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Islamic shari'a law, neotraditionalist Muslim scholars and transgender sex-reassignment surgery: A case study of Ayatollah Khomeini's and Sheikh al-Tantawi's fatwas

M. Alipour

Department of Philosophy and Religious Studies, Universiteit Utrecht, Janskerkhof, Utrecht, The Netherlands

ABSTRACT

The attitude of Islamic scholarship and law with regard to the issue of transgender sex-reassignment surgery is still an important subject for Muslim transgender people. This operation was mostly regarded as sinful, thus prohibited (*haram*) in Islam by both Sunni and Shi'a traditional scholars. But in the late 1980s, sex-reassignment surgery was legalized (made *halal*) in *shari'a* and/or in state law by the fatwas of Ayatollah Khomeini in Iran and Sheikh Muhammad al-Tantawi in Egypt. It seems that these fatwas should initially be considered as an indication of Islamic tolerance toward transgender Muslims. This article explains how the transgender Muslims' situation prompted the fatwas on sex-reassignment surgery and, therefore, how the fatwas, ultimately, expanded the scope of Islamic tolerance. The paper analyzes the main juridical reasons behind Khomeini and Al-Tantawi issuing such progressive fatwas through their classical methodology of understanding the Islamic concept of *ijtihad*. Following the same methodology, the article, as further discussion, offers to open up an Islamic debate over similar and related cases, such as homosexuality and bisexuality, aiming to improve Islamic tolerance or acceptance of these phenomena.

KEYWORDS

Al-Tantawi; *ijtihad*; Khomeini; sex-reassignment surgery; transgender

It seems that transgender sex-reassignment surgery (SRS) is still an important subject for Muslim transgender people. It was mostly regarded as sinful, hence prohibited (*haram*) in Islam by traditional Muslim scholars (see Al-Jizani, 2006; Kanaan, 2000; Katoziyan, 1993; Madani, 1997; Qaradawi, 1980; Tabrizi, 1999).¹ But in the late 1980s, SRS was legalized (made *halal*) in *shari'a* and/or in state law by the fatwas of Ayatollah Khomeini and Sheikh al-Tantawi in Iran and Egypt, respectively. It seems that these fatwas should initially be considered as a tolerant attitude of Islam toward transgender Muslims. This article will try to show how the situation of transgender Muslims prompted the SRS fatwas and, therefore, expanded the scope of the Islamic tolerance. By studying the *fatwas*, the paper analyzes the main juridical reasons behind the fatwas of Khomeini and Al-Tantawi, who might be called neotraditionalists,² and the issuance of such progressive fatwas³ through their classical methodology of *ijtihad*.⁴ Following the same methodology of *ijtihad*, the paper, as a conclusion and prompt for

further discussion, offers to open up an Islamic debate concerning similar and related phenomena, such as homosexuality and bisexuality, aiming to improve Islamic tolerance toward these phenomena.

Gender ambiguity and Muslim societies

In the premodern period, Muslim societies were aware of five manifestations of gender ambiguity: This can be seen through figures such as the *khasi* (eunuch), the *hijra*, the *mukhannath*, the *mamsuh* and the *Khuntha* (hermaphrodite/intersex).

Khasis (eunuchs) are castrated human males. They were employed as guards and servants in harems and as chamberlains to kings in the Middle East and in China (Nolen, 2009). In fact, *khasis* are persons who have male sex organs and are raised as boys until castrated—mostly by cutting off the testicles. By this operation, *khasis* do not change to female, but are left in an in-between position legally and socially, belonging to neither gender (Kugle, 2010; Marmon, 1995).

CONTACT M. Alipour ✉ mehrdadali77@gmail.com Universiteit Utrecht, Department of Philosophy and Religious Studies, Janskerkhof 13 3512 BL, Utrecht, 3508 TC Netherlands.

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Hijras are people who are born with male sex organs and raised as boys, but after becoming adults, they assume a female identity. In South Asian countries, such as Pakistan and Bangladesh, many voluntarily undergo ritual castration to remove the testicles and penis. Hijras wear female clothing, grow their hair long, use makeup and wear jewelry. They try to exaggerate their role by copying the female voice. They are conceived as “third gender” (neither male nor female) in their societies (O’Brien, 2008; Nanda, 1999).

The *mukhannath*, according to later Muslim lexicographers, mostly identify “as a man who resembles or imitates a woman in the languidness of his limbs or the softness of his voice” (Rowson, 1991, p. 673). Mukhannaths, therefore, are people who are born with male sex organs.⁵ This was also the understanding of the term held by the early Muslim lexicographers who believed that the term *mukhannath* was derived from *khanatha*, which means “to fold back the mouth of a waterskin for drinking.” Therefore, “mukhannathun were so called on account of their languidness ... while a languid woman was called *khunuth*.” (Rowson, 1991, pp. 672–673). Though this meaning of mukhannath somehow concurs with prophetic traditions (*hadiths*), it is not the same as *hadith*’s description of the term. Therefore, some other Muslim lexicographers, such as al-Khalil b. Ahmad (d. c.170/786) in *Kitab al-Ayn*, believe *mukhannath* derives from *khuntha*, or hermaphrodite/intersex, on the basis of parallel gender ambiguity (Al-Khalil, 1980, No. 4, p. 248; Rowson, 1991, p. 673). According to the latter, a mukhannath is a hermaphrodite/intersex person and, therefore, would be categorized in that group. But, according to the former meaning of the term, mukhannath is a male with effeminate behavior. Therefore, it “does not explicitly describe sexual organs, sexual behaviours, or sexual orientation” (Kugle, 2010, p. 241). Later on, in medieval times, *mukhanath* also came to be used for those persons who took on a passive role in same-sex acts (Rowson, 1991, p. 693).

Mamsuhs are persons who lack either male or female genitals (Kariminia, 2010).

Finally, *khunthas* (hermaphrodites/intersexes) are people who possess both male and female sex organs or genitals (Kariminia, 2010).

