

Fatwa Number 1288 – Egypt

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Mufti: Shiekh Gad Al-Haq

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Question: On a request sent from Mr. As A. from Malaysia, which includes that The Islamic Center of Research in Malaysia has asked him for a report on the Islamic Sharia law for performing surgery to turn a man into a woman and similar topics. And showing if there are law and jurisprudence texts to support that. The requester asked for a lawful verdict on that topic so that it could be sent to the Malaysian government.

Fiqh Rule: Performing surgery to turn a man into a woman or vice versa when it is used to show an existing organ that is hidden, which is not allowed based on just the desire to change.

Full Fatwa

Usama ibn Sharik says: "A bedouin came to the Prophet (ﷺ) and said: 'O, Messenger of Allah, can you cure?' The Prophet (ﷺ) replied, 'Yes, for Allah did not send a disease without sending a cure for it, knowing it from His knowledge.' This [Hadith] is told by Ahmad [ibn Hanbal]. Another version of the Hadith: "Some Bedouins said: "O, Messenger of Allah, can you cure?". The Prophet (ﷺ) replied: "Yes. Allah's servants can cure themselves, for Allah never gave a disease without providing a cure or medicine for it, except for one disease." They asked, "O, Prophet of Allah, what disease is that?" He replied, "old age." Told and authenticated by Ibn Mageh, Abou Dawood, and Al-Tormuthey (Muntaqi l-Akhbar Wa Sharhan by Neel Al-Awtar by Al-Shawkani L.8 P.200). Another Hadith told by Gaber who said: "The holy prophet of Allah sent a doctor to Ubayy ibn Ka'bKa'b to treat him. The doctor cut off a vein from him, then cauterised it" This [Hadith] is told by Ahmed [ibn Hanbal] and Muslim [ibn al-Hajjaj] (Previous reference P.204)

Another [Hadith] from Arfaga who lost his nose in Al-Kulab War: "My nose was injured in Al-Kulab War, so I made a new nose from paper (sliver), but it became stinky. So, the holy Prophet (ﷺ) ordered me to replace it with a nose made from gold" (Authenticated by Al-Tormuthey and explained by Ibn Al-Arabi Al-Maleki L.7 P.269-270 first edition. The Egyptian Bahia Press in Al-Azhar in the year 1350 AH - 1931 A.D.). Ibn' Arabî explained this Hadith, saying that what is forbidden (gold) can be permitted when necessary for medical treatment.

Another Hadith from Urwa ibn al-Zubayr, says that Zainab bint Abi Salama told him that: "Umm Salamah told her that the Holy Prophet came into her house while a Mukhannath (effeminate man) was inside the house. The Holy Prophet says there is no sin on those who are naturally born Mukhannath. However, they are obligated to attempt to remove themselves from such status. Those who insist on being in the Mukhannath status are reprehensible." (Authenticated by Al-Bukhari, with the explanation of Irshad Al-Sari, by Al-Qastalani, vol. 7, p. 1460. sixth edition. The Amiri Press in Bulaq 1305 AH with Al-Nawawi's commentary on Sahih Muslim in the chapter on expelling imitating women from homes).

From Fath Al-Bari explained from Al-Bukhari (L.9 P.273. Edition printed in 1348. The Egyptian Bahia Press in Al-Azhar in Al-Azhar) from Ibn Hagar Al-Asqalani's Chapter on effeminate men: "Men who adopt feminine talking and walking are only cursed when they intentionally do it out of enjoyment and insist on such behaviour, although being obligated to abandon this cursed behaviour. If they are naturally born with this behaviour, they must leave this addiction gradually. Those born Khuntha are not blamed for their behaviour, although they should attempt to leave their effeminate ways of walking and talking after receiving treatment, even if gradually. If they do not do so without an excuse, then they are to blame." Al-Tubri inferred that the Holy Prophet (ﷺ) did not ban the Mukhannath from entering women's rooms until he heard a Mukhannath describe the women's looks and bodies to men in detail; then, he forbade him from entering. This means there is no blame on those born this way.

The jurisprudence evolving from these [Ahadith] and others that talked about medication allows for sex change surgery for a man to transition into a woman and vice versa, only when a doctor concludes that there are biological necessities to do so to reveal what is hidden from female or male organs. These surgeries are permissible as they uncover hidden organs to treat a physical ailment, which can only be treated with this kind of surgery, as mentioned in Ubayy ibn Ka'ba's [Hadith], where a part of his body was cut to treat him.

This is also supported when reading the explanations from Al-Qastalani and Al-Asqalani, who concluded that the Mukhannath should seek treatments to remove their feminine behaviour. Furthermore, what came in the words of Fath Al-Bari proves that there is an obligation on Mukhannath to get treated to remove his femineity; this treatment may be with surgery, as it might be the best solution. However, surgery is not allowed out of mere wish but only out of medical and physical necessity. Those who do the surgery without these conditions are subject to the [Hadith] told by Al-Bukhari from Anas, who said: "The Prophet cursed those men who are effeminate (Muhkannathen), and women who imitate men (Mustrijlat) and ordered them to be expelled from your homes. The Prophet removed one person, and Omar removed another." Told

by Ahmad [ibn Hanbal] and Al-Bukhari (Muntaqi I-Akhbar Wa Sharhan by Neel Al-Awtar by Al-Shawkani L.6 P.192)

To sum it up, it is permissible to do the surgery to reveal what is hidden from the male or female organs, and it is even an obligation once the doctor concludes that this is the best treatment to reveal those organs. However, the surgeries are forbidden if performed out of a mere desire to change one's sex from female to male or male to female. And praise Allah who created and equated and destined and guided. The holy Allah is the all-knower.

