, alteration of God's creation, human identity, sodomy, lesbianism, transvestite, Maliki jurisprudence

### **Introduction:**

Praise be to Allah, the Lord of the worlds, and peace be upon the Messenger as mercy for the worlds and upon all his family and companions and those who followed them with charity until the Day of Judgment,

The Islamic religion is valid in all times and places, keeping pace with developments and taking up new issues. The family, concern for offspring, and honor are among the most important things to which Islam has paid attention and made them one of the objectives of the Shari'ah. On the other hand, Islam deals with rights, whether individual or collective, and balances them, but

Islam strives to consider special cases and take into account the circumstances: exceptional or pathological conditions, whether they are emergencies or permanent conditions.

This paper attempts to anchor the issue of transsexualism, clarify the agreed framework, and open space for the study of various relevant issues. The scientific approach that is perhaps closest to the Islamic heritage in the study of transgenderism is the identity of the hermaphrodite, which is opposed to the normal man and woman. So, what is the standpoint of Islamic thought regarding the hermaphrodite in selecting a clear case from the two genders in which he was created and carrying out the process of transsexuality accordingly, how is his male or female status weighted in determining his sexual identity in Islamic heritage, and how can even modern medicine be used for this purpose?

At the time of the codification of Islamic jurisprudence, medicine was not able to perform transgenderism or scientifically stabilize the condition of the hermaphrodite. So, we do not expect Islamic jurisprudence to deal with this issue. Therefore, Islamic jurisprudence does not

make medicine one of the signs for determining the condition of the hermaphrodite, although it is possible in this era (of course, with the possibility of medical error), and did not give medicine the opportunity to confirm the condition of the hermaphrodite, in the sense that it did not deal with the statement that if one sexual organ prevails over another, the other can be removed.

The role of modern medicine in this area should be noted, on which modern studies and contemporary scholars should build. The classical jurists relied on the criterion of visible signs to determine the type of hermaphrodite, since it was difficult to obtain analyzes of chromosome formation and to determine the sex of the internal gonad. When this was made available to the doctors in our time, they argued that the determination of the type of hermaphrodite must be made according to these analyzes and not only according to the shape and obvious structure, and the doctors perform these analyzes to then reform the reproductive system to approach the natural state according to the organic composition, and then the determination is made according to the sex in the case.

Doctors distinguish between two types of hermaphroditism, not only on the basis of the external form, as the jurists do, but also on the basis of the internal organic composition of the gonads. One of the questions that arises in this age is: Is sexual orientation a factor in determining the identity of a hermaphrodite? Perhaps this question is generally uncomfortable for religious people, but if one were to classify the question scientifically and phrase it this way, for example: Is sexual orientation a factor in determining the identity of a hermaphrodite when the above weighted characteristics are not present, or when they are equally present? And worse, what if it is demonstrated that the hermaphrodite is endowed – naturally and without interference – with two organs, both of which are effective, and with which he can have sex!

This study is based on the following parts:

- 1- What is the concept of hermaphrodite in the sources of Maliki jurisprudence?
- 2- What are the types of hermaphrodite in Maliki jurisprudence, and what are the relevant terms near the term hermaphrodite that indicate the

relevant provisions?

3- How is the existence of the hermaphrodite discussed dialectically in the sources of Maliki jurisprudence?

4- What are the outcomes of the hermaphrodite in Maliki jurisprudence?

5- What is the relationship between hermaphrodite and transsexuality in contemporary fatwas, and how were the cases presented in these fatwas?

Finally, this search is for hermaphrodites and not normal persons, but there is no doubt that this study is useful when studying the cases of normal human transgender.

### **Part 1: The concept of hermaphrodite in the Sources of Maliki Jurisprudence:**

There is unanimity among the Islamic schools of law and jurisprudence about the concept of hermaphrodite. As the concept of hermaphrodite lies in: “He is the one who has a male and a female genital; as if he had the penis of a man and the vagina of a woman, or he has no sexual organs at all, but he has a hole from which he can urinate.”<sup>1</sup> This definition focuses on the reproductive organs; thus, a hermaphrodite is one of the following:

- 1- Who has male and female

reproductive organs together  
2- Or who has no reproductive organs at all, but has a hole from which he can urinate

The author quotes below two definitions from two different classical sources of Maliki jurisprudence to confirm the above concept and to examine the differences and formulations attributed to the hermaphrodite.

Hermaphrodite is as stated in *Fath al-Ali al-Malik* in the fatwa on the doctrine of Imam Malik: “A person whose sex cannot be determined because his condition does not correspond to one of the two sexes (male and female), rather as if he had taken something from each party, or he is the one who has two sexual organs, or he does not resemble either the male or female reproductive organs; as if he had only one hole. Similarly, a hermaphrodite is probably a person - although this is not mentioned by some scholars - who has neither reproductive organs nor a hole.”

The additional point compared to the last definition is perhaps in the following case:

3) A person who has neither reproductive organs nor a hole. This is rare and strange because the need for urine requires at least a hole, if not an organ.<sup>2</sup>

The hermaphrodite, as

defined by the author of *Minaḥ Al-Jalīl Sharḥ ʿl Mukhtaṣar Sayyid Khalīl*, is the one who has what is for both men and women. He is the one who has both male and female organs. This status is what is known about the definition of hermaphrodite. It is also said that there is another type of hermaphrodite who has no sexual organs and has a hole between his thighs from which he urinates that does not resemble both genitalia.<sup>3</sup> The hermaphrodite in Islamic jurisprudence is a variety of types, which will be mentioned, but modern medicine has added types that the jurists have not authorized.

## **Part 2: Types of Hermaphrodites in Maliki Jurisprudence and the Corresponding Terms:**

In the Islamic worldview, man is the one whom God created with his hand and breathed into him from his soul, and his angels prostrated themselves before him and made him the Caliph of God on earth, and he will be held accountable for his work on the Day of Resurrection. The typical and original gender of man in Islam is either male or female or a hermaphrodite who either becomes male or female or remains in the state of a definite hermaphrodite “unambiguous” “based on the

following explanation. Both have general rules and laws in common that they must abide by, while they differ in other characteristics. Before we talk about the types of hermaphroditism, it is worthwhile to talk about the identity of the normal human being in Islam, since the human being in Islam is one of the following types:

**The first type: a person who is clearly male or female:**

His or her sex must be maintained, and he or she must be satisfied with it. The attempt of transsexuality or imitation of the opposite sex leads to one of the following terms:

1- **Mutarajjil**: a woman who imitates the manners of men (tomboy): She is biologically a real woman who wants to be a man; she exhibits typical characteristics or behaviors of boys. She wants to dress and behave like a boy; she likes to play physical games that boys usually play. *Minah al-Jalil* says: “Cursed are the women who resemble men in their dress and appearance”<sup>4</sup>

2. **Mukhannath**: Effeminate men: those men who are in the similitude “assume the manners of women”. (Sissy): He is the real man who wants to be female. Al-Sawi said in his book entitled *Bulghatu As-Salik Li’aqrb Al-Masalik*: “A man who imitates women is said to be

effeminate and effeminate.”<sup>5</sup>

Are *Mutarajjil* and *Mukhannath* (the tomboyish and effeminate man) so called in the Arab and Islamic heritage only because they behave in such a way as to resemble another sex in appearance, dress, speech, and behavior, or because this resemblance is accompanied by sexual acts that *Mutarajjil* and *Mukhannath* (the tomboyish and effeminate man) perform? There are two opinions on this subject.<sup>6</sup>

Attempting to change one’s sex is considered to be altering the divine creation, as is going to be explained in the last part of this article. Furthermore, a same-sex relationship is defined by one of two terms:

1. **Sodomy**: It is literally and precisely defined in Maliki jurisprudence as, “the sexual intercourse in the throat of the man, but the sexual intercourse in the throat of the hermaphrodite is called adultery, not sodomy, it is like a sexual affair between unmarried couples”<sup>7</sup>. Thus, sodomy is different from adultery in Maliki jurisprudence, even though it involves sexual acts between men.

2. **Lesbianism**: that is, as in the traditional and classical books of Maliki jurisprudence, literally and precisely: “the evil of women

doing one another”. In other words, it is sexual acts between females.<sup>8</sup>

In addition to this first category of human being (a person who is clearly male or female), there is the so-called hermaphrodite. We can now talk about the other classifications that fall under this category.

**The second type: no definite masculinity or femininity, but a definite classification as male or female is made on the basis of the dominance or appearance of certain signs:**

The researcher will discuss this more in the fourth part of this paper. This category is called “unambiguous hermaphrodite or definite hermaphrodite” in the Mālkī school of thought.

**The third type: ambiguous masculinity or femininity:**

The sexual identity and gender of this type of *Khunthā* “hermaphrodite” is indefinite and could not be determined based on the signs or characters used by Muslim jurists of the Mālkī school of thought. Or the case of this type still revolves between masculinity and femininity. Therefore, the hermaphrodite cannot be classified as either male or female. In Arabic, it is called “*Khuntā Mushkil*”: “ambiguous hermaphrodite”.<sup>9</sup>

The researcher will examine the Islamic judgment on this in the next chapter (part) when it comes to the result of the hermaphrodite.

And here the question arises whether being transgender is permissible because of the undetermined hermaphrodite’s sexual inclination.

The family in Islam is mentioned on the basis of a real man and a real woman. This is one of the requirements for the contracting parties in Islamic jurisprudence.