All the groups described above have had a hard time living in their respective Islamic patriarchal cultures and societies. Indeed, traditional Muslim scholars and jurists often just ignored them. Of the five

groups, scholars only discussed *khuntha* and *mamsuh* because, according to their point of view, these two groups, unlike the other three, are biologically ambiguous. Scholars discussed them because their ambiguous nature had to be defined in relation to Islamic duties. Therefore, Muslim jurists mostly talk about mandatory practicing of *khuntha* and *mamsuh* in different contexts of Islamic jurisprudence (*fiqh*), such as purity, prayer, pilgrimage, marriage, inheritance, and penalty. However, even though these practices were discussed by traditional Muslim scholars, who were usually raised in patriarchal cultures and believed in Islamic theological patriarchy, this clearly did not mean that *khuntha* and *mamsuh* could live in Islamic societies with honor and without suffering from discrimination and oppression.

The modern term *transgender* describes 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. This identity does not sit easily with the categories established by Islamic societies in premodern Islam. Nevertheless, there are overlaps and, of course, many transgender persons exist and have existed in Muslim societies. In recent decades, transgender people have become more visible as they openly struggle to achieve their rights. They have begun to protest against the marginalization, violence, and discrimination entrenched in patriarchal culture (Najmabadi, 2014).⁶ In this article, I will show two examples of such struggles: one from Egypt and the other from Iran. We shall see how these struggles caused two important neotraditional scholars to issue fatwas legalizing SRS by shari’a law and, thus, state law (in the Iranian case). These fatwas can be seen as the first step toward giving transgender Muslims the right to live out their Islamic ideals.

Transgender Muslims are struggling: A study on two cases in Egypt and Iran

There are always risks that transgender Muslims face in countries such as Egypt and Iran, which are dominated by cultural and theological patriarchy. These risks mostly come from society, and shari’a and state laws. Transgender people, as Dr. Mirjalali (the famous Iranian sex-change surgeon) states, “suffer from a lack of awareness, within their own family and in wider society. That increases the psychological pressure and contributes to the higher number of operations.”

(Tait, 2005). Nevertheless, it seems that, since they are aware of their rights, transgender people do not want to accept oppression and discrimination by a patriarchal culture. Thus, they started fighting for these rights and to live with respect in their societies. They acknowledged that, at least, part of the problem derived from Islamic patriarchal theology and shari'a laws. Therefore, they wisely started to struggle for their rights from this perspective. According to these transgender activists, it could be easier to modify cultural behavior as well as state laws if they could make Muslim scholars revise their approach toward transgenderism. In this article, the two remarkable struggles of transgender Muslims about to be examined demonstrate that a revised version of shari'a law on the transgender issue is possible. To continue in detail, I shall describe the struggle of Sally (an Egyptian transgender) and Maryam Khatoun (an Iranian transgender). Despite Islamic patriarchal theology, they caused Khomeini (a grand Shi'a ayatollah and the leader of the 1979 Iranian Revolution) and al-Tantawi (Mufti of the Republic since 1986 and Sheikh of Al-Azhar 1996–2010) to issue fatwas legalizing SRS.

Case I: Sally, al-Azhar, and patriarchy

In the early 1980s, a young man named Sayyid Abd Allah was studying at the medical faculty of al-Azhar. During his course, Sayyid, while claiming a gender ambiguity problem, contacted a psychologist and acknowledged that he was suffering from extreme depression. After examination, the psychologist found that he was suffering from "psychological hermaphroditism" (*al-khunutha al-nafsiya*). Therefore, the psychologist "treated him for three years, making all possible effort to restore male sexual identity to him, but eventually ... [the psychologist] had to give up. She explained the failure as inevitable in cases like this where treatment is begun after puberty" (Skovgaard-Petersen, 1995). After that, the psychologist proposed that Sayyid undergo sex-reassignment surgery. Sayyid went to a surgeon, but he referred Sayyid to a second psychologist. The second psychologist eventually concurred that surgery was the only way for Sayyid. Finally, he underwent a sex-reassignment operation in the late 1980s. Soon after Sayyid recovered, he took the name Sally (a female name) and still lives in Egypt.

After the surgery Sally went for her final exams, but the dean of the medical faculty did not allow her to take them in the men's section of the school.

At the same time, the dean also refused to transfer her to the woman's medical faculty. The dean realized that Sally would need official recognition of her new sex and name. Sally, therefore, applied to the Administration of Civil Matters (*Maslahat al-Ahwal al-Madaniya*) to have her name changed from Sayyid to Sally.

I shall summarize the rest of the Sally's struggle using Skovgaard-Petersen's narration of the story:

News about the operation broke on April 4, 1988. In an interview with al-Ahram, Sally talked about her difficulties at al-Azhar which dated back long before the operation ... Responding to this remark, al-Azhar issued a declaration stating that it had set up a special committee for the investigation of the case, and when, a couple of months before the operation, the committee had examined Sayyid ... it had come to the conclusion that he was one hundred percent male, both outwardly and inwardly ...

Having received a number of complaints about the operation, the representative of the Doctors' Syndicate in Giza, Doctor Husam ad-Din Khatib, examined the case and summoned the surgeon, Jibra'il, the anaesthetist, Ramzi Michel Jadd, and the psychologist to discuss the case with three doctors appointed by the Syndicate. ... The three doctors agreed that the surgeon had committed a serious medical error by not confirming the presence of a disease before operating ...

On May 14, 1988, the Doctors' Syndicate sent a letter to the Mufti of the Republic, Sayyid Tantawi, asking him for a fatwa on the matter. His fatwa ... concluded that if the doctor testified that this was the only cure against the disease, then this treatment was permissible. ... This fatwa was not quite to the point, since it evaded the question of whether the diagnosis of psychological hermaphroditism was acceptable from the point of view of Islamic law. Consequently, opponents of the operation interpreted it as supporting their cause, because it condemned sex-change operations performed simply at the wish of the patient. On the other hand, Sally's party (and, eventually, the Public Prosecutor) saw it as supportive of their position, because it placed the final decision with the medical doctor.

On June 12, 1988, al-Azhar took the case to court, claiming that the surgeon was liable to punishment for inflicting a permanent disease upon the patient, according to § 240 in the penal code [6]. The Public Prosecutor [an-Niyaba al-Amma] carried out an investigation.

The Public Prosecutor summoned Fakhri Salih, the medical examiner. Salih consulted the relevant scientific literature on the subject, as well as the Medical Counsellor for the Hospital Sector. They agreed that while, from a purely physical point of view, Sayyid Abd Allah had been a man, psychologically speaking

he was not; the diagnosis of psychological hermaphroditism had been accurate, and it was correct that after puberty this disease is only curable by means of a surgical operation. The surgeon had been following the rules of his profession, consulting relevant specialists, and the operation had been performed properly. He had not inflicted any permanent physical disablement on the patient. The patient could be regarded ... as a female, although lacking uterus, ovary and menstruation. Finally, he examined Sally on September and concluded that the anus had not been recently nor continuously used for sodomy [*liwatan*].

