

Transgenderism, Transsexuality and Sex-Reassignment Surgery in Contemporary Sunni Fatwas*

SERENA TOLINO (Universität Hamburg)

Abstract

This paper analyses the contemporary Sunni discourse on transgenderism, transsexuality and sex-reassignment surgery (SRS), looking at contemporary fatwas by traditionalist jurists. After a terminological introduction to the semantic field of transsexuality and transgenderism in the international discourse and in the Arab world, the paper analyses the verses in the Quran and the relevant hadiths that are mentioned in the contemporary discussion, before examining what jurists say on the topic. The paper shows that sex-reassignment surgery is mostly regarded by Muslim jurists as permitted in cases of intersexuality, as it is considered a treatment to determine the sex of the person, but is usually considered forbidden in cases of transgenderism, as it is considered a change in God's creation. The paper finally argues that the discussion on SRS by Muslim traditionalist scholars is driven by an essentialised perception of the sex/gender binary and the roles assigned to men and women that is not only shared by those scholars who refuse SRS, but also by those who allow it.

Key words: transgenderism, transsexuality, SRS, Islamic law, gender dysphoria, gender identity disorder (GID).

1. Introduction

Over the last two decades, a number of works on sexual minorities and Islam have been published. Scholars have particularly focused on homoeroticism and/or homosexuality: some authors have written on queer-friendly hermeneutics and on the efforts of homosexual Muslims to reconcile their religion and sexuality;¹ others have focused on the emergence of LGBTIQI (lesbian, gay, bisexual, transsexual, queer, intersexual) identities, in either the 'real'² or in the 'virtual' world.³ If we restrict our attention to the legal sphere, a number of publications have been devoted to same-sex acts and/or homosexuality in Islamic Law.⁴ For what goes under the 'modern' category of 'intersexuality', Peter Freimark has analysed

* I would like to thank Carlo De Angelo, Thomas Eich and Ashraf Hassan for their invaluable comments on earlier drafts of this article.

1 See especially KUGLE 2003 and 2010; SHANNAHAN 2009; SHAH 2016.

2 See for example KUGLE 2013; MAKAREM 2011. For LGBTIQI Muslims in Europe see, for example, YIP 2008; NAHAS 2003; HEKMA 2002.

3 See for example WALSH-HAINES 2012; MARCOTTE 2010; BROUWER 2004; COLLINS 2012; GORKEMLI 2012.

4 See SCHMITT 2001-2002; ADANG 2003; OMAR 2012; KUGLE & HUNT 2012; TOLINO 2013 and 2014.

the case of the hermaphrodite in Islamic and Jewish law,⁵ Agostino Cilardo and Paula Sanders have discussed the doctrine on the hermaphrodite in classical Islamic law,⁶ and Thomas Eich has discussed the case of the intersexual in contemporary Islamic law.⁷ When looking at transsexuality, Roland Littlewood has discussed the case of the sworn virgins in northern Albania,⁸ Unni Wikan has described transgender lives in Oman in the 70s,⁹ Serena Nanda and Gayatri Reddi have described the lives of *hijras* in India,¹⁰ and Afsaneh Najmabadi has written a history of transsexuality in Iran.¹¹

Few articles addressed the issue of sex-reassignment surgery (from now on, SRS) on the legal level: Hammadi Redissi and Slah Eddine Ben Abid have discussed the refusal of the Court of Appeal of Tunis to change the civil status of a transgender person,¹² while Jakob Skovgaard-Petersen has analysed the case of Sayyid/Sally, an Egyptian transsexual and the problems she faced when she decided to change her sex.¹³ The same case has also been analysed by Badouin Dupret as a case study of how moral principles are relevant to the judge's work in Egyptian jurisprudence.¹⁴ Fe Dergi has analysed Turkish law in relation to SRS and its relevance in the field of sexual citizenship,¹⁵ while Fawwāz Ṣāliḥ has worked on sex change in Syrian law.¹⁶ More recently, in 2017, M. Alipour has published an article on Islamic law and SRS, using as a case study the fatwas of Khomeini¹⁷ and Tanṭāwī on this topic.¹⁸