Because there are five obstacles to marriage: Slavery, *Kufr* (disbelief) and *Ihram* during one of the two pilgrimages and the person who is an undetermined hermaphrodite and the classifiers usually do not mention this because this case is rare or considered a disease at that time in particular.<sup>10</sup>

Among the most important consequences of the distinction between the ambiguous hermaphrodite and others are:

- 1- It is not permissible to marry him until his gender is known and confirmed.
- 2- There are signs that help to clarify the status of the hermaphrodite.<sup>11</sup>

It is noteworthy that a hermaphrodite, whose sex is clearly classified as male or

female, can enter marriage with the opposite sex even if the other sexual organ remains present. In the Maliki school of thought, this is not an option for annulling a marriage. *Addasūqī* explains: The husband does not return his wife and annul the marriage if he finds out that his wife is a hermaphrodite who is clearly female, and vice versa.<sup>12</sup>

### **Part 3: The dialectical discussion on the existence of the hermaphrodite in Maliki jurisprudence:**

The books of Islamic heritage, based on the teachings of the Quran and Sunnah and their understanding, prove the existence of hermaphroditism, and there are texts of scholars of ancient Islamic thought that confirm it.

*Al-Qurtubi* explained in his Book of Commentary,<sup>13</sup> quoting Ibn al-Arabi al-Maliki, that a group of ordinary people denied the existence of hermaphroditism because God Almighty had divided creation into male and female.

*Al-Qurtubi* then made a counter-argument that this kind of thinking was based on ignorance of the language, stupidity about eloquence syllable, and ignorance of the ability of Allah Almighty. As for the power of Allah Almighty, it

is far-reaching in knowledge.

In addition, the Quran does not negate the existence of the hermaphrodite, for Allah Almighty said, “To Allah belongs the dominion of the heavens and the earth. He creates what He wills (and plans),” (42:49), This is general praise, so it is not permissible to limit or specify it, for He is the All-Knowing and Almighty.

On the other hand, regarding this verse of the Holy Qur’an: {He grants females to whom He wills, and grants males to whom He wills. Or He combines for them couples, both males and females and makes whom He wills barren. Surely, He is All-Knowing, Very-Powerful} (42:50); this is an account of the majority of cases, and the Quran is silent about the rare cases that fall under the general ability mentioned in the first speech.

Moreover, reality testifies to the existence of hermaphrodites, and the eyewitness affirms their existence. Then he said, “There was a hermaphrodite who studied and read with us in the Quranic and Islamic study circle of Abu Sa’id ‘Ali, the Imam from Morocco (Maghreb). This hermaphrodite has no beard, has breasts and has a maid, so Allah knows about him, and in the long fellowship I shield

away from asking him and I would be happy today if I had revealed his condition.”<sup>14</sup>

Not to mention that the subject is dealt with in Islamic legal books in the chapters on inheritance, prayer, hijab, and marriage, which indicates that Islam recognizes the existence of hermaphrodites.

The author of *Minah Al-Jalīl Sharḥ ‘la Mukhtaṣar Sīdi Khalīl* discussed the question of whether hermaphrodites exist or not, citing the statements of those who deny their existence along with the evidence they rely on to support their point of view. He said, “The definite hermaphrodite has been found indisputable. However, Muslim scholars have developed two ideas regarding the existence of indeterminate hermaphrodites. The vast majority of Muslim scholars believe in the possibility of the existence of hermaphrodites. Some scholars such as Hassan Basri and Judge Ismail believe that there is no such thing as an indeterminate hermaphrodite because God Almighty does not put His slave in such a problematic state that a person does not know whether he is a man or a woman. Therefore, He must have a sign that cancels the hermaphrodite from indeterminate to determinate.”<sup>15</sup>

Furthermore, these

scholars support their position of denying the existence of bisexual hermaphrodites in order to avoid affirming the existence of a third category that is neither male nor female, which they reject on the basis of a verse that states, “That He did create in pairs - male and female” )53:45(. Therefore, if there were a third category, God Almighty would have mentioned it. The answer to this is that the context of the verse shows the gratitude and bounty of Allah to His servants, and secondly, the verse was revealed to refute those who claim that God Almighty has a son; for some non-Muslims have claimed that He has a male son, and some of them have claimed that He has daughters, and God Almighty has replied to them that He created the two categories, so how can He have a son from them when He is the Creator. Moreover, no one has claimed that He has a hermaphrodite son, so there was no need to mention the hermaphrodite in the verse that was revealed to refute what was claimed.<sup>16</sup>

#### **Part 4: Outcomes Status of the Hermaphrodite in Maliki Jurisprudence:**

In light of the above discussion in Part Two and the elaboration in Part Three, the



hermaphrodite is one of the following:

1- A hermaphrodite is said to be female if the female characteristics (such as the growth of the breasts, the experience of menstruation, sexual intercourse like a woman, pregnancy, etc.) predominate, even if the two reproductive organs are still present and even if the external appearance indicates that he is male.

2- A hermaphrodite is male if the male characteristics (such as beard growth, facial hair, nocturnal discharge like a male, etc.) predominate, even if the external appearance indicates that he is female.

A hermaphrodite who falls out of these first and second classifications needs a sign or characteristic that favors and clarifies his sex/gender. In jurisprudence this is expressed as “clarification of the situation”, that is, the disappearance of the confusion and the decision for him either by verified masculinity, it does not contradict the existence of the two genitals, and that he is called definite hermaphrodite, not an indefinite hermaphrodite.<sup>17</sup> The ruling on his masculinity and femininity does not negate the existence of the two genitals, and whoever has that is a hermaphrodite,<sup>18</sup> as *Al-Dassouki*

explains.

The signs that clarify the gender of the hermaphrodite and determine its true final gender of masculinity or femininity in Maliki jurisprudence are one of the following:

1- **The organ used for urine:**

This sign is specific to the hermaphrodite who has two sexual organs that do not have a hole. If the hermaphrodite urinates from the male reproductive organ, he is considered a man. And if the hermaphrodite urinates with the female sex organ, she is considered a female. If the hermaphrodite urinates with both the male and female organs, the first one to release urine will be considered.<sup>19</sup>

*Al-Suhaily* said: ‘*Aamir ibn al-Adif al-’Adwani* was known among the Arabs for his prudence and wisdom. People tried him and they were satisfied with what he decreed, so they tried him with the inheritance of a hermaphrodite. He stayed awake all night without being able to pass judgment. And his maid, whose name was Sakhila, saw him in this situation and asked, “Why are you awake until now and could not sleep?” He answered her and thought about it and said to himself, “Maybe she has something in this regard. She said to him, “Judge according to where he/she urinates,” and he

said, “You solved it and you make me happy, oh Sukhaila”,” and he judged according to this saying.”<sup>20</sup>

It is also narrated that Rasulullah (sallallahu ‘alayhi wa sallam) was asked regarding the inheritance of a hermaphrodite [whether he receives the share of a man or a woman]. Al-Nabi (sallallahu ‘alayhi wa sallam) replied, “He will inherit according to which [private organ] he urinates with [i.e., this is how the gender is determined].”<sup>21</sup>

If these signs are equal to the hermaphrodite, that is, the hermaphrodite urinates with the male and female organs equally; the jurisprudential criterion in this case is to consider the first. However, this may lead to legal and medical problems in modern times. Some Maliki scholars added that if the hermaphrodite urinates with both organs, but his urine with one of them is more than with the other, his identity is classified according to which is more.<sup>22</sup>

Rather, even if the hermaphrodite urinates with both sides equally primarily and numerous, the presence of another criterion will be necessary.

## **2- The occurrence of a weight sign for masculinity or femininity:**

Hermaphrodites are classified

as female or male based on predominant masculine or feminine characteristics.

The hermaphrodite is classified as male if he has conjugal relations with his male reproductive organ, has facial hair, has nocturnal discharge like men, and has his internal self-expression or inclination toward women.

On the other hand, the hermaphrodite is classified as female if he has breasts like a woman, experiences menstruation, has sexual intercourse like a woman, becomes pregnant and breastfeeds.

Among the texts of the Maliki’s that indicate this classification, in addition to those mentioned above, are the following: “The hermaphrodite is either ambiguous or unambiguous. If the hermaphrodite is unambiguous, e.g., has male signs, then the rulings of men apply to him. However, if he has female signs, then the rulings of women apply to him, and he is called a definite hermaphrodite in both cases. If he does not have two signs or if both signs are found in him, then he is an ambiguous hermaphrodite.”<sup>23</sup>

After mentioning these signs, scientific research may force us to ask the following question:

Is sexual orientation considered a sign when these signs are equal or absent?

We find that the Maliki jurisprudence mentioned the following:

It is reported that there was an incident and a case that occurred during the time of ‘Ali (may Allah be pleased with him) where a man married a hermaphrodite and had a sexual relationship with her, and the hermaphrodite had a sexual relationship with her own maid and impregnated her. Thereupon, ‘Ali (may Allah be pleased with him) ordered that the hermaphrodite’s ribs be counted, and then decided based on the number of his ribs that the hermaphrodite was a man and not a woman. He decided that the hermaphrodite should be separated from marriage.<sup>24</sup>

It should be noted that this ruling does not establish that the sexual relationship is sodomy or lesbianism. It merely separates the two, and they can no longer remain together as a married couple because the hermaphrodite happens to be male and not female, as Ali judged.

And what if the hermaphrodite were both male and female and could use both sexual organs? This is a question that modern Muslim scholars can clarify with the help of modern

science.

One of the questions that arises in this age is: Is sexual orientation a factor in determining the identity of a hermaphrodite? Perhaps this question is generally uncomfortable for religious people, but if one were to classify the question scientifically and phrase it this way, for example: Is sexual orientation a factor in determining the identity of a hermaphrodite when the above weighted characteristics are not present, or when they are equally present? And worse, what if it is demonstrated that the hermaphrodite is endowed – naturally and without interference – with two organs, both of which are effective, and with which he can have sex!

**3 – Inclination to the opposite sex:** Some scholars like Dardir said: observation of his lust; if he inclines to women, he is male, and if he inclines to men, he is female. This statement of Dardir was explained as follows: “(Observation of his lust) i.e. if he has formed the beard and breast together and can use both organs equally in urination; then the lust and inclination are among the signs that help to determine his identity. And this saying is the opinion of Shafi’i and Abu Hanifa and his companions, and they believe in it.