The Doctors' Syndicate did not accept the findings of the medical examiner, but insisted that the surgeon had operated on a man who was as much a man as any man. A meeting was held where they exchanged views on the matter. Shortly before that, on November 11, the Doctors' Syndicate gave a press conference where it stated that the operation was not a matter only for specialists, but had been a case of public morals and therefore of public interest. It was an assault on the principles, values, ethics and religion of Egyptian society. Consequently, the Syndicate deleted Izzat Asham Allah Jibra'il from its membership records, and the anaesthetist Ramzi Jadd was fined £E 300 for his participation in the operation.

On December 29, 1988, the Public Prosecutor acquitted the surgeon Asham Allah Jibra'il of the charge of inflicting a permanent disease. The final report confirmed that the operation had been performed properly according to the standards of these operations. Almost a year passed before he closed the Sally case in October 1989, and in November Sally finally received the certificate stating that she was a woman, almost two years after the operation. (Skovgaard-Petersen, 1995)

Case II: Maryam Khatoon and her struggle with Iranian authorities

Fereydoon Mulkara, later Maryam Khatoon Mulkara, (1950–2012) was a male-to-female transgender. Maryam had wished to be a woman since she was a child. She used to play with dolls instead of boys' toys and dressed in girls' clothes. Every night she prayed for a miracle to lose her manly body! As a teenager, she had extreme sexual and romantic feelings toward boys. When the family discovered this orientation, they pressured her and behaved very badly toward her. But she did not care and kept behaving like a woman. Finally, she decided to live on her own. However, her feminine clothes were not tolerated by the patriarchal culture of Iran. It was always risky for her, and other young men called her "sister"! By the

time she was 18, Maryam, for the first time, met other transgender people (see McDowall & Khan, 2004).

It was about 1975 when Mulkara, while wearing women's clothes and working at Iranian national TV, went to a psychologist to talk about her feelings. The psychologist explained that she was not a gay but a transgender. The doctor proposed that she undergo a sex-reassignment operation. Because of Mulkara's religious background and concern, she visited Ayatollah Behbehani, a religious leader in Tehran at the time. According to his advice, she wrote a letter to Ayatollah Khomeini, who was then in Iraq and one of the most important Shiite jurists. Khomeini's answer, in this case, was based more on a hermaphrodite/intersex identity (*khuntha*) and, thus, he advised her to dress and practice her religious duties as a woman. At the same time, she even went to see Farah Pahlawi, the former Queen of Iran, but she also could not do a lot for Maryam (see Bloor, 2006; Tait, 2005).

Thus, Mulkara continued to wear women's clothes until the Islamic revolution of Iran in 1979. After the revolution, however, people like Mulkara "were harassed, even jailed and tortured. "They made me stop wearing women's clothes, which I had worn for many years and was used to, Ms. Mulkara recalled. It was like torture for me. They even made me take hormones to look like a man. (Fathi, 2004) Maryam had also been obliged to retire from her job.

As Maryam mentioned, "When the war [between Iran and Iraq] started, I did voluntary nursing work near the front line. When I bandaged wounded men, they sometimes felt as though a woman was doing it because I was more gentle and I overheard them wondering what kind of person I was. Some of the chemically wounded patients had sores that needed to be dressed near their groins, and sometimes they implied that they had sexual feelings for me." (McDowall & Khan, 2004)

This time, Maryam went to visit Ahmad Jannati, one of the conservative authorities of the Islamic revolution, complaining about the situation and asking for tolerance toward transgender people. Jannati told her to write a letter to Khomeini. Maryam, for the second time, wrote explaining her situation and asking him to issue a fatwa for transgender persons who had undergone sex reassignment surgery (SRS). Khomeini's answer was more or less the same. It was about hermaphrodite/intersex people, not transgender people. Indeed, Maryam was not sure if

the Ayatollah understood her case correctly. So, this time she decided to see the Ayatollah in person and explain her situation as a transgender woman trapped inside a man's body. Visiting the Ayatollah, however, required penetrating multiple levels of security before coming face-to-face with him. Therefore, it took her eight years after the revolution, in about 1986–1987,⁷ to meet him. She had worn a man's suit, carried a copy of the Quran, and tied shoes around her neck. The security guards, in fact, started beating her until Khomeini's brother, Hassan Pasandideh, suddenly saw and stopped them, and took her into the Khomeinis' living room, no less. Maryam Khatoon remembers warmly the time she entered their private quarters. "It was *behesht* [paradise]," Mulkara, 55, said of the meeting 22 years before. "The atmosphere, the moment and the person were paradise for me. I had the feeling that from then on there would be a sort of light" (Tait 2005). Khomeini listened to Maryam's story, then he consulted with three of his trusted doctors on her case and, within half an hour, he issued a fatwa allowing Maryam and all transsexual Muslims to undergo a sex-change operation. As Maryam explained: "On the same day, she was gifted a *Chadoor* (Islamic *Hijab*) from Khamenei, the president of Iran at the time and second Supreme Leader after Khomeini. Therefore, she started to wear women's clothes again and have Islamic *Hijab*. She was also introduced to forensics and could get the first licence for an SRS operation in Iran by state law on the same day" (Bloor 2006). Also, she obtained a new birth certificate at the same time (Kariminia, 2010, p. 219).

Although Maryam could not undergo the surgical operation until 1997, her struggles and efforts thrust Iran into the role of a global leader for SRS. The Islamic government followed the fatwa and changed the state law. Even under the current state law of Iran, transgender SRS is allowed and supported by the government. Transgender people have the security of a new birth certificate, a new identity card, and a new passport, as well as access to a few other facilities for their operations, such as through a loan provided by the government.⁸

Maryam received the famous fatwa from Khomeini, but her actions did not stop there. She established an organization to advise and help transgender people. In the end, after a long struggle for equality and transgender people's rights, she died in 2012 after a heart attack, in her 60s. Though Maryam's efforts gave practical application to an embedded Islamic tolerance toward transgenderism in shari'a law and thus state

law,⁹ it would take even longer to be tolerated by the patriarchal society.¹⁰

Reviewing the fatwas

As we have seen, the struggles of Sally and Maryam caused two Islamic neo-traditionalist Muftis to issue fatwas legalizing SRS. In this part of the paper, I shall review these fatwas, which had a religious, political, and cultural influence on Islamic societies.