My aim in this article is to build on these contributions, and particularly on Alipour's work, and to incorporate into analysis a wider number of fatwas in order to reconstruct the discourse on transsexuality, transgenderism and SRS in the contemporary Sunni legal discourse. Through an analysis of these sources, I will show how even those fatwas that seem at first sight 'progressive' are based on inherently patriarchal and traditionalist arguments. In this sense, I build on Thomas Eich's interpretation of discourses on hymen repair (hymenorrhaphy) in Sunni Islamic law. Indeed, in an article on the Arabic internet debate around this topic, he demonstrated how both supporters and opponents of hymenorrhaphy base their discourses on the same patriarchal assumptions, namely the passivity of women

5 FREIMARK 1970.

6 SANDERS 1991; CILARDO 1986.

7 EICH 2008.

8 LITTLEWOOD 2002.

9 WIKAN 1977.

10 NANDA 1999; REDDY 2006. See also KALRA & SHAH 2013.

11 NAJMABADI 2008 and 2014. On Iran see also BAHREINI 2008; JAVAHERI 2010.

12 REDISSI & BEN ABID 2013.

13 SKOVGAARD-PETERSEN 1997: 319-334.

14 DUPRET 2001; 2002; 2013.

15 KURTOĞLU 2009.

16 ṢĀLIḤ 2003.

17 The correct transliteration of the name should be Ḥomeinī. Because of his prominence and in order to ensure the recognisability of his name, in this paper I use the simplified and common-spread version Khomeini.

18 ALIPOUR 2017.

and the necessity to protect them (from violence for example, but also from cases of ‘mistakes’). Hymen repair therefore ‘is usually not seen as a means to fundamentally transform social structures, but rather a way of perpetuating them’.¹⁹ The same can be said with reference to discourses on SRS, as we shall see.

This article is divided into three main parts: in the first part I discuss the concepts I will use in this article and the relevant Arabic terminology, in the second part I present what the sources of Islamic law, namely the Quran and the Sunna, say on the topic. In the third and last part of the article, I focus on the contents of the discussion on transsexuality, transgenderism and SRS in fatwas published by Sunni Muslim jurists from the 1980s to today.

2. Terminology: a short introduction to the semantic field of Transsexuality and Transgenderism

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 SRS 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.

The first authors to ‘invent’ a scientific category for people not feeling comfortable in their assigned sex were psychiatrists and sexologists from the late nineteenth century, during what Michel Foucault (d. 1984) called the ‘psychiatrization of perverse pleasure’,²⁰ to refer to this historical phase, in which any kind of sexual behaviour or identity that differed somehow from what was perceived as ‘the norm’ was scrutinised by psychiatrists. In 1886 the Austro-German psychiatrist Richard von Krafft-Ebing (d. 1902), mentioned in his *Psychopathia Sexualis*, one of the founding texts of modern sexology, what he called ‘metamorphosis sexualis paranoica’.²¹ A few years later, in 1910, the sexologist Magnus Hirschfeld (d. 1935) coined the term ‘transvestite’, which he applied to those people who desired to dress and live as much as possible as persons belonging to the other sex.²² He also founded a clinic where, under his supervision, the first sex-change operations took place in the 1920s and the 1930s.²³

¹⁹ EICH 2010: 763.

²⁰ FOUCAULT 1978: 105.

²¹ This short introduction to the term is based on STRYKER 2006: 1-17. The relevant passages from Richard von Krafft-Ebing’s *Psychopathia Sexualis* can be found in STRYKER & WHITTLE (eds.) 2006: 19-27.

²² Selections from this work are also reported *ibid.*: 28-39.