For only the hermaphrodite knows himself better in this respect.”<sup>25</sup>

Moreover, Maliki jurisprudence indicates that it is possible for hermaphrodites to use both sexual organs without making a final decision about his maleness or femaleness. This is known in a strange jurisprudential matter known as the *Malʿuf* issue *Masalat Al-Malʿuf*.

The question of *Malʿuf* is controversial and ambiguous. And it is defined as a man who has given proof that this deceased person was his wife and these are his children by her, and a woman who has said that he is her husband and these are her children by him. Upon examination of the body, it was determined that it was a hermaphrodite. The rule states that the husband’s evidence prevails because the children’s bond to the mother is definite and to the father is hypothetical.<sup>26</sup>

### **Part 5: The Relationship of the Hermaphrodite to Transsexualism in Contemporary Fatwas:**

At the time of the codification of Islamic jurisprudence, medicine was not able to perform transgenderism or scientifically stabilize the condition of the hermaphrodite. So, we do not expect Islamic jurisprudence

to deal with this issue. Therefore, Islamic jurisprudence does not make medicine one of the signs for determining the condition of the hermaphrodite, although it is possible in this era (of course, with the possibility of medical error), and did not give medicine the opportunity to confirm the condition of the hermaphrodite, in the sense that it did not deal with the statement that if one sexual organ prevails over another, the other can be removed.

Regarding the discussion of transsexuality and its linkage with the issue of hermaphrodites, as in this research, which aims to ground the issue from the Islamic perspective, the researcher affirms the following:

A normal human being is not allowed to change from one gender to another because by doing so he is changing God’s creation and imitating the other gender, and this is not accepted in Islam.

Sheikh Al-Munajjid says in the context of a normal man who has all the male characteristics but wants to turn into a woman, he undergoes surgery to remove the male part and the testicles, then the doctors build a vagina, enlarge the breasts, and inject hormones over long periods of time until the voice softens and the type of

flesh distribution changes and the person appears as a woman but is actually male: This procedure is *ḥarām* according to Sharia for all contemporary scholars, and if the earlier scholars had nothing to say about it, it is because it was not known or possible in their time.<sup>27</sup> The same fatwa is found on IslamWeb, it was written in response to the following question: “I am a Muslim woman who does not feel her femininity, and I feel inside me that I am a man, and I got married, but I felt like a man who has a sexual relationship with another man, and the marriage ended in divorce, although the doctors said that the female organs are normal. The question is: Is it permissible for me to make a sexual transformation from a woman to a man even though I am not a hermaphrodite, knowing that my female organs are complete, and I ask for an answer.” “You must fear God Almighty and be satisfied with what He has created you with in terms of your femininity, and I ask God Almighty to distract you from what is tormenting you and not let Satan play you. The transgender you mentioned is not permissible, because it changes God’s creation, and that is Satan’s work.”<sup>28</sup>

This view is unanimous, except for the following: “A

sex change is forbidden by all reliable modern scholars, unless trustworthy physicians decide, after conducting the necessary examinations of the reproductive system, that a person’s reproductive organs are male organs, even if it appears that they are female organs or vice versa, then it is okay to make a change.”<sup>29</sup>

The above Islamic position referred to the case of the normal person, but for the case of the hermaphrodite, contemporary Islamic jurisprudence takes the following position:

**Fatwas on the legality of the transsexuality of a hermaphrodite to a woman or a man based on the predominant male or female characteristics: Fatwas of Al-Azhar:**

Al-Azhar’s fatwas state that someone submitted a fatwa request to the Egyptian *Dar al-Ifṭāʾ*, to which Sheikh Jad al-Haq Ali Jad al-Haq responded on 27. June 1981 with his conclusion, “It is permissible to perform a surgical operation to change a man into a woman or a woman into a man if a trustworthy doctor establishes the presence of congenital causes in the same body with signs of suppressed femininity or signs of suppressed masculinity in order to cure a physical disease that will disappear only through this

operation. But this operation is not allowed just because one wants to change without obvious serious physical reasons.<sup>30</sup>

### **Fatwas of Permanent Committee (KSA)**

Whoever is born a hermaphrodite is one of two cases: The first case: the definite hermaphrodite, who has predominantly male characteristics, is treated as a man in worship and other matters, and it is permissible to treat him medically, thus removing the suspicion of his maleness. Or if he has predominantly female characteristics, he knows he is a woman and is treated as a woman in worship and other matters, and it is permissible to treat him medically, thus removing the suspicion of his femininity. The second case: the indefinite hermaphrodite, that is, the one who shows no signs of masculinity or femininity at puberty or dies at a young age or shows contradictory sexual signs, this type of hermaphrodite is treated with caution in worship and other matters.<sup>31</sup>

The author of the book *Fiqh Necessities in Medical Matters Related to Women* has attributed this statement to Sheikh Jad al-Haq Ali Jad al-Haq, Sheikh

Attia Saqr and Sheikh Muhammad Sayyid Tantawi.<sup>32</sup>

### **Website of IslamWeb**

It is permissible for an indeterminate hermaphrodite to undergo surgery and change to maleness or femaleness, depending on how the physicians decide on his identity based on his characteristics, which result from the performance of the required tests. For to say that this is not permissible leads to the indeterminate hermaphrodite having to spend his life in hardship and suffering. As for the hermaphrodite whose condition has been determined, it is not permissible for him to undergo the surgical procedure. Since he is either a man, he may not be transformed into a woman, or a woman may not be transformed into a man, but that person may undergo surgery to remove external features that belong to the gender to which he does not belong.<sup>33</sup>

**Fatwas on the unlawfulness of the transsexuality of a hermaphrodite to a woman or a man due to the predominant male or female characteristics: Website of the Committee of Fatwa Islam Question and Answer Qatari**

It is not allowed to remove one of

the two sexual organs hastily, but to wait until he knows what fate has in store for him, because this may become apparent after some time.<sup>34</sup>

The author of the book *Fiqh Necessities in Medical Matters Related to Women* attributed this statement to the Islamic Fiqh Academy in Mecca and most contemporary scholars, including Dr. Muhammad Ali Al-Bar, Sheikh Muhammad bin Muhammad Al-Mukhtar Al-Shanqeeti, the Standing Committee for Issuing Fatwas in the Assembly of Shariah Jurists in America, and Dr. Ali Juma'.<sup>35</sup> Finally, the role of modern medicine in this area should be noted, on which modern studies and contemporary scholars should build. The classical jurists relied on the criterion of visible signs to determine the

type of hermaphrodite, since it was difficult to obtain analyzes of chromosome formation and to determine the sex of the internal gonad. When this was made available to the doctors in our time, they argued that the determination of the type of hermaphrodite must be made according to these analyzes and not only according to the shape and obvious structure, and the doctors perform these analyzes to then reform the reproductive system to approach the natural state according to the organic composition, and then the determination is made according to the sex in the case. Doctors distinguish between two types of hermaphroditism, not only on the basis of the external form, as the jurists do, but also on the basis of the internal organic composition of the gonads.<sup>36</sup>

## Endnots

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## Islamic Legal System and Khunthā: A Compilation of Rulings on Worship Related to Khunthā

Muhammad Bilal \*

### Introduction

In general, gender is divided into two types: male and female. However, practically, based on sex organs, there is an addition to the former, a mix of male and female sex organs. The latter is known in the traditional Islamic Legal Rulings (*al-Fiqh al-Islāmī*) as *Khunthā* or hermaphrodite. However, some define and classify the *khunthā* as transgender, and it also relates to other terms such as *mukhannath* and eunuchs (Hussain et al., 2020; Naseem et al., 2021).

According to fiqh terminology, transgender in fiqh terminology is known as *mukhannath* and *mutarajjilāt*. *Mukhannath* refers to men that resemble women, and *mutarajjilāt* refers to women that resemble men. *Mukhannath* is considered a deviation from human nature and God's provision, which is strictly forbidden in Islam. Simply put, transgender is different from *khunthā* (Afif, 2019). However, some research claims that transgender and *mukhannath* guarded the tomb of the Prophet (Naseem et al., 2021). So if what was claimed is true, then it contradicts the hadith of the Prophet -peace be upon him- that cursed men who act like a woman and vice versa. Thus, this paper aims to define what are *khunthā* and its relation or difference to transgender. Besides that, this paper also aims to collect rulings in the Islamic legal system related to *khunthā*, to show that scholars have long discussed the topic in their classical works.

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## Definition of *Khunthā*, *Mukhannath*, and *Transgender*

The lexical meaning of *Khunthā* is soft and fractured. According to fiqh, *khunthā* refers to a person with the genitalia of men and the genitalia of women (al-Nawāwī & al-Mutī'ī, n.d.). Al-Jurjānī defines *khunthā* as someone who has two genitals of a man and a woman, or someone who does not have any of those genitals naturally (al-Jurjānī & al-Minshāwī, n.d.). Abdul Mun'im also defines *khunthā* as what has been defined, but he adds that *khunthā* has a hole that does not resemble any of the two genitals ('Abd al-Mun'im, n.d.). In medical science terminology, *khunthā* or hermaphrodite is a person whose body does not conform to arbitrarily quantified criteria for the male or female body and has confusing sex (Sachedina, 2011).

According to the scholars of fiqh (*fuqahā'*), *khunthā* is divided into two types; first, *khunthā ghayr mushkil* and second, *khunthā mushkil*.

According to al-Nawāwī, *khunthā ghayr mushkil* is a person who has both man and woman genitals, but there is a clear and dominant sign and symptom of masculinity or femininity, making it easier to determine their gender from the Islamic legal system

perspective. However, *khunthā mushkil* refers to a person who has genitalia of both men and women, and there is no sign of whether he/she is a male or a female. Besides that, if there is a sign, but it signals to both of the genitalia; hence, it is also classified as *khunthā mushkil* (al-Nawāwī & al-Mutī'ī, n.d.).