Al-Tantawi's fatwa on sex-change operations, issued June 8, 1988

I use here a summarized version of the fatwa, translated by Skovgaard-Peterson (Skovgaard-Peterson, 2015).

As for the condemnation of those who by word and deed resemble women, it must be confined to one who does it deliberately ..., while one who is like this out of a natural disposition must be ordered to abandon it, even if this can only be achieved step by step. Should he then not comply, but persist [in his manners], the blame shall include him, as well—especially if he displays any pleasure in doing so.

The person who is by nature a hermaphrodite (*mukhan-nath khalqi*) is not to be blamed. This is based on [the consideration that] if he is not capable of abandoning the female, swinging his hips in walking and speaking in a feminine way, after having been subjected to treatment against it, [he is at least willing to accept that] it is still possible for him to abandon it, if only gradually. But if he gives up the cure with no good excuse, then he deserves blame.

Al-Tabari took it as an example that the Prophet ... did not forbid the hermaphrodite from entering the women's quarters until he heard him giving a description of the women in great detail. Then he prohibited it. This proves that no blame is on the hermaphrodite for simply being created that way.

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. This is also dealt with in a hadith about cutting a vein, which is related through Jabir (a famous companion of the Prophet): "The Messenger of God sent a physician to abu ibn Kacb (one follower of the Prophet). The physician cut a vein and burned it." This hadith is related by Ahmad

[b. Hanbal] and Muslim. What supports this view is what al-Qastallani and al-Asqalani say in their commentaries on it: “This means that it is incumbent upon the hermaphrodite to remove the symptoms of femininity.”

And this is further sustained by the author of Fath al-Bari, who says, “Having given him treatment in order to abandon it ...” is clear proof that the duty prescribed for the hermaphrodite can take the form of a treatment. The operation is such a treatment, perhaps even the best treatment. This operation cannot be granted at the mere wish to change sex with no clear and convincing corporal motives. In that case it would fall under that noble Hadith which al-Bukhari relates through Anas: “The Messenger of God cursed the hermaphrodites among the men and the over-masculine women, saying ‘expel them from their houses’, whereupon the Prophet himself ... expelled one, and Umar expelled another one.” This Hadith is related by Ahmad and al-Bukhari.

To sum up: It is permissible to perform the operation in order to reveal what was hidden of male or female organs. Indeed, it is obligatory to do so on the grounds that it must be considered a treatment, when a trustworthy doctor advises it. It is, however, not permissible to do it at the mere wish to change sex from woman to man, or vice versa.

Khomeini’s fatwa on sex-reassignment surgery, issued 1987

“In the Name of God. Sex-reassignment surgery is not prohibited¹¹ 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.”¹²

Also it is necessary to mention that there is another fatwa from Khomeini on this case, issued long before in 1964, in his book *Tahrir al- Wasilah* (Vol. 2, p. 626):

It seems that the sex-reassignment surgery for male-to-female 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 [female or male]; and [if one asks] is a 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.¹³

Analyses of the fatwas, based on the traditional methodology of *ijtihad*

Tantawi’s case

Since Tantawi’s fatwa was not completely clear, both groups could refer to it in support of their visions. Moreover, Sally’s case was a transgender case, but the issued *fatwa* was more about hermaphrodite people or, at least, it has been interpreted as referring to this group. In addition, in al-Tantawi’s view, people cannot choose to undergo surgery “at the mere wish to change [their] sex.” Because, from his Islamic perspective, nobody can change his/her God-given gender, but s/he can find that her/his bodily structures are, at best, ambiguous, based on his binary logic, s/he can have a specifically gendered anatomy (male or female) through medical therapy. All these points caused scholars, who have studied this case in detail, to critique the fatwa and its vagueness in relation to transgender Muslims (Kugle, 2010; Skovagaard-Peterson, 1995; Veneuse, 2010). Skovagaard-Peterson, one of these scholars, explicitly stated that “far from legalising a sex-change operation, Tahtawi’s fatwa denied the possibility of performing one altogether.” However, I think, given the limitations of the classical method of *ijtihad*, Tantawi’s fatwa could be considered a progressive one. There is, indeed, a positive attitude and tolerance towards transgender Muslims. I shall try to investigate and show such an approach, in Tantawi’s fatwa.

Tantawi, unlike most traditional Sunni scholars, presents a new *ijtihad* on the case of transgender issue. As a Shafi’i, he follows the Shafi’i legal school.¹⁴ In line with the first stage of his method, he has to return all cases to the scriptures (Qur’an and hadiths), and then to the consensus of Muslims, before resorting to the second stage: doing *ijtihad* through his opinion (*ra’y*) or analogy (*qiyas*). He does, however, already know that the subject of transgenderism, as such a new phenomenon, may not be found directly in the scriptures. As the case is also controversial among Muslims, there is also no consensus. In this way, through his expanded knowledge of shari’a and great proficiency in *ijtihad*, Tantawi goes back to the analogous cases and applies analogy at the second stage. He soon finds cases that might help with the issue of transgenderism; hermaphroditism, and effeminate *mukhannath*.¹⁵

Based on a hadith and al-Tabari's understanding of the hadith, he, at first, acknowledges that the Prophet did not forbid the hermaphrodite and *mukhannath* from entering the women's quarters until he heard them giving a description of the women in great detail. Tantawi thus concludes that the person who is naturally a hermaphrodite or a mukhannath is not to be blamed but, as s/he has a disease, s/he must be cured. Tantawi, however, excludes persons who are not mukhannath by nature.

As a second step, Tantawi collects some evidence in favor of SRS as a cure for hermaphrodites and mukhannaths. At this stage, he refers to a hadith of the Prophet, who says that there is a cure for every disease, including hermaphroditism. He also refers to a hadith recorded by the two greatest hadith scholars Ahmad b. Hanbal and Muslim through Jabir (a famous companion of the Prophet). It says that the Prophet sent a physician to a man to cut a vein and cure him by such method. Referring to al-Qastallani's and al-Asqalani's comments on this hadith, (discussing the hermaphrodite and mukhannath and how to remove the symptoms of femininity), Tantawi concludes SRS could be permissible for hermaphrodites and mukhannath.