²³ In 1922 a bilateral orchidectomy was performed on the MtF (male to female) transsexual Rudolph/Dora Richter, followed in 1930 by a penectomy and a vaginoplasty. In 1930 also the MtF transsexual Einar Magnus Andreas Wegener/Lili Elbe started a series of surgeries that included the removal of testicles, the implant of ovaries, the removal of penis and scrotum, and finally a vaginoplasty and the transplant of a uterus, before she died from an infection she contracted after her last surgery. In 2000 David Ebershoff published a novel of her story (*The Danish Girl*), which was adapted into a film in 2016.

In 1949 the sexologist David O. Cauldwell (d. 1959) coined the term ‘psychopathia transexualis’ and used ‘transsexual’ to describe individuals who wished to live and appear as members of the other sex.²⁴ In 1966 the endocrinologist and sexologist Harry Benjamin, who claimed to have been the first to use the term ‘transsexual’ in a public lecture, published *The Transsexual Phenomenon*. According to him, it is preferable to use ‘transsexual’ instead of ‘transvestite’, as the second term only focuses on the desire to cross-dress, for him a symptom of a wider syndrome, transsexuality, that he considered the consequence of genetic and psychological disorders.²⁵

Since then, there has been a long debate on what defines a transgender and/or a transsexual person. On the medical level, since the 1980s, gender identity disorder has been used as the diagnosis to refer to what a person experiences as a result of the difference between his/her perceived sex and the one he/she was assigned at birth. For example, the tenth edition of the *International Statistical Classification of Diseases and Related Health Problems (ICD10)*, published by the World Health Organization in 1993 and last republished in 2016, includes under the category gender identity disorder ‘transsexualism, dual-role transvestism, gender identity disorder of childhood, other gender identity disorders and unspecified Gender identity disorder’. Transsexualism is defined as:

A desire to live and be accepted as a member of the opposite sex, usually accompanied by a sense of discomfort with, or inappropriateness of, one’s anatomic sex, and a wish to have surgery and hormonal treatment to make one’s body as congruent as possible with one’s preferred sex.²⁶

This is different from dual-role transvestism, defined as:

The wearing of clothes of the opposite sex for part of the individual’s existence in order to enjoy the temporary experience of membership of the opposite sex, but without any desire for a more permanent sex change or associated surgical reassignment, and without sexual excitement accompanying the cross-dressing.²⁷

The forthcoming edition of the ICD (ICD11), which is due to be published in 2018 and is currently available as a beta-version, speaks instead of ‘gender incongruence’:

Gender incongruence is characterized by a marked and persistent incongruence between an individual’s experienced gender and the assigned sex. Gender variant behaviour and preferences alone are not a basis for assigning the diagnoses in this group.²⁸

The last edition of *The Diagnostic and Statistical Manual of Mental Disorders*, one of the standard manuals in psychiatry, published by the American Psychiatric Association, no

24 The text is reported in STRYKER & WHITTLE (eds.) 2006: 40-44.

25 BENJAMIN 1954, reported in STRYKER & WHITTLE (eds.) 2006: 45-52.

26 WHO 1993, s.v. ‘Gender identity disorder’.

27 Ibid.

28 WHO 2017, s.v. ‘Gender incongruence’.

longer mentions gender identity disorder but, instead, gender dysphoria,²⁹ in order to stress that the disagreement between sex assigned at birth and gender identity is not pathological if it does not cause distress to the individual.