The problem arises when the *khunthā* has not reached the state of puberty (*bulūgh*) because once they have reached that state, the problem may be solved by having other factors to indicate their genders, such as the growth of beards and facial hair for males, and breast development for females. However, according to some scholars, beard growth and breast development do not always indicate gender -because we find a woman who grows a beard and a man who has a breast growth like a female- but the specific gender for *khunthā mushkil* may be indicated by detecting the signs of puberty from where it came out. To conclude, if the sign is sperm from the male genitalia, he is then classified as a male. If the sign is menstruation blood coming out of the female genitalia, the *khunthā* is then classified as a female. Additionally, if the *khunthā* says that he/she feels more into a man or a woman or they have reached any signs of puberty of a male or

a female, then their claims should be accepted. They will also follow the rulings according to the gender of their claims. They should not refute their claims afterwards except if there is a clear sign refuting their former statement; for example, if they claim to be a male but then give birth, their former argument is denied (‘Abd al-Mun’im, n.d.).

The categorisation of *khunthā* as a male and a female, as suggested by Mohi Uddin, is if any of these happens; a) An active male reproductive organ, b) Capabilities to nocturnal discharge like a male, c) Inclined towards woman, d) Growth of facial hair, e) Testimony of his inner self, then the *khunthā* is categorised as a male. On the other side, the *khunthā* will be categorised as a female if any of these occurs; a) She has an active female reproductive organ, b) Pregnant, c) Menstruation, d) Growth of breasts like a woman, e) Lactates (Uddin, 2017).

All these signs and symbols should be observed critically when determining the gender of a *khunthā*. If nothing or all of these signs occurs, then the *khunthā* will not be assigned a gender and will be termed *khunthā mushkil*. The problem

of *khunthā mushkil* is now solvable with modern technology, which examines beyond the physiological function of genitals as it looks into the composition of sex chromosomes and testosterone (Haneef, 2011).

The word *Mukhannath* was defined by lexicographers, such as al-Zabīdī in his dictionary *Tāj al-‘arūs*, refers to a man who imitates a woman in softness and tenderness of voice. According to the school of Shāfi’i, *mukhannath* is a man whose voice resembles a woman’s and exhibits several other effeminate features in how he talks, looks, thinks, and judges (al-Shirbīnī & ‘Aytānī, 1997). There is also another term often mentioned and discussed along with transgender, which is Transsexual. According to Tolino, the terms ‘transsexuality’ and ‘transgenderism’ are two modern concepts that refer to instances of gender identity not matching assigned sex: simply put, they refer to biological males who do not recognise themselves as men and biological females who do not recognise themselves as women. While ‘transsexuality’ is most often used to refer to people who decide to undergo a Sex Reassignment Surgery to ‘pass’ completely to the other

sex, 'transgenderism' is a broader concept that is used for anyone with a gender identity different from his/her assigned sex (Tolino, 2018).

In addition, Lestari explained that transgender is divided into three categories, they are transgender, cross-dresser and transsexual. First, transgender refers to people who dress up and look like men or women. The characteristic of this category is they felt that their gender identity was incompatible but had not done the sex reassignment surgery. Second, cross-dressers are people who are satisfied when they are dressed in the opposite sex, but they do this just as a form of their gender expression, not as a gender identity. Third, transsexuals are people who dress up and behave like their opposite sex, even to the point of sex reassignment surgery. This is considered the most extreme measure of the transgender phenomenon (Lestari, 2018).

### **The Quran on the nature of gender**

Allah Ta'ala created human beings and all other creatures into two main sexes: male and female. Many verses of the al-Qur'an mentioned this, such as:

يأبها الناس إنا خلقناكم من ذكر وأنثى

”وجعلناكم شعوبا وقبائل لتعارفوا...”

“O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another....” (Surah Al-Hujurat: 13)

There is no specific verse in the al-Qur'an that mentions transgender. However, the verses that said that Allah created all beings into a male and a female show that transgender is considered something against the natural creation of Allah Ta'ala. The word *khunthā* is also not mentioned in the al-Qur'an, although this term is traditionally used in legal scholastic literature.

### **The Hadith on Transgender people**

As a second authoritative source after the al-Qur'an, a more specific explanation about transgender can be found in the hadith of the Prophet Muhammad. In the Sahih of Imam al-Bukhari, hadith number 5885, Ibn 'Abbās narrated that the Prophet -peace be upon him- cursed men who resemble women and women who resemble men. Also, in the Sahih, hadith number 5886, it was reported that Ibn 'Abbās narrated that the Prophet -peace be upon him- cursed effeminate men (those men who are in the

similitude of women and those women who assume the manners of men, and he said, “Turn them out of your houses .” The Prophet -peace be upon him- turned out such-and-such man, and ‘Umar turned out such-and-such woman. In the Sunan of Imam Abū Daūd, hadith number 4097, it was reported from Abū Hurairah that the Prophet -peace be upon him- cursed men who dress up in women’s clothing and women who dress up in men’s clothing.

Men are forbidden to resemble women in their reserved clothing and ornaments and vice versa. Similarly, it is prohibited to resemble in terms of conversation and walking style. Although, how one dress varies according to the customs of each location. It is possible that a particular race does not distinguish between men and women in terms of clothing, but there is still a difference in terms of women should be wearing some cover-up. Committing an offence for resembling others in terms of speech and gait is only reserved for those who do it intentionally. As for those who were created that way, they are instructed to try to leave it and refrain from doing so gradually. If he does not restrain himself, he is considered to have committed the same crime, especially if he is

willing to do so. Those effeminate males that are natural, innate, and do not experience sexual attraction toward women receive no blame, guilt or shame as they are not considered sinners and should not be punished (al-‘Asqalānī et al., 1959).

### **Rulings related to Khunthā: Worship (‘Ibādāt)**

There are numerous discussions on *khunthā* in the traditional Islamic legal system (fiqh) book. This paper aims to discuss the rulings related to *khunthā* in the areas of worship only. The data discussed in this part of the paper was collected from the books of the Shafi’ī school of thought.

#### 1) Rulings related to Purification (*Thahārah*):

##### 1.1) Ablution

In ablution, washing the whole face, including all hairs on the face, is obligatory. However, for a man with a thick beard, the obligation is only to wash the outer side of the beard. Additionally, it is recommended that they clean the inner part of the beards. On the other hand, for *khunthā*, who has a beard, whether it is thick or thin, it is obligatory to wash it thoroughly until the water can pass to the skin under the beard (al-Haytami & al-Shaykhi, 2020).

One of the invalidators of ablution is direct skin contact between a male and an unrelated woman. According to al-Bayjūrī, this invalidator only applies among two's with different genders, which excludes the skin contact between male and male, female and female, *khunthā* and *khunthā*, male and *khunthā*, female and *khunthā* (al-Bayjūrī & Shāhīn, 2012).

### 1.2) Purifying filth (*Izālah al-najāsāt*)

Al-Aṣḥfahānī stated that anything wet that exists from the genitals is filth (*najis*), except for sperm (*manī*). Thus, washing all urine and faeces is obligatory, except for urine from a male infant who has not eaten food, and it may be purified by sprinkling the affected area with water (al-Asfahani & Furber, 2012). However, whether a female infant has eaten or not eaten food, the urine must be washed with water, and sprinkling water will not suffice. In this context, *khunthā* follows the female in purifying filth (al-Haytami & al-Shaykhi, 2020).

### 1.3) Rulings related to the *Khunthā*'s purificatory bath (*Ghusl al-Janābah*)

Some occasions necessitate the purificatory bath. One of the

occasions is intercourse. Except for *khunthā*, they are not subjected to performing a purificatory bath if there is penetration from their penis into their vagina, as long as there is no ejaculation involved. If ejaculation is involved, it is necessary to perform a purificatory bath not because of intercourse but because of ejaculation (al-Haytami & al-Shaykhi, 2020; ).

### 2) Rulings related to the *Khunthā*'s prayer

It was stated in *Busyrā al-Karīm* that it is recommended for *khunthā* to keep and draws together their two forearms to the sides, two knee, and two feet, whilst it is recommended for a man to maintain a gap between two forearms, two knee and two feet during performing prostration (*sujūd*) in prayers (Bā' Ishan, 2016; al-Haytami, 2006).

There are numerous prerequisites for leading the congregational prayer (*salāt al-jamā'ah*). For example, it is forbidden and invalid for a man to be led by a woman or *khunthā*. Moreover, it is prohibited for *khunthā* to be led by a woman and other *khunthā*. However, it is permissible and valid for *khunthā* to lead women in the prayers (al-Haytami & al-Shaykhi, 2020). When performing the

congregational prayer, in the case of a group of men, women, boys, *khunthā*, and girls, they should stand in their specific line and row. First, the men stand in the row after an Imām. Then boys will stand in the line behind them. The *khunthā* is then placed behind the line of boys, then came the line of women, and finally, girls (al-Shirbīnī & ‘Aytānī, 1997).

### 2.1) Nakedness (‘*awrah*) of the *Khunthā*

In the school of Shāfi‘ī, Muslims must cover their ‘*awrah*. This obligation generally includes men and women. However, for *khunthā ghayr mushkil*, their ‘*awrah* is according to their indicated gender (al-Shirbīnī & ‘Aytānī, 1997). Meanwhile, ‘*awrah* for *khunthā mushkil* is the same as that for a woman: the whole body except for the face and two palms. This obligation is based on a precaution of the possibility of the *khunthā mushkil* being a woman. In addition, the mentioned rulings above apply inside and outside of prayer (al-Suyuti, 1983).