But, in his view, as a third and final step, such an operation needs permission from reliable doctors. It means Tantawi, besides analogy, employs a new science, such as psychological, medical, and surgical expertise. Therefore, his religious permission is ultimately based on sound professional advice. The important point is that the whole process, including the operation, must now be regarded as *treatment*. Given that, in effect, an operation is the best treatment, or the only way to be cured, s/he must undergo it "in order to reveal what was hidden by male or female organs."¹⁶ Conversely, Tantawi emphasizes, it is not permissible to carry out the operation at the mere wish or whim of the patient—that is, to change sex from woman to man, or vice versa.

One may well ask, where is the place of transgenderism in this fatwa? To answer this question we must first not forget that al-Tantawi had been asked to issue a *fatwa* on an identifiably transgender case. His fatwa, thus, must be related. He, does, however, only talk about hermaphrodite and effeminate mukhannath. He does so, either because he sees the condition of being transgender as similar, or he believes that the condition is, in essence, part of hermaphroditism, thus

called as such: psychological hermaphroditism (*al-khunutha an-nafsiya*). The latter could be true, based on this part of his fatwa in which he says: "if he is not capable of abandoning the female, swinging his hips in walking and speaking in a feminine way . . ." And the former could be true, if we consider his methodology of analogy mentioned above. In any case, Tantawi clearly accepts the principle of transgender SRS. By employing analogous phenomena or by regarding hermaphroditism as including transgenderism, and by then trusting the new method of psychology, then surgery, his permission to undergo SRS is a thoroughly Islamic one. It is for people who are hermaphrodites, or who feel trapped in the wrong body (*al-khunutha an-nafsiya*). In his mind, through SRS, what may be discovered is one's real gender/inward essence (*batin*), which is covered by an outward appearance (*zahir*).

To sum up, though Shaykh al-Tantawi prohibits undergoing SRS "at the mere wish," he gives, however, permission for the procedure to transgender people who feel that they are trapped in the wrong body and want to discover their real gender or sex. Such a fatwa, thus, has the capacity to expand the scope of tolerance in Islam toward transgenderism: either toward acceptance or at least coexistence.

Khomeini's case

At least one year before Tantawi, Khomeini issued a fatwa for a case of transgender change from male to female. The fatwa was not limited to this case. Unlike Tantawi's, Khomeini's fatwa was short but quite clear, allowing transgender Muslims to undergo SRS based on a recommendation by trustworthy doctors. Let us consider the fatwa again:

In the Name of God. Sex-change operation is not prohibited in shari'a law if reliable doctors recommend it. *Inshallah* you will be safe and hopefully the people whom you had mentioned might take care of your situation.

As we have seen, this latest fatwa of Khomeini's was not new. In his other fatwa, long before, he had discussed SRS, though in general. In fact, his old fatwa clearly includes every person who wishes to change her/his sex by this method. However, it seems that, according to the Shi'a School of *ijtihad*, if the SRS were not necessary and urgent, it could not be permissible by shari'a. Because, as Shi'a scholars explained, in such a case the sex-change will face other *harams*

(prohibited), such as watching and touching the genitalia of another person who is not your wife or husband (Kharrazi, 1999, p. 24; Mumen, 1995, p. 94–95; Muntazari, 1996, Vol. 2, p. 517–518). Therefore, in this instance, though the SRS is not prohibited in itself, because of other harams that proscribe temptation, it must be avoided unless it is conducted by hormone therapy or for children. However, since the SRS is considered necessary and urgent for transgender people, the fatwa in any case includes them.

Let us now consider Khomeini's method for providing transgender people with such a *fatwa*. As normal among Shi'a scholars, Khomeini did not cite his religious sources. He also did not discuss the case in his academic books or articles. However, it is still possible to enquire into his arguments by investigating his methodology.

Based on Shi'a Legal School, there are four sources to apply shari'a law (*hukm Shar'i*) to any case in Islam—that is, at the "first" stage: Kitab (Qur'an), *hadiths* (oral traditions of the prophet and the twelve Imams), *ijma'* (consensus), and *'aql* (reason). If a case does not have enough evidence in the sources above, the *hukm* should be understood by *al-Qawā'id al-Fiqhiyyah*¹⁷ (Islamic legal maxims) or *al-Usul al-'Amaliyyah*¹⁸ (procedural principles) at the level of the second stage. Khomeini, indeed, believes in this method (see Khomeini 1965, 1969, 1993, 1994, 1999). Therefore, *ijtihad*, according to Khomeini, is procedurally derived from shari'a laws through these sources, starting with Qur'an, hadiths, then *ijma'* (consensus) and *'aql* (reason) at the first stage, and then *Al-Qawā'id al-Fiqhiyyah* or *al-Usul al-'Amaliyyah* at the second stage (1994, Vol. 1, pp. 51–54; 1965, Vol. 2, p. 95). But analogy (*qiyas*), in this school of *ijtihad*, does not have validation (Sadr, 2003, pp. 48–50). Regarding this methodology, Khomeini should first return the case of transgender people to (the first stage of) Kitab, hadiths, *ijma'*, and *'aql*. However, as long as the subject of transgenderism is a new subject, there is nothing in the scriptures, Qur'an, or hadiths that clearly refers to it. No wonder the subject is quite controversial among Shi'a Muslim scholars. Moreover, at this first stage, there is no clear statement from *'aql* (reason) regarding transgenderism. Therefore, by his methodology of *ijtihad*, there is no way, except returning the subject to *al-Qawā'id al-Fiqhiyyah* or *al-Usul al-'Amaliyyah*, to seek a second solution. At this level, Khomeini could possibly

employ some different principles to derive shari'a law on transgender SRS.

There are, at least, two main arguments through *al-Qawā'id al-Fiqhiyyah* that Khomeini had possibly considered.

Firstly, there are two legal maxims called the "principle of permissibility" (*isalat al-ibahah*) and the "principle of lawfulness" (*isalat al-hillyyah*) which could be used as references to allow sex-reassignment surgery. In Shi'a scholarship, these general maxims mean that everything, or every action, that cannot be clearly categorized as being forbidden or permissible is allowed and lawful, except, of course, those things or actions that are explicitly forbidden (prohibited) in accepted Islamic sources (al-Khue'i, 1999, Vol. 2, p. 274).