In both the popular and the scholarly discourse, starting from the 1980s, the term ‘transsexual’ has been gradually substituted by ‘transgender’, whose first use is attributed to the American transgender activist Virginia Prince (d. 2009), who used it to refer to someone who crosses the gender boundary on ‘a full-time basis’.³⁰ With the publication in 1992 of the pamphlet *Transgender Liberation: A Movement Whose Time has Come*, by the transgender activist and author Leslie Feinberg (d. 2014),³¹ the term ‘transgender’ became a large umbrella that refers to all those persons whose gender identity or gender expression do not match their biological sex, and who do not necessarily go through SRS (in this case, the term ‘transsexual’ is usually preferred).³² This should not be interpreted as a definitive definition: indeed, different meanings have been assigned by different authors to the two concepts even in the same period. Though it is important to say, as Stryker and Aizura demonstrated, that since 1992 ‘transgender has experienced a meteoric rise in popularity compared to other familiar terms for describing gender nonconforming practices’.³³ This terminological and conceptual shift, as they noted, was the consequence of the ‘sudden appearance of new possibilities for thinking about, talking about, encountering, and living transgender bodies and lives’.³⁴ This was made possible by a number of changes that occurred in the 1980s and 1990s, such as the alliances forged during the AIDS crisis, the change of perspective on gender and identity, the popularisation of the sex/gender binary and the establishment of constructionist theories in reference to sexuality and gender ideas.³⁵ It is also important to mention that transgenderism is independent from sexual orientation: transgender people can identify themselves as heterosexuals, homosexuals, bisexuals, asexuals or even refuse all these categorisations.

The Arabic terms for transgenderism are *al-tahawwul al-ġinsī* (sex change/transformation), *tahawwul al-naw‘ al-iġtimā‘ī* (gender change/transformation), *tahwīl al-ġins* (sex change) or *tahannuṭ* (see below). The first three terms are modern concepts. While the first two terms are mostly used by LGBTIQ organisations, *tahwīl al-ġins* is used also by contemporary jurists to refer to either transgenderism/transsexuality or SRS. *Tahannuṭ* is the only of these concepts which is used also in pre-modern time. The term comes from the root *h-n-ṭ*, which the historian Everett Rowson explains as originally meaning ‘to fold back the mouth of a waterskin for drinking’,³⁶ and as being associated with the meaning of weakness and flaccidness.³⁷ We find this root also in the term *hunṭā*, which refers to her-

29 AMERICAN PSYCHIATRIC ASSOCIATION 2016, s.v. ‘Gender Dysphoria’.

30 STRYKER 2006: 4.

31 PIERCE 1992.

32 STRYKER 2006: 4.

33 Ibid.: 2.

34 STRYKER & AIZURA 2013: 1

35 Ibid.

36 ROWSON 1991: 672.

37 IBN FĀRIS al-QAZWĪNĪ, *Muġmal al-luġa*, s.v. ‘h-n-ṭ’.

maphrodite (intersex),³⁸ and has been used by Muslim jurists to identify a person who is missing some organs of his/her prevalent sex or a person who has the sexual organs of the male and those of the female together. For example, the Ḥanbali jurist Ibn Qudāma (d. 620/1223) describes the *ḥunṭā* as the individual who either does not have ‘the penis (*ḍakar*) of the male and the vulva (*farǧ*) of the female’, or has both ‘the penis of the male and the vulva of the female’.³⁹ The lexicographer Ibn Manzūr (d. 711/1312) defines the *ḥunṭā* as ‘the one that neither belongs to the male nor to the female’.⁴⁰ This term is particularly relevant also for our discussion on transsexuality and transgenderism. Indeed, when discussing SRS, Muslim jurists often deal with intersexuality and transgenderism together.

The term *muḥannaṭ* (pl. *muḥannaṭūn*), which can be roughly translated as ‘effeminate’, is also found in pre-modern sources:⁴¹ coming from the same root *ḥ-n-ṭ*, it is used to describe a man who resembles a woman in behaviour, posture, voice and dress. As we will see later, there is a hadith attributed to the prophet Muḥammad that mentions this term. The term *mutaraǧǧila* is the corresponding term in pre-modern Arabic to refer to a ‘masculine woman’. Contemporary authors also use sometimes the term ‘trans’ to refer to transsexual or transgender people without differentiation.