### 2.2) Call of prayers (*Adhān* and *Iqāmah*) by the *Khunthā*

It is recommended for a *khunthā* to perform *iqāmah* as long as it is for himself and to be heard by a woman only and not by a man

or another *khunthā*. Whilst it is also permissible for a woman to perform *iqāmah* for herself and to be heard by other women, not to be heard by *khunthā* and men (al-Tarmasī & al-Haytamī, 2011). Although it is recommended for *khunthā* and woman to perform *iqāmah* -as long as they follow the conditions- they are not recommended to perform *ādhān*, to preserve them from being heard by man and strangers (*ajnābī*), because their voices are considered as one’s nakedness (‘*awrāt*). Whilst it is still valid if they perform *ādhān*, with the prerequisites mentioned before in *iqāmah*, the *adhān* is valid and will be considered a remembrance (*zīkr*) of Allah the Almighty (al-Haytami & al-Shaykhi, 2020).

### 3) Rulings related to the deceased *Khunthā*

In essence, it is a communal obligation (*farḍu kifāyah*) to wash, shroud, perform the prayer, and bury the deceased. The body of *khunthā mushkil* should be bathed by covering their body -from view- with a cloth. Then water is sprinkled from the top of the cloth until it penetrates and reaches the deceased’s body. The bather should take care of his gaze and his touch because the *khunthā mushkil* may be a man or a woman



(al-Bujayrimi, 2007).

The deceased is shrouded in a garment that covers one's nakedness ('*awrāt*). It is recommended for a man to be shrouded in three garments and five garments for a woman and *khunthā*. The five garments consist of a cloth to wrap and cover the lower parts of the body, a cloth to cover the upper parts of the body, a cloth to cover the head -known as a turban ('*imāmah*) and scarf ('*khimār*)-, then an additional two cloths -for woman and *khunthā*- to cover the whole body (al-Haytamī, 2006).

Performing prayer over the deceased is obligatory. The obligation is fulfilled even if a single Muslim male prays over the deceased. Moreover, it is recommended to perform the funeral prayer in congregational (*jamā'ah*). In *khunthā*'s case, when performing it in a group, the Imām should stand behind the *khunthā*'s buttock, the same place he stands when performing a funeral prayer for a woman (al-Nāwawī & al-Mutī'ī, n.d.).

#### 4) Rulings related to Circumcision (*Khitān*) of the *Khunthā*

According to the Shafī'ī school of thought, it is not permissible to circumcise the *khunthā* before

reaching puberty. Therefore, when the *khunthā* reaches puberty, it is obligatory to perform circumcision to both genitals. However, a stronger opinion stated that it is not permissible to do circumcision -even after reaching puberty- until there are clear signs and symptoms indicating their gender (al-Bujayrimi, 2007).

#### 6) Rulings related to the slaughtering ('*Aqīqah*) for the newborn *Khunthā*.

It is recommended to perform a slaughter for a newborn on the seventh day after birth. Two female sheep are slaughtered for a boy and one for a girl. For a *khunthā*, the prerequisite is the same as a boy; slaughter should be done on two female sheep (Bā 'Ishan, 2016).

### Conclusion

It is germane to mention that *khunthā* is not synonymous with transgender. This study sees that the definition of *khunthā* is more general than transgender, where *khunthā* refers to a person who has genitalia of both male and female. Whilst transgender refers to someone who imbues themselves to be a male or female. However, in the Islamic legal system, there is a term that may closely be related to transgender, called

*mukhannath*, which refers to a man who resembles a woman in terms of his appearance, speech, and gait. Although still, it does not resemble the true definition of transgender in terms of its practicality. This study concludes that transgender is more specific than *mukhannath*, in which they can also be termed as transgender if they happen to achieve specific criteria pertaining to classifying them as one. Thus, this paper shows that Muslim scholars have discussed the transgender issue, although it does not explicitly share the same names and terms.

This paper compiles some of the rulings related to the worship of the *khunthā*. Although it is limited to the subject of *khunthā* from the primary literature of the Islamic legal system in the Shafi'i school of thought, this paper shows that the subject of *khunthā*, in general, has been acknowledged and discussed by the classical, traditional scholars of Islamic legal system. Finally, this paper suggested that researchers should differentiate the terms that will be used when discussing the topic of transgender. Hence, it helps future research in identifying the transgender studies relation in the Islamic legal system, therefore facilitating more compelling future research.

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## The Concept of *Fiṭrah* in Spiritual and Rational Orientation:



# An Islamic Perspective

Senad Mrahorović \*

### Abstract

The idea of *Fiṭrah* appears in the Qur'an and Hadith in several different forms and in various contexts. The structural forms or derivatives of the notion of *fiṭrah* are based on root word f-ṭ-r, denoting to origin, source, birth, creation, initiation, and splitting among other meanings. Thus, the *fiṭrah* is not only related to God as the *Faṭīr* or Initiator of the world (the Creator), but also to the nature of human beings in its primordial state that is reflected upon their spiritual and physical states. In this article, I will analyze the term of *fiṭrah* as it appears in the Qur'an and Hadith with its various connotations as well as association with other concepts such as Islam, and the implications that the meaning of the *Fiṭrah* projects through its various reflections in human life.

**Keywords:** *fiṭrah*, Islam, *ḥanīf*, spiritual orientation, rational orientation

### Introduction

The starting point for this analysis is 30<sup>th</sup> verse of *Sūrah al-Rūm* and 298<sup>th</sup> *ḥadīth*, book 60 of *Saḥīḥ al-Bukhārī*. The verse states: “So direct your face [i.e., self] toward the religion, inclining to truth. [Adhere to] the *fiṭrah* of Allāh upon which He has created [all] people. No change should there be in the creation of Allāh. That is the correct religion, but most of the people do not know.”

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<sup>1</sup> The *ḥadīth*, which is a sort of commentary of the above verse, says: “No child is born except on Al-Fitra (Islam) and then his parents make him Jewish, Christian or Magian, as an animal produces a perfect young animal: do you see any part of its body amputated?” Then he recited: ‘The religion of pure Islamic Faith (Hanifa), (i.e., to worship none but Allah), The pure Allah’s (Islamic) nature with which He (Allah) has created mankind. Let There be no change in Allah’s religion (i.e., to join none in Allah’s worship). That is the straight religion; but most of men know not...’<sup>2</sup>

The unifying factor in the above citations is the concept of *Fiṭrah*, which in both cases refers to the original nature of Divine creation reflected through a certain frame of religious doctrines and practices as well as through the primeval self of a follower of such a religion. Apart from these two aspects, there are other concepts used in the Qur’an and the Sunnah that are morphologically or semiotically related to the *Fiṭrah* such as the notion of creation as a Divine act, the state of natural world and its laws, but also the concepts of right path, total submission to God, Islam, and others. The question of how the said notions are related and constitute the nature of human beings and their spiritual or rational orientation will form the main part

of this study primarily based on the traditional Islamic perspective.

### ***Fiṭrah as an inclination to the religion of Islam***

Numerous scholars and commentators of the Qur’an maintain the view that the term *Fiṭrah* mentioned in the above cited verse and *ḥadīth* refers to the natural tendency toward Islam or Islam as such. The arguments set by the proponents of this view revolve around the purpose of creation of human beings and how such a purpose is to be accomplished. Firstly, the introductory part of the “*Fiṭrah* verse” informs a reader about the spiritual orientation of human being in relation to religion. “Set thy face to religion as a *ḥanīf*...”<sup>3</sup> is providing believers with the way of submission to God, exemplified in the one who is “inclining toward truth,”<sup>4</sup> (*ḥanīf*).<sup>5</sup> The term *hanif* in the Qur’an is usually associated with the Prophet Ibrahim,<sup>6</sup> but also with the Prophet of Islam and his followers, or Muslim believers in general, as suggested in *Sūrah Yūnus*: “Set thy face toward the religion as a *ḥanīf*, and be thou not among the idolaters” (Qur’an, 10:105), or by the *hadith*: “...I have created My servants as (*ḥunafā’*, pl. of *ḥanīf*) those having a natural inclination to the worship of Allah...”<sup>7</sup> Here, the idea of *ḥanīf* appears as a reflection of the *Fiṭrah* understood as the nature of human

being that is inclined toward total submission to God,<sup>8</sup> which in the context of religious interpretation perfectly refers to the meaning of Islam, namely submission to God.<sup>9</sup> The *Fiṭrah* is thus associated with natural predisposition to follow nothing else but the ‘right path’ or simply Islamic religion seen as a complete submission to the Divine Will. To enrich their arguments, the advocates of this view refer to the state of souls before their creation into this world, wherein all the souls have recognized the divinity and lordship of Allah, as stated by the Qur’an: “And [mention] when your Lord took from the children of Adam - from their loins - their descendants and made them testify of themselves, [saying to them], ‘Am I not your Lord?’ They said, ‘Yes, we have testified’” (Qur’an, 7:172).

