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Zaynab El Bernoussi, Baudouin Dupret

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Sex Reassignment

Zaynab El Bernoussi

Baudouin Dupret

Introduction

Sex reassignment, also called transsexual conversion, sex change, or sex conversion, involves the application of surgical and medical treatments intended to physically reassign a person's sexual phenotype. Islamic bioethical discourses associate sex reassignment with the concepts of *khuntha* (hermaphrodites), and *mukhannath* (effeminate man or masculine woman), and both are discussed later in this section.

Most sex reassignments are male-to-female. Female-to-male transitions constitute a less common and more difficult transitioning process that includes risks of endocrine dysfunction such as polycystic ovarian disease and gonadal dysgenesis. Male-to-female sex reassignment treatment may include bilateral orchiectomy (removal of the testicles), penectomy, vagionplasty, breast augmentation, and hormone therapy. Female-to-male sex reassignment treatment may include mastectomy, hysterectomy, and androgenic hormone therapy.

In both types of sex reassignment treatments, psychological treatments are needed in addition to surgical intervention and medical therapies to facilitate the sexual transition. This article covers a brief history of religious considerations regarding sex change in the Muslim world and the relevance of this topic to Islamic bioethics. In this context, it is important to see the development of discourses on sex reassignment from the pre-modern era to the present.

History

There is no definitive data on the first sex reassignment operation in an Islamic context. However, it was not until the 1980s that Muslim-majority countries started to allow for the change of legal gender, with the case of the Turkish Civil Code in 1988.

In Iran, prior to the Islamic revolution of 1979, the Iranian government never addressed transsexuality. However, Ayatollah Ruhollah Khomeini—while living in exile during the rule of the shah—gave approval for sex reassignment surgeries in 1964. In 1976, a ruling by the Medical Association of Iran stated that sex reassignment surgeries were unethical except in inter-

sex cases (hermaphrodites). In 1985, Khomeini reissued his 1964 *fatwā* allowing the procedure. Due to the policies that Khomeini permitted, Iran is currently ranked second, after Thailand, among the countries with the most sex reassignment surgeries (Halasa, 2009). However, despite allowing sex reassignment surgeries in Iran, homosexuality remains punishable by death. In Morocco, Dr. George Burou developed the first skin inversion vaginoplasty in 1956 (Hage, et al., 2007). By 1973, he reported over three thousand individual cases of sex reassignment operations (Laub, 1973). Though performed in Morocco, most of these operations were for non-Moroccans and Burou kept a low profile throughout his career due to the controversial nature of his work.

In 1982, Egyptian Sayyid Abdallah underwent the first documented sex change in the country after being diagnosed with psychological hermaphroditism (*al-khunutha an-nafsiya*). It was his case that inspired the famous *fatwā* by the grand mufti of Egypt Muhammad Sayyid Tantawi in 1988, which ruled against the procedure (Dupret, 2002). In Pakistan and Bangladesh, the term *hijrah* is typically used to refer to transgender people who are born male. Though officially recognized as a third gender, *hijrahs* are often marginalized.

Relevance and Significance to Bioethics

Accommodating sexual differences is essential to establishing ethical standards regarding the treatment of the human body; hence the particular interest in sex reassignment treatment for bioethics. In Muslim-majority countries, a diagnosis is required to identify first a condition of transsexual illness. Only in these cases are surgeries or other treatments considered warranted. In Iran, for example, reports have shown patients unnecessarily undergoing surgery, due to the confusion between homosexuality and transsexuality. Since homosexuality is considered a crime in Iran, homosexuals and their families feel pressure to proceed with sex reassignment treatments.

Sex Reassignment in Pre-Modern and Modern Islamic Normative Discourses

In Islam, gender identity includes four categories: *dhakar* (male), *untha* (female), *khuntha* (hermaphrodite), and *mukhannath* (effeminate man or masculine woman). In a documented

ḥadīth, the Prophet Muhammad banished *mukhannathun* (plural of *mukhannath*) near Medina but did not allow for their killing:

A *mukhannath* who had dyed his hands and feet with henna was brought to the Prophet [...]. So [...] he was banished to an-Naqi'. The people said: Messenger of God! Should we not kill him? He said: I have been prohibited from killing people who pray. Abu Usamah said: Naqi' is a region near Medina and not a Baqi [in other words not referring to al-Baqi' cemetery] (*Sunan Abu-Dawud*, Book 41, no. 4910, related by Abu Hurayrah).