Based on the above maxims, some of Khomeini's students, like himself, tried to justify the fatwa (Kharrazi, 1999, p. 23; Muntazari, 2002, p. 113). But they were then faced with a problem in the second step, that being SRS itself: As part of the procedure, the surgeon and his assistants must see or touch the genitalia of the patient, which is forbidden in Islam. They, therefore, returned to the original dictate, that SRS that is not urgent must be prohibited. This means the fatwa should be limited to the most necessary cases. Khomeini's fatwa, however, did not have such limitation, neither in the old version nor the new. He allowed it if trustworthy doctors (psychologists or physicians or both) recommended such a surgery. One may say, then, because of Khomeini's methodology in *ijtihad*, that the limitation must have been assumed by him. But it seems that it is not really clear and, as we shall see later, based on his extra ruling in *ijtihad*, called "the role of time and place in *ijtihad*," one could even say that this limitation does not exist.

Second, there is another Islamic legal maxim called the "principle of dominant" (*isalt al-taslit*). According to this rule, everybody has a right to, or control over, his/her body and property. Muslim scholars consider this highly rational, a rule which shari'a does not deny. But it is important to know that this right in Islam is limited to all possessions that are considered as rational within human beings. Indeed, changing the body by surgery is typically considered as rational. Based on this rule, everybody is eligible to use her/his right and, thus, can change her/his body through surgery (Kharrazi, 1999, p. 24). It is not hard to see that Khomeini partly based his *fatwa* on this rule.

From *al-Usul al-'Amaliyyah*, based on Shiite scholarship, Khomeini could consider the “priority of sharia exemption” (*isalt al-bara'at al-share'i*). Given this priority, if there is no clearly received evidence in Islamic sources (including unequivocal statements in scriptures or rational arguments) to forbid a subject or action, it would be practically considered permissible. This is because the famous verse of the Qur'an (17: 15) states that Muslims will not be punished without a received message, and a hadith from prophet Muhammad (al-Saduq, 1984, p. 417) says that Muslims are relieved of that which they do not know by clear received evidence.¹⁹ Based on this principle, it can be concluded that, as long as there is no received evidence against transgender SRS, it should be considered permissible.

The final step before Khomeini issued the fatwa was to consult with some scientists. Based on Mulkara's report, she had sent two letters to Ayatollah Khomeini on her case. But, on both occasions, Khomeini mistakenly thought she was a hermaphrodite and so told her to practice Islam as such. This prompted Mulkara to meet him in person and explain her situation. Khomeini then consulted scientists about the issue, including psychologists, physicians, and surgeons (see Tait, 2005). He wanted to understand the subject clearly. Finally, through this dialogue with experts and relying on their professional opinions, he could go on further in his *ijtihad* and provide such a *fatwa* on transgender SRS.

Besides all this, there is still another important principle in Khomeini's methodology of *ijtihad* that influenced his *fatwa*. This principle has been named “the role of time and place in *ijtihad*” by the man himself (Khomeini, 1989). As he explained, *ijtihad* is dynamic when considering two important factors of time and place. If a subject has a special *hukm* in shari'a in a particular time or place, the same subject, because of a different political and societal situation, might be changed in its *hukm*. It means *ijtihad* can adapt to cultural conditions, which inevitably change over the passage of time and variation in place. This rule makes the Islamic shari'a laws flexible over time and space or, in general, across cultures. Some revisionist Islamic scholars, such as Fazlur Rahman (in 1999 and 1982), have also discussed this principle. But it seems that Khomeini came to this conclusion separately, through his personal experiences, struggling

with the Iranian regime before the revolution and leading the country after it, as Supreme Leader. During his leadership, Khomeini used this principle as a main key to resolve or modify different kinds of shari'a problems, such as old versions of shari'a laws on music, chess, and a women's right to be elected to parliament. Transgender SRS is one of these cases Khomeini saw as pertinent to the new situation: postrevolutionary culture could provide it with a new fatwa. Based on this rule, he issued the fatwa generally, without limitations that traditional Muslim scholars would consider; while he did not himself explicitly cite any restrictions to it. It probably means he did not believe in such traditional limitations for surgery, because of the new cultural situation regarding human life.

Conclusion and further discussion

In this article, I have tried to show how Islamic scholars, who might be called neotraditionalists, could deal with the modern issue of transgender SRS. I have explained that these scholars, whilst following the traditional methodology of *ijtihad*, in fact realized its potency by producing an enlightened fatwa. While Khomeini's fatwa clearly represents a tolerant approach to transgender SRS, Tantawi's fatwa can likewise be considered a tolerant approach, either because it accepted transgender SRS or, at least, could deal with it. Inspired by such fatwas, one may wonder if traditionalist jurists could provide new fatwas on analogous phenomena, such as homosexuality and bisexuality, and their legalization? Hojatulislam Kariminia, a Shiite cleric, says, “Absolutely not” in answer to this question (<https://www.youtube.com/watch?v=fi3jhhBUXmg>). Is there really no door of discussion that can be opened? In the last decade, indeed, some revisionist Muslim scholars have presented several alternative interpretations of Islamic sources on homosexuality and bisexuality (Habib, 2010, 2007; Kugle, 2014, 2010; Naraghi, 2015). In this article I am not discussing the revisionist scholar's approach. Also I am not taking the clerics' approach, such as Kariminia, who are not Mufti and thus ineligible to issue fatwas on new phenomena. Rather, my query is addressed to neotraditionalist Muslim jurists: Is there any door could be opened onto these new subjects through the traditional method of *ijtihad*?

It has been strongly pointed out (Habib 2007; Kugle 2010), on the one hand, there is no clear verse in the Qur'an that discusses homosexuality or bisexuality. Rather, it addresses a certain sexual behavior in the verses relating to the tribe of Lot. And, on the other hand, there are different hadiths in this field, which either are fabricated or include only sexual aggression. Moreover, there is, toward these modern sexual phenomena, also no consensus and reason (both planks of *ijtihad* as we have seen). Therefore, we may indeed ask Muslim neotraditionalist scholars who follow this methodology of *ijtihad*, what are the shari'a laws or Islamic approaches in such cases?