Secondly, the term *wajh* (face) in the foregoing verse illustrates the whole being or the essence, as suggested by Ismā’īl Haqqī (d. 1725), whereby setting one’s face toward religion may be understood as submitting (Islam) oneself to God,<sup>10</sup> or as the Qur’an proclaims: “And whoever submits his face [i.e., self] to Allāh while he is a doer of good - then he has grasped the most trustworthy handhold (Qur’an, 31:22). Further Haqqī indicates that religion in principle is obedience and recompense. As such religion is made for the law (*Sharī’ah*). Thus,

the setting of one’s face to religion is a representation of one’s interest in that religion, by keeping one’s persistence and maintenance in proper arrangement of the causes therein, for whoever pays attention to something perceivable by sight, they will aim to it, extend their gaze to it, and straighten their faces towards it, in their inclination to it.<sup>11</sup>

Finally, the term *Fiṭrah* in the ‘*Fiṭrah* verse’, refers to one’s natural susceptibility to monotheism (*Tawhīd*) and the religion of Islam. It is the intellectual strength and ability created within human beings to believe in God, or to accept the Truth, or to follow the religion of Islam. Ibn Kathīr (d. 1373) has commented on the ‘*Fiṭrah* verse’ by stating the following: “Allah says: ‘so set your face and persevere in the religion which Allah has prescribed for you, the worship of Allah Alone, the religion of Ibrahim, to which Allah has guided you and which He has perfected for you with the utmost perfection. In this manner, you will also adhere to the sound *Fiṭrah* with which He created His creation.’ Allah created His creation to recognize Him and know His *Tawhid*, and that there is no God except Him... ‘No change let there be in Allah’s creation’ means, the religion of Allah. Al-Bukhari said: ‘No change let there be in Allah’s creation’ means the religion of Allah, and the religion, and the *Fiṭrah* is Islam.”<sup>12</sup>

The argumentation of the

view that the *Fiṭrah* in the foregoing verses refers to the inclination to Islam, or Islam as such, seems to be depending mostly on the *ḥadīth* “*kullu mawlūdīn yūladu ‘alā fiṭrah,*” since it contains the ‘*Fiṭrah* verse’ as its supplementary validation. However, the problem with this position is the second parts of both, the verse and the *ḥadīth*, where in the case of the verse, the context of *Fiṭrah* becomes problematic with the Qur’anic statement that “[n]o change should there be in the creation of Allāh,” while in the *hadith* the second part of the text suggests almost contrary to the verse: “and then his parents make him Jewish, Christian or Magian.” It is apparent from the two texts that the concept of *fiṭrah* has different nature. In the Qur’anic verse, the *Fiṭrah*, as a creation of God, is not prone to any changes, while in the *ḥadīth*, it is susceptible to change due to external factors. This problem has been already pointed out by scholars who maintain different perspective on the concept of *Fiṭrah*, which is primordial nature of human being.

### **Fiṭrah as the primordial nature of human being**

Since there is a certain degree of disagreement between the Qur’anic verse of the *Fiṭrah* which states that there is no change in Divine creation (*fiṭrah*) and the *ḥadīth* statement arguing quiet opposite by attaching a cause of the change

of the *Fiṭrah* to some external factors, some exegetes opted for another explanation of the concept of *Fiṭrah* in foregoing texts. Al-Qushairī (d. 1072) for example, in his commentary of the ‘*Fiṭrah* verse’ goes by saying that the *Fiṭrah* is considered as the state of human beings before any acts are attributed to them, namely a state of partition of actions on behalf of human beings followed by attribution to them that what they have earned. In other terms, the *Fiṭrah* has been attached to human beings before any of their act or credit, belief<sup>13</sup> or disbelief has occurred, do (act) therefore, what you have been order to, and beware of what you have been forbidden from.<sup>14</sup> The state in question is what Seyyed Hossein Nasr terms as the primordial nature of human beings.<sup>15</sup>

This primordial or primeval nature, pure and simple, has been viewed in two ways, namely, the one that considers it as naturally submissive to God, that is, being a Muslim in the universal sense of the term, regardless of one spiritual orientation and action, and the other that envisages the *Fiṭrah* as the destined nature of human beings susceptible to good or evil, enlightenment or ignorance, that is, a kind of inwardly determined state of human beings but at the same time outwardly manifested through one’s personal beliefs and actions. Regarding the first interpretation, the *Fiṭrah* is seen as the state of

the entire universe in its constant glorification of God, according to the Qur'an: "The seven heavens and the earth and whatever is in them exalt Him. And there is not a thing except that it exalts [Allāh] by His praise, but you do not understand their [way of] exalting... (Qur'an, 17:44).<sup>16</sup> Most commentators of this verse agree that the 'exalter' refers not only to the living beings within the creation, from physical to spiritual inhabitants, including animals, plants, human beings, subtle and spiritual entities, but also to material things or what is known as inanimate beings such as planets, stones, and minerals.<sup>17</sup> Human beings therefore, regardless of their spiritual vacancies, are in this context, regarded worshipers and magnifiers of God. This is supported by other Qur'anic verses such as "And to Allāh prostrates whoever is within the heavens and the earth, willingly or by compulsion..." (Qur'an, 13:15). In view of most commentators, the verse informs of Divine absolute power over everything and that everything is subordinate to God, regardless of will or intention. Thus, not only believers are counted for prostrating to God but also nonbelievers and the rest of creation.<sup>18</sup> The concept of Fiṭrah in this perspective is viewed as completely subservient to the Divine in the universal sense as mentioned earlier.

The second view of the

Fiṭrah as a primordial nature of human beings, is based mostly on the categorization of humans into believers and non-believers as suggested by the Qur'an and Hadith. The Qur'an for example states: "Then is one who was a believer like one who was defiantly disobedient? They are not equal" (Qur'an, 32:18), or "... Are those who know equal to those who do not know?..." (Qur'an, 39:9).<sup>19</sup> With regard to Hadith, the aforementioned *ḥadīth* may be considered to fulfil the purpose here as it suggests different categories of people based on their religions. Now, the concept of Fiṭrah within the classification of human beings that goes through a certain degree of modification from spiritual to physical form of existence, remains principally unchanged since God is aware of this transformation which, according to Islamic perspective, happens with the Divine will. Here the scholars bring into consideration Divine names and attributes and their manifestations within the created realm of reality by which each name is reflected through certain phenomena of the creation. The names and attributes in question are *al-Hādī* (The Guide or Provider of guidance) and *al-Mudhill* (The Degrader or Disgracer), *al-Mālik* (The Lord), *al-Khāliq* (The Creator), *al-Bārī* (Evolver), *al-Muṣawwir* (The Shaper) and others. In addition to these names



and qualities, one can also add yet another Divine attribute, namely *al-Fāṭir*<sup>20</sup> (The Initiator, Creator), which, as participle active, shares the same root with the concept of *Fiṭrah*. Each of the given names and attributes clearly indicates Divine full involvement in the process of creation, His complete dominance and sustenance, as well as His final determination, which is in perfect harmony with the sixth tenet of Islamic faith, that is, to believe in Divine decree and destiny, be it positive (good) or negative (evil). To conclude the argument that God determines the destiny of all creation, the following Qur’anic statement would suffice the purpose: “If Allah had willed, He would have made all of Humanity one Nation, but He allows whom He wills to stray and He guides whom He wills...” (Qur’an, 16:93). It is only with this exegesis of the ‘*Fiṭrah* verse’ that the alluded discrepancy between the verse itself and the *ḥadīth* is fully resolved.

### **The manifestation of the *Fiṭrah* on physical aspect of human life**

In the traditional Islamic cosmology, the concept of ‘*al-a’yun al-thābitah*’ or immutable archetypes is said to represent the ideas of cosmic manifestation contained in the Divine intellect. The existence of the cosmos and all the manifestations of the said archetypes within it depends on the

‘Divine breath’ which in this context serves as the essential source of the cosmic construction and sustenance. In fact, as Nasr argues, “[t]he very substance of the cosmos is the Breath of the Compassionate (*nafas al-Raḥmān*) while cosmic forms and all that constitutes the order of nature emanate from the archetypal realities and ultimately the Divine Essence Itself.”<sup>21</sup> With this viewpoint on the relationship between the Divine as the Creator and the cosmos as the creation, it is much easier to understand the final part of the ‘*Fiṭrah* verse’ suggesting that “[n]o change should there be in the creation of Allāh,” since everything is principally contained in the Divine names and qualities. The latter for its part, as mentioned earlier, serves as the base (*asl*) and support (*mustanad*) of all the existing realities within the cosmos.

The question of personal orientation concerning the spirituality or religion, which is understood to depend on one’s free will, must be considered only within the framework of physical existence or within the plane of rationality where the law of logical argumentation underlined with causes and causalities operates. As personal orientations in the given aspects as well as in gender domain that is very popular in recent times, usually result in states liable for judgements such as in domain of religious laws,

or even secular laws, it does not escape from the manifestation paradigm regardless of its positive or negative verdicts within specific tradition. It cannot also be devoid of personal responsibilities for one's orientations and actions that consequently issue from it. This leads us to the conception of predestination and free will as well as of good and evil in relation to the concept of *Fiṭrah*. In the form of a question, can one consider his or her individual decisions as the result of fate or free will? The answer to this question in whatever choice lies one's option, is both, yes and no, in relative terms. The 'yes' to fate and 'no' to free will, is expressed in the first view of the second approach to the understanding of the *Fiṭrah*, as being the primordial nature of human beings. Here as explained earlier, the *Fiṭrah* is seen as universal submission to God, regardless of one's spiritual or other orientation. The second view of this perspective takes into consideration the differences of individual 'choices' made regarding religion and yet again imposes the ultimate decision regarding those choices to God. As for the relative 'yes' to free will and 'no' to the fate, it is reflected in the first approach to the concept of *Fiṭrah* as an inclination to the religion of Islam, with possible changes as indicated in the *ḥadīth*. The 'Fiṭrah verse' in combination with other Qur'anic verses,

especially 105<sup>th</sup> verse of the *Sūrah* Yūnus where an individual choice is clearly attested in words: "and be thou not among the idolaters." Similarly, the choice is indirectly alluded to in the 'Fiṭrah verse' by Divine order to people expressed in asking them to 'turn their faces to religion as hanifs,' suggesting other possible option, that is, not following the order and therefore, turning to other paths.

As for the personal freedom to decide what gender one belongs to, even though gender is naturally evident on the physical basis, the same rule is applied as in one's spiritual orientation. As far as Islamic religion is concerned, the gender is traditionally divided into male and female, based on the Qur'anic description of physical nature of human beings. The Qur'an clearly states that everything is created in pairs.<sup>22</sup> According to most Qur'anic commentators, the verse in question advocates the concept of gender in its twofold context, namely, male and female.<sup>23</sup> To that, other dualities is added such as faith and ignorance, good and evil, light and darkness and so on. This conception of nature displayed on the physical aspect of existence is very similar to that of *yin-yang* doctrine in the traditional Chinese cosmology.<sup>24</sup> Be it as it may, one should not make a sharp distinction between fate and free will, nor one should completely

differentiate between male and female as the results of both sources are interconnected and dependable on each other as complementary poles, at least from the Islamic perspective. The personal responsibility cannot be avoided or justified on the account of fate or some other reasons simply because personal decisions are always made at the point or moment when fate is yet to be revealed to a decision maker, leaving him or her all alone to their own free will and choices.