The entire process of change from one sex to the other, which includes not only SRS but also psychological treatment, hormone therapy, legal sex designation, change of name and so on, is called ‘transition’.⁴² We focus here on the surgery itself. SRS is also an umbrella term, as it used to refer to any kind of surgical procedure (or procedures), that a transgender person undergoes in order to bring his/her physical appearance in line with the gender he/she identifies with. SRS includes in reality a number of different operations that can be carried out, according to the case, like chest reconstruction surgery, genitoplasty, penectomy, etc. Some of these surgeries can also be performed on intersex people, often during their infancy.⁴³ In order to undergo such surgery, a transgender person usually needs a diagnosis of gender dysphoria: i.e., a diagnosis that recognises that the person’s assigned sex and gender do not match the person’s gender identity.

In Arabic SRS is rendered as *tagyīr al-ǧins* or *tahwīl al-ǧins* (sex-change and sex-conversion, both used almost synonymously to refer to surgery where there is a sex-change

38 The term ‘hermaphrodite’ is considered derogatory nowadays by many intersex people. For this reason, I will use either the Arabic word or the modern term, ‘intersex’. I will keep the term ‘hermaphrodite’ only when it is used in English by the authors themselves.

39 IBN QUDĀMA, *al-Muǧnī*, VI: 336.

40 IBN MANZŪR, *Lisān al-‘Arab*, s.v. ‘ḥ-n-ṭ’.

41 For a discussion on a *muḥannaṭ* in Sunna see the next paragraph. For a discussion on the role of *muḥannaṭūn* in early Islamic history see ROWSON 1991.

42 For example, the ICD 11 mentions that ‘Gender Incongruence of Adolescence and Adulthood is characterised by a marked and persistent incongruence between an individual’s experienced gender and the assigned sex, which often leads to a desire to ‘transition’, in order to live and be accepted as a person of the experienced gender, through hormonal treatment, surgery or other health care services to make the individual’s body align, as much as desired and to the extent possible, with the experienced gender.’ WHO 2017, s.v. ‘Gender incongruence’.

43 In 2013 the United Nations Special Rapporteur on Torture, after a long awareness campaign by intersex individuals who were forcibly subjected to SRS during their infancy, condemned the use of non-consensual SRS. See MÉNDEZ 2013: 18-19.

from a ‘complete’ man to a ‘complete’ woman, or vice versa), and *taḥdīd al-ğins* or *taṣḥīḥ al-ğins* (sex-determination or sex-realignment, both used for surgery where there is not a complete sex-change but what is considered to be a ‘correction’ of the real sex, as happens in the case of intersex individuals).

3. Back to the sources: Quran and Sunna

If we consider transgenderism and transsexuality as modern categories, then clearly both the Quran and the Sunna do not mention anything that deals specifically with these concepts. However, there are a number of Quranic verses and hadiths that can be considered relevant for the subject of this article, and which are also often mentioned by modern jurists when dealing with these topics.

As regards the Quran, the verses mentioned are usually those that refer to the creation of the world ‘in pairs’. For example, verses 42:49 (‘To Allah belongs the dominion of the heavens and the earth; He creates what he wills. He gives to whom He wills female [children], and He gives to whom He wills males’),⁴⁴ and 53:45-46 (‘And that He creates the two mates—the male and female—From a sperm-drop when it is emitted’) are often mentioned, to demonstrate that God created two (and only two) sexes.

This understanding of the verses also has an impact on the situation of the *ḥunṭā*: if only two sexes have been created, then the *ḥunṭā* should not be intended as a third sex, but as a person who belongs to one of the two sexes.

However, if on the one hand these verses seem to support the existence of only two sexes, on the other hand verse 42:49 also mentions that God ‘creates what he wills’: this verse has also been interpreted as a way to demonstrate that, given God’s omnipotence, He could create a third gender, if He wishes to do so, as the opposite would constitute a limitation of this omnipotence.⁴⁵

Other Quranic verses often mentioned