Also, at the time of the Umayyad Caliphate, the caliph Sulayman ibn 'Abd al-ālikM (r. 1715–1717), ordered that all *mukhannathun* be castrated (Rowson, 1991). Lastly, there was an early report of sex reassignment surgery in the tenth-century Hijri in Iraq. Indeed, a sex reassignment operation was mentioned in Ibn Sīnā's *The Canon of Medicine* (1997, p. 865) and this could be the earliest documented record of a sex reassignment surgery in the Muslim world.

In the broader context of modern discourses, the Islamic Fiqh Council (of the Muslim World League) in its eleventh session in Mecca in Rajab 19–26 February 1989 issued a resolution on sex reassignment surgeries from male to female and vice versa. According to this resolution, sex reassignment will not be legally permissible if the male or the female has either male or female sex organs. On the other hand, sex reassignment will be permissible if a person is a hermaphrodite, with sex organs that carry the features of both the male and the female sexual phenotype, and the reassignment is undertaken to assimilate the sex organs of the closest phenotype. Sex reassignment in this case is considered a means of treatment to help a sick person overcome her illness, not a change of God's creation.

Conclusion

In Islam, sex reassignment is generally allowed to correct intersex cases. Due to the marginalization of the *mukhannathun*, sex reassignment is preferred to avoid homosexuality. Though there exists a severe criminalization of same-sex sexual activity in many Muslim countries, Muslim LGBT movements from abroad, such as Homosexuels Musulmans de France,

the Safra Project, and Imaan are promoting the acceptance of homosexuality in Muslim communities, in the hope of changing public opinion, theological interpretations, and government policy.

Bibliography

Borris, Kenneth. *Same-sex Desire in the English Renaissance: A Sourcebook of Texts, 1470–1650*. London: Routledge, 2015.

Dupret, Baudouin. “Sexual Morality at the Egyptian Bar: Female Circumcision, Sex Change Operations, and Motives for Suing.” *Islamic Law and Society* 9, no. 1 (2002): 41–69.

Hage, J. Joris, et al. “On the Origin of Pedicled Skin Inversion Vaginoplasty: Life and Work of Dr. Georges Burou of Casablanca.” *Annals of Plastic Surgery* 59, no. 6 (2007): 723–729.

Halasa, Malu. “Iran Uncut.” *Index on Censorship* 38, no. 4 (2009): 14–20.

Haneef, Sayed Sikandar Shah. “Sex Reassignment in Islamic Law: The Dilemma of Transsexuals.” *International Journal of Business, Humanities and Technology* 1, no. 1 (2011): 1–10.

Hildebrandt, Achim. “Routes to Decriminalization: A Comparative Analysis of the Legalization of

Ibn Sīnā. *The Canon of Medicine*, translated by A. Sharafkandi (in Persian). Tehran, 1997. Originally completed in 1025.

Laub, R. Donald. “Syndrome.” Proceedings of the Second Interdisciplinary Symposium on Gender Dysphoria. Stanford, Calif.: Stanford University Medical Center, Division of Reconstructive and Rehabilitation Surgery, 1973.

Özgür, Can, et al. “Legal Aspects of Gender Reassignment Surgery in Turkey: A Case Report.” *Indian Journal of Gender Studies* 18, no. 1 (2011): 77–88.

Rowson, Everett K. “The Effeminate of Early Medina.” *Journal of the American Oriental Society* 111, no. 4 (1991): 671–693.

Skovgaard-Petersen, Jacob. “Sex Change in Cairo: Gender and Islamic Law.” *Journal of the International Institute* 2, no. 3 (1995).

Wintemute, Robert, and Mads Tønnesson Andenæs, eds. *Legal Recognition of Same-sex Partnerships: A Study of National, European and International Law*. Oxford: Hart Publishing, 2001.

Zaynab El Bernoussi and Baudouin Dupret