### Conclusion

The concept of Fiṭrah in the Qur'an and Hadith has acquired different interpretations within the exegetical tradition of Islam. Although it is perceived in varying aspects, as explained earlier, the essence of the Fiṭrah as the nature or essence in which God initiate or create human beings is to be seen as the Divine Mercy that supports humanity to fulfill their existence in this world by following the right path or upright religion mentioned in the 'Fiṭrah verse.' In other words, the Fiṭrah stands as the primordial state of human beings that is in perfect harmony with the entire cosmos which in its divinely ordained function exalts its Creator, the Lord of the Worlds. Following the Fiṭrah, one simply participates in the cosmic assembly designed to worship and glorify God. On the other hand, turning back from the

Fiṭrah, one breaks from his or her original state and enters the domain of lower stations that is cut off from Divine source and often deemed to bring failure and delusion to a follower of such a path as the Qur'an proclaims: "...And who is more astray than one who follows his desire without guidance from Allāh? Indeed, Allāh does not guide the wrongdoing people." (Qur'an, 28:50). In this verse, the free will on behalf of an individual is clear, as is the Divine guidance to assist its seekers on the path they choose to follow.

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1. <https://quran.com/30>.
2. <https://sunnah.com/bukhari:4775>.
3. Seyyed. Hossein Nasr (Ed.), *The Study Qur'an: A New Translation and Commentary* (New York: HarperOne, 2017), pp. 1821. In relation to setting one's face toward religion see also Qur'an, 6:79; 10:105.
4. "Saheeh International" translation at <https://quran.com/30>.
5. The verb ḥanafā means to incline [to], to turn [to], to bend, but also to decline and to revert (something or from something, which in this context is false way or false belief, while being naturally inclined to the straight path or upright religion. For more details see Ismā'īl Haqqī, *Rūḥ al-Bayān fī Tafsīr al-Qur'ān* (Online Edition), Chapter 30, Verse 30 at [www.altafsir.com](http://www.altafsir.com).
6. See for example the following verses: 2:135; 3:67, 95; 4:125; 6:79, 161.
7. <https://sunnah.com/muslim:2865a>. See also Ibn Kathīr's commentary of Sūrah al-Rūm: 30, at <https://quran.com/30>.
8. The purpose of creation, as underlined by the Qur'an is obedience to God: "I did not create jinn and mankind, save to worship Me" (Qur'an, 51:56).
9. See for example the meaning of Islam in the hadith famously known as hadith of Gabriel, wherein the Prophet of Islam was asked by Archangel Gabriel to describe three dimensions of Islamic religion, namely, Īmān, Islām and Iḥsān. Sachiko

- Murata and William C. Chittick, *The Vision of Islam* (London: I.B. Tauris, 1994), pp. xxv-xxxiv.
10. Ismā`īl Ḥaqqī, *Ibid*.
  11. Ismā`īl Ḥaqqī, *Ibid*.
  12. Ibn Kathīr, *Tafsīr al-Qur`ān al-`Azīm* (online edition), <https://quran.com/30:30/tafsirs/en-tafsir-ibn-kathir>.
  13. Al-Qushairī used the term ‘shirk’ (polytheism) in his vocabulary in this context. I used the term belief in its general sense to indicate that no spiritual orientation regardless of its nature, be it positive or negative or belief or disbelief has taken place before the Fiṭrah has been bestowed on human beings.
  14. Al-Qushairī, *Laṭā`if al-Isharat bi-Tafsīr al-Qur`ān* (online edition), Chapter 30, Verse 30 at [www.altafsir.com](http://www.altafsir.com).
  15. Seyyed Hossein Nasr, *Ibid*, pp. 1821.
  16. See also the following verses: 24:41; 59:24; 62:1; 64:1.
  17. See Ḥaqqī, Al-Qushairī, al-Qurtubī at [www.altafsir.com](http://www.altafsir.com).
  18. Ibn Kathīr, *Ibid*, Chapter 13, Verse 15, <https://quran.com/13:15/tafsirs/en-tafsir-ibn-kathir>.
  19. See also the Chapter 109; 4:55; 10:40. Needless to say, the knowledge in the verse refers almost exclusively to spiritual enlightenment.
  20. This name, like many others, is not included in the ninety-nine Divine most beautiful names, but it nevertheless is equally significant in the field of Divine economy within the universe.
  21. Seyyed Hossein Nasr, *Religion and the Order of Nature* (Oxford: Oxford University Press, 1996), pp. 61,
  22. Qur`an, 51:49.
  23. See al-Qurtubī, al-Ṭabarī, Ibn Kathīr and Ḥaqqī, Chapter 51, Verse 49 at [www.altafsir.com](http://www.altafsir.com).
  24. “Chinese cosmology describes the universe in terms of yin and yang, which can be understood as the active and receptive or male and female principles of existence. Yin and yang embrace each other in harmony, and their union produces the Ten Thousand Things, which is everything that exists.” (Sachiko Murata, *The Tao of Islam: A Sourcebook on Gender Relationships in Islamic Thought* (New York: New York University Press, 1992), pp. 8.

Sachiko Murata, *The Tao of Islam*:

## A Sourcebook on Gender

### Relationships in Islamic Thought



(London & New York: Routledge, 2022). 236 pp. ISBN: 978-1-032-12330-1 (hbk); ISBN: 978-1-032-12331-8 (pbk); ISBN: 978-1-003-22411-2 (ebk).

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Sachiko Murata's *Tao of Islam* has been regarded as a unique masterpiece in the traditional Islamic studies by numerous critics. Due to its masterly accomplished content and brilliantly reflected context, the book became one of the essential classics written by an erudite and distinguish scholar of Islamic thought in contemporary times. Its excellence is not to be only judged on the basis of the author's thoroughly exposition of the fundamental themes within Islamic studies which includes numerous translations of the classical texts by leading Muslim scholars in theology, philosophy and mysticism such as Ibn 'Arabī (d.1240), al-Ghazālī (d. 1111), Ibn Sīnā' (d. 1037) and many others, and comparing some of the relevant Islamic themes with the Taoist doctrine of *yin* and *yang* in light of the metaphysical domain, but also on account of the author's dazzling defense of the traditional Islamic principles and values regarding the gender issues that are often misinterpreted and misunderstood by many scholars and critics in both, the West and the East. The book comprises of four main parts, apart from the foreword composed by late Annemarie Schimmel, yet another excellent expositor of the traditional islam, and the introduction written by the author. In addition to that, the author has attached to the main content of the book, two appendixes, detailed trifold indexes, and a postscript.

In the introductory chapter the author has discussed those elements that were crucial for the composition of the book. After elaborating the key subjects of the book that are often falsely judged in the West and elsewhere, namely

the issue of gender and woman position within Islamic tradition, Murata went on to explain the standpoint she took to explore and present the main research question in her work. She underlined the importance of distinguishing between the intellectual tradition of Islam on the one hand, and the legal system of Islam on the other hand. Although, there might be no differences in principle between the two, but their approaches to Islamic matters are very different and need to be considered when dealing with Islamic religion in our contemporary times. In other words, instead of focusing on the legalistic schools of thought and they formalized rulings on Islamic issues, one should rather investigate the intellectual depths or what the author calls “sapiential tradition” of Islam to find out the genuine explanations of those issues so that the desired picture falls into its designed frame. Likewise, she stressed inadequacy of modern Western approaches to Islam in providing an authentic research outcome to the audience. Nowadays, the author writes, “Muslim apologists also bring forth all sorts of sociological considerations with a view to answering certain Western-inspired objections. But this legal and sociological approach tells us nothing about the deeper reasons

for the Islamic worldview. It is the deeper reasons that the intellectual tradition addresses.”

<sup>1</sup> Furthermore, Murata introduced the background of the work and explained the basis for the comparison between Chinese and Islamic thought concerning the discussed themes.

As for the first part of the book, it contains one single chapter entitled ‘The Three Realities.’ In it, the author has delved into three essential concepts in Islam, namely, God, man, and creation, comprising the three angles of a triangle and the relationship between them. Firstly, the author expounded the signs of God within the macroscopic (cosmos) and microscopic (human being) realities by the virtue of Divine names and attributes. Touching upon cosmological and psychological sciences of the traditional Islam, Murata brings into discussion numerous Qur’anic verses, especially the following: “We shall show them Our signs upon the horizons and within their own souls, until it is clear to them that He is the Real” (Qur’an, 41:53), equating horizons with the macrocosm and human souls with the microcosm, as has been done by some classical Muslim exegetes. Further in “Qualitative correspondence” and “Quantitative levels” the author dealt primarily

with nature of the macrocosm on the one hand and the microcosm on the other, and the Divine signs that unites them in serving their purpose respectively, representing the locus whereupon the Divine theophanies are perfectly reflected. The remaining few sections of the first part is almost entirely dedicated to human being and its distinctiveness among creation, for being considered as the only created being that fully manifests the properties of the Divine names and attributes as long as it represents God's vicegerency on Earth. Heavily impregnated with the classical Muslim commentaries and philosophical explanations upon dozens of the Qur'anic verses related to the cosmos and human being, the entire first part of the book is dedicated to the exposition of the Divine boundless signs and symbols contained within the created realm of reality as well as the relationship between them and God, Who allegorically stands at the apex of the hierarchy of Being, representing the ultimate Source of such a realm.