It seems that these neotraditionalist scholars, based on their methodology of *ijtihad*, may revise the fatwa away from traditionally condemning same-sex relations. Given there is no sufficient evidence against same-sex relations (homosexuality and bisexuality) in the Qur'an, hadiths, consensus, and reason, Khomeini's followers, indeed, could apply his principle of the role of time and place on these openly lived modern phenomena. They could revise the traditional fatwa on same-sex relations by referring to the principle of permissibility (*isalat al-ibahah*) or the principle of lawfulness (*isalat al-hillyyah*), as well as the priority of shari'a exemption (*isalt al-bara'at al-share'i*). Tantawi's followers also could provide a new fatwa regarding this subject by using the analogous case of transgenderism—that is, that of trusting in the modern science of psychology, gender studies, and sexuality. In addition, they could recognize that Islam's most important source, Qur'an, clearly addresses the ethic of diversity and tolerance among human beings, including gender and sexual diversity (Q. 49: 13; 11: 118; 5: 48). As El Fadl explains, diversity is part of God's purpose in creation, but traditional Muslim scholars have not explored the meaning and implications of the diversity accepted by the Qur'an. He writes: "In fact, the existence of diversity as a primary purpose of creation ... remained underdeveloped in Islamic theology." (El Fadl, 2002, p. 16) These points evoke the question as to how condemnation and criminalization of homo/bisexuality coheres with Islamic sources and whether traditional understanding of Islam is reliable and authoritative. This question could open up the possibility for neotraditionalist Muslim jurists to develop a tolerant approach toward same-sex relations. Given that, such an opened door could propel Islamic scholarship to provide homosexual and

bisexual Muslims with progressive *fatwas*, which could extend the scope of Islamic tolerance to these milieux.

Notes

1. They have tried to enlist a variety of arguments to support the prohibition of SRS (see Kanaan 2000) Kariminia 2010), but "wrongly interfering in God's creation" is these scholars' most important argument. Briefly explained, this means God has created everything as it is, including human beings, and God does not make mistakes. Therefore, what a person is, in fact, is her or his God-given nature. If sex-reassignment surgery is performed, then God's own creation is interfered with, a creation no one in existence has any right to alter. There is a verse in the Qur'an (4: 119) that 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" (Sahih International Translation of the Qur'an). Some Muslim scholars use this verse to argue that God commands us not to change the creation of Allah, otherwise, Satan will take shape instead of Allah and we will be acting against God's intrinsic nature. But, based on some hadiths and according to many commentators of the Qur'an (see Kariminia, 2010, pp. 124–131), in this verse "changing the creation of Allah" does not refer to the body or to sex-reassignment surgery but refers to changing religion, namely Islam, and God's commands.
2. I use the term neotraditionalist here in the meaning El Fadl (2001) and Kugle & Hunt (2012) have used. According to them, neo-traditionalists believe in "Islam as a solution for all social problems and personal ailments." They "articulate an ideology of defending Islam against assault by outside forces, but are ambivalent about supporting a particular tradition of Islamic practice from the past. They often are selective about what elements of past Islamic tradition to advocate for the present, and adapt scientific and technological discourse to their defense of Islam. The authoritarian streak in 'Neo-traditional' discourse is often underplayed or hidden, in order to appeal to modern or secular audiences and to distance the discourse from the politics of particular Islamist movements and their regional militancy or local tactical compromises." (Kugle & Hunt, 2012, p. 265)
3. Both fatwas of Khomeini and al-Tantawi have been criticized for being issued on the basis of the binary logic of male and female gender. Therefore, the fatwas cannot be used to defend transgender Muslims who wish to live as third gender. However, I believe that, although al-Tantawi's fatwa is vague and clearly built on a gender binary logic, Khomeini's fatwa was issued on other grounds that may leave room for a discussion on transgender Muslims as a third gender. It seems that this discussion is still open

- within Muslim scholarship and needs to be explored more by neo-traditionalist or revisionist Muslim scholars.
4. It should be noted that there are, at least, two different analyzes of *ijtihad* among Muslim scholars. In the first analysis, that I also employ here, *ijtihad* is a method to endeavor to derive Islamic shari'a laws from reliable sources, such as the Qur'an, *Hadiths* (oral traditions of the prophet or his close companion), *Ijma'* (consensus), and *'Aql* (reason). In the second description, *ijtihad* consists of drawing on personal opinion (*ra'y*) or analogy (*qiyas*) in cases that are not covered by the Qur'an and hadiths. Shi'a scholars do not believe in the second meaning of *ijtihad*. Sunni scholars, on the other hand, while holding both meanings to be true, emphasize for *ijtihad* the second one, i.e., *qiyas* or personal opinion (see al-Jassas, 1994, Vol. 4, pp. 23, 273; Ibn Qudameh al-Maqdasi, 2002, Vol. 2, pp. 333–334, 338–341).
 5. There is a parallel category of *mutarajjalat* in Muslim culture for women who behaved like men (see Kugle, 2010; Bouhdiba, 2012).
 6. In her recent book *Professing Selves*, Najmabadi (2014) explains the discursive space on transgender issues and SRS in contemporary Iran. She also analyzes the history of Iranian transsexual movements from 1920 to 2006.
 7. Because of differences between the Iranian and Western calendar, the meeting could have been in 1986 or 1987. And, as Ms. Mulkara did not mention which month the meeting was, it is not possible to determine the (Western) year. But that Kariminia understood, in his interview with her, that the date was 1984 is contentious. Firstly, because she mentioned the date 1986/1987 in all other interviews and, secondly, because Maryam did not actually mention any date in her interview with Kariminia, but Kariminia himself came to this conclusion from her narration of the meeting with Khomeini (see Kariminia, 2010, pp. 218–219).
 8. Even though Khomeini's fatwa, as I am explaining in this article, should be considered as a positive step on transgender issues in Iran, unfortunately, according to some reports (Hamadani, 2014), the Iranian authorities misuse the *fatwa* by pushing sexual minorities who do not belong to the transgender group, such as homosexual or bisexual people, to undergo SRS.
 9. Nowadays, the Islamic Republic of Iran is the capital of SRS after Thailand. Dr. Mirjalali says that, in Europe, a surgeon would perform about 40 sex change operations in a decade, whereas in Iran, he has done 320 in the last 12 years (Harrison, 2005; Tait, 2005). However, Iranian conservative traditional scholars are still trying to reconcile the fatwa with Islam and shari'a law. Muhammad Mehdi Kariminia, a cleric in the city of Qum, wrote his PhD thesis on the transgender issue (ibid). He has also published two books, in 2010 and 2013, in this field.
 10. There are a number of sources describing and explaining Maryam's case. They discuss the transgender issue in Iran in more detail (e.g., see Bloor, 2006; Fathi, 2004; Harrison, 2005; Kariminia, 2010; McDowall & Khan, 2004; Tait, 2005).
 11. It should be noticed that when a Mufti says something is not prohibited, it means the case is permissible or lawful in Islam, but it does not necessarily mean it is obligatory.
 12. Translation of the fatwa is by the author. An image of the original *fatwa* can be seen on this website: <http://www.iranhrdc.org/english/publications/reports/1000000398-denied-identity-human-rights-abuses-against-irans-lgbt-community.html>
 13. Translation of the fatwa is by the author.
 14. Imam al-Shafi'i, founder of the Shafi'i Legal School, as other Sunni scholars, applies *ijtihad* in line with the second meaning, mentioned earlier. He emphasizes that one may use *ijtihad* only if one has sufficient knowledge and skill to first return issues into Qur'an, *hadiths*, and a consensus of Muslims; when these sources are found not to deal sufficiently with certain topics, one may then return the cases involved to *qiyas* or analogy (see al-Shafi'i, 1938, p. 508). For the use of analogy to discover the sharia law of a certain topic, Shafi'i cites a variety of conditions (al-Shafi'i, 1938, pp. 508–512). Al-Tantawi, as a Mufti who does practice *ijtihad* through the Shafi'i School, follows these conditions with a high degree of concern (see al-Tantawi, 1997).
 15. It seems that Tantawi belongs to the group of Muslim lexicographers, such as al-Khalil, who believe in Mukhannath as hermaphrodite people who, therefore, should be categorized in that group.
 16. This part of the *fatwa* includes a remarkable point that Skovagaard-Peterson explained very well: "Here he makes an interesting remark: what the doctor should be looking for is a buried female or a covered male nature, which can then be brought to light by means of the surgery. This amounts to saying that every human being has one true sex which may be covered by limbs or organs belonging to the other sex. Tantawi thus makes a distinction between an outward appearance [*zahir*], which may be deceptive, and an inward essence [*batin*] which is always true; a well-known and important theme in Muslim culture." (Skovagaard-Peterson, 1995)
 17. These maxims consist of general principles or shari'a laws that are comprehensively or predominantly applicable to their specifics. For study about these maxims see Sadr (2003).
 18. These principles consist of rules that do not derive from or discover the *Hukm Waqe'i* (real Islamic law); they only tell us how to tackle in practice what is sometimes called *Hukm Zaheri* (apparently Islamic law). For study about these principles, see Sadr (2003).
 19. For study about this priority, see Sadr (2003, pp. 123–125).

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Appendix. Glossary of terms from Arabic.

- 'aql**: a type of reasoning in ijtiḥad relies on rational arguments
- al-khunutha al-nafsiya**: psychological hermaphroditism (see also *khunth*)
- al-qawā'id al-fiqhiyyah**: Islamic legal maxims (These maxims consist of general principles or shari'a laws that are comprehensively or predominantly applicable to their specifics.)
- al-usul al-'amaliyyah**: procedural principles (These principles consist of rules that do not derive or discover the *hukm waqē'i* (real Islamic law); they only tell us how to tackle in practice what is sometimes called *hukm zaḥeri* (apparently Islamic law).)
- batin**: inward essence
- chadoor**: a type of Islamic hijab for women
- fatwa**: Islamic legal decision given by recognized authorities
- fiqh**: Islamic jurisprudence developed by Muslim jurists
- hadiths in Shi'a scholarship**: oral traditions of the prophet and the twelve Imams
- hadiths in Sunni scholarship**: oral traditions from the prophet and his close companions
- haram**: forbidden
- hijra**: a person born with male sex organs and raised as a boy who assumes a female identity and voluntarily undergoes ritual castration to remove his testicles and penis
- hukm waqē'i**: real Islamic law as it is in the Islamic sources
- hukm zaḥeri**: apparently Islamic law only for practice
- hukm**: command—in Islamic legal context, refers to an Islamic ritual or law, derived from Islamic sources
- ijma'**: a type of reasoning in ijtiḥad relies on consensus of Muslims in general (or only Muslim scholars) on an Islamic law
- ijtiḥad**: an Islamic method to endeavor to derive Islamic rituals and laws from reliable Islamic sources
- inshallah**: God willing
- isalat al-hilīyyah**: principle of lawfulness; this maxim means that everything or every action that cannot be clearly categorized as being forbidden or permissible is lawful excepting, of course, those things or actions that are explicitly forbidden (prohibited) in accepted Islamic source
- isalat al-ibahah**: principle of permissibility; this maxim means that everything or every action that cannot be clearly categorized as being forbidden or permissible is allowed excepting, of course, those things or actions that are explicitly forbidden in accepted Islamic source
- isalt al-bara'at al-share'i**: priority of sharia exemption; given this priority, if there is no clear received evidence in Islamic sources (including unequivocal statements in scriptures or rational arguments) to forbid a subject or action, it would be practically considered permissible
- isalt al-taslit**: principle of dominant; regarding this rule, everybody has a right to, or control over, his/her body and property
- khasi**: a eunuch—a person born with male sex organs and raised as a boy until castrated
- khuntha**: hermaphrodite/intersex—a person who possesses both male and female sex organs or genitals
- kitab**: other name for the Qur'an, especially among Muslim scholars
- liwat**: sodomy
- mamsuh**: a person who lacks either male or female genitals
- maslahat al-ahwal al-madaniya**: the administration of civil matters
- mufti**: an Islamic scholar who is eligible to issue fatwas explaining Islamic laws on different cases
- [mukhannath]**: effeminate man who is physically male but likes to dress and act as female
- mutarajjulat**: a girl or a woman who behaves like a man in dress, speech, and so on
- qiyas**: a type of reasoning in ijtiḥad that relies on analogy
- ra'y**: a type of reasoning in ijtiḥad that relies on scholar's opinion
- shafe'i**: a person who follows Imam al-Shafi'i, the founder of the Shafi'i legal school
- shafi'i legal school**: is one of the four schools of Islamic law in Sunni Islam
- shari'a law**: Islamic ritual and legal system based upon the Islamic sources, such as Qur'an, Hadiths, Rational Reasons, etc.
- twelve Imams**: twelve persons from the family of the prophet Muhammad who are the successors to him in Shi'a Islam
- wajib**: obligatory
- zahir**: outward appearance