The second part entitled "Theology" comprises of two chapters dedicated to the explanation of the Divine being as it has been viewed from the traditional Islamic perspective. In the first chapter, the author focuses on dual approaches

to the Divine in the Islamic thought, whereby the two concepts are to be considered, namely, God and His essence. An Islamic doctrine that is directly attached to the dual consideration of the Divine being is that of *Tanzīh* (incomparability) and *Tashbīh* (comparability). The subject of the Divine in theological discourse necessary implies the consideration of knowledge of human beings, or the relationship between the knower and knowable and all peculiarities involved in this context. With regard to the Divine, being perceived as both, God that reveals Himself (*al-Zāhir*) and the Essence that is hidden from human perception (*al-Bāṭin*), Murata asserts that such a seeming duality is best understood by the comparison between God and His names and qualities, the first to be considered as the Absolutely Real to which the incomparability is correctly applied, the second to be considered as the relatively Real to which the comparability is appropriately applied. Thus, God as the source of everything other than Him remains always hidden and unknowable, but at the same time, He as the Initiator of everything than Himself, is revealed by His names and qualities dispersed within countless phenomena in the cosmos. Comparing the doctrine of the theological duality in Islam



with yin-yang concept in Taoism, the author discussed several other questions related to Islamic creed, such as the creation of multiplicity, Being and knowledge, Majesty and Beauty, Awe and intimacy and so on. In all these, the close relationship between God and the cosmos, or as in the author's view, between "the One and the many,"<sup>22</sup> is discussed in detail, with the emphasis on the twofold approaches to the Divine Reality as well as the Divine vertical reflections within the cosmos, identical to that of Tao and its manifestation through yin-yang.

The second chapter contains set of several topics as the important part of Islamic theology. Here, the author presented the traditional Islamic perspective concerning the horizontal relationship between the Divine and the created world, akin to yin-yang type in the Chinese tradition. Entitled "The Two Hands of God", the chapter offers a rich and multidimensional commentaries of the meaning of the Divine two hand taken from the Qur'anic verse: "What prevented you from prostrating yourself before him whom I created with My own two hands?" (Qur'an, 38:75). Apart from introducing to a reader the classical Islamic commentaries on this verse, composed by exegetes

such as Ibn 'Abbās (d. 687), Maybūdī (12<sup>th</sup> century), al-Rāzi (d. 1209) and others, Murata enriched her discussion with philosophical and mystical contributions provided by the foremost authorities in Islamic though such as Ibn 'Arabī, Jandī (d.1300), Kāshānī (d. 1335), Qaysarī (d. 1350), Qūnawī (d. 1274), and Farghānī (d. 1300). The substance of the discussion written in this chapter is, according to the author, summarized in the following Qur'anic verse: "All that is in the heavens and all that is in the earth glorifies God. His is the kingdom and His is the praise, and He is powerful over everything. It is He who created you. One of you is an unbeliever and one of you a person of faith. And God sees the things that you do" (Qur'an, 64:1-2).

After her meticulous presentation of the traditional Islamic perspectives on the Divine, and His manifestation in the world through his names and attributes, the author turned her attention to the cosmology in the third part of the book. She composed four chapters in this section, namely, "Heaven and Earth," "Macroscopic Marriage," "Human Marriage," and "The Womb." As the titles suggests, the author gradually leads the audience into realm of the vast and symbolic imagery of the Islamic

cosmology as it has been studied in the classical Islam. As duality in God from human perspective,<sup>3</sup> has been conceived by the Essence and the Divinity, and since the cosmos is “the locus of real duality and real multiplicity,”<sup>4</sup> such a duality has become apparent even in the cosmic sphere, based on the Qur’anic verse: “And of everything We created a pair” (Qur’an, 51:49). Here, Murata comes directly into the conceptions of gender and its various phenomena in the universe. The pair in the verse is, needless to say, a reference to male and female “among living things and the diverse kinds among inanimate things, for example, heaven and earth, sun and moon, night and day, land and sea, rough ground and smooth ground, winter and summer, light and darkness, faith and unbelief, felicity and wretchedness, sweet and bitter,”<sup>5</sup> and so on. In her explanation why this duality is found in multitude of cosmic phenomena, Murata refers to the classical Islamic commentary of the verse which suggests the distinction between the Divine unity (*Tawhīd*) or its incomparability with multiplicity within the Creation. Further in the proceeding subsections, the author dealt closely with the Islamic doctrines and symbolism related to a variety of pairs in the creation,

linking it beautifully to the yin-yang perspective of the universe.

In the second chapter of the third part, entitled “Macroscopic Marriage,” Murata, relaying on the traditional Islamic perspective propagated by scholars like Ibn ‘Arabī and Rūmī, has linked the relationship between heaven and earth to that of yang and yin, male and female, husband and wife, portraying them symbolically as the parents to the children exemplified by humans, animals, minerals and so on. With all the spiritual significance that such a relationship between heaven and earth, or that of spirit and body, pen and tablet, intellect and soul, carries along, Murata masterly opens the topic of the notion of marriage between man and woman in the third chapter of the Cosmology. Here, the author brings yet another Qur’anic verse to readers’ attention which is rather more precise than the one previously cited: “He Himself created the pair, male and female” (Qur’an, 53:45). She then proceeded to the discussion of marriage in society and the Islamic positive attitude towards it, relaying on numerous Qur’anic and Hadith statements. Later, the roles of man and woman, husband and wife were discussed in detail, emphasizing not only the legislative issues concerning marriage, but also numerous

symbolical implications of it, as depicted by Sufi scholars and exegetes. The topics such as mutual longing, mutual love, marriage and creation, perfect sexual union, symbolism of grammatical gender and why women are made lovable, were studied in the remaining subsections of this chapter. The following chapter entitled “The Womb” was entirely reserved to the feminine nature of the Divine mercy symbolized by the notion of womb. The mercy was portrayed through several phenomena, beginning with that of existence, and the universal submission to God to the nature and its feminine characters of mother and wife, ending with the Divine mercy in relation to human being and nature in general.

The final part of the book entitled “Spiritual Psychology” containing three chapters, each reserved for the three spiritual dimensions of human being, namely, spirit, soul, and heart, represents a kind of internalization of theological, cosmological, and sociological aspects of Reality discussed in previous chapters. It is an ultimate return to oneself, knowledge of oneself that consequently brings one to the knowledge of God, since everything in the macrocosm is reflected in the microcosm, and what is contained in both, manifests the Metacosm.<sup>6</sup>

In the first chapter of the fourth part, the author analyzed the microcosm or human being as a macroscopic reflection containing the outward and the inward dimensions, the spirit and the body, corresponding to the heaven and the earth. This was followed by delving into numerous signs of microcosm, represented in various qualities understood as different degrees of a single reality and symbolized by specific traits manifesting angelic, demonic, or animal nature by virtue of one’s spiritual or inward state. The notions of spirit, soul, and intellect as well as the spiritual kingdom and heaven and earth, were also given their proper treatments based on the traditional Islamic perspective which the author so often compares to that of Tao in the Chinese tradition. Likewise in the second chapter of the fourth part, Murata continued to explore the notion of soul in relation to the spiritual path. She discussed different stages of the soul as a result of its sapientic development. It is evident that the soul is seen as having a feminine character with respect to the spirit or intellect, like that of earth with regard to heaven. From *al-nafs al-‘ammarah* (concupiscent soul), to *al-nafs al-muṭma’innah* (reassured soul), all types of souls are depicted as having several virtues or vices that are reflected in one’s

thoughts and deeds, depending on its relationship with the spirit and the body. Manliness and chivalry are discussed in this respect as the two significant virtues of the soul. Further, the soul has been considered as the symbol of Eve, the wife of Adam, who himself is said to represent the heart in some classical commentaries of the Qur'an. From here, the author extended her analysis of the soul to its afterlife end that corresponds to its earthy station, ending the chapter with the brilliant contribution related to the purification of the human soul.

In the last chapter of the fourth section, Murata devoted her attention to the concept of heart. After portraying the heart as it has been maintained in the Qur'an and the Hadith, she went on to discuss the issues such as the heart between the spirit and the soul, the birth of the heart, the soul as virgin mother and the perfect heart. All these topics were closely examined from the intellectual tradition of Islam, as the author often mentions in her work. In addition to that, her frequent references to the Tao tradition are also felt throughout the book, linking the two traditions in the form of spiritual comparison to each other. Finally, the author ends the book with a section entitled "the men and the women," where she

summarized the concepts of male and female in Islam, after having symbolically explored the two in domains of theology, cosmology, sociology, and psychology, or in terms of Metacosm, macrocosm and microcosm. She has situated the concepts of male and female in much larger context than they are usually seen in today's socio-political and cultural discussions, be it in the West, or in the East, including the Islamic world. Male and female in the intellectual tradition of Islam for the author is very much akin to the concepts of yin and yang in the Tao tradition, and as such they both carry within their symbolic meaning the abundance of spiritual traits and qualities that can be seen in the entire hierarchy of existence. The perfect human being that is fully realized regardless of his or her gender, is therefore the one who has embraced all qualities of both God and the macrocosm, bringing them together into a single reality, that is at the same time, yin and yang, servant and vicegerent.<sup>7</sup> It is in this spiritual light that her critique of the feminist and similar modern perspectives on the subject of genderism should be understood, whereby the author offers a natural response as well as defense of all the traditional values that are directly related to the Divine revelation.

## Endnotes

1. Sachiko Murata, *The Tao of Islam: A Sourcebook on Gender Relationships in Islamic Thought* (New York: State University of New York Press, 1992), pp. 3.
2. Sachiko Murata, *Ibid*, pp. 94.
3. The author clearly indicates that there is no question of such a duality in principle.
4. Sachiko Murata, *Ibid*, pp. 143.
5. Sachiko Murata, *Ibid*. pp. 143.
6. Sachiko Murata, *Ibid*, pp. 276.
7. Sachiko Murata, *Ibid*, pp. 392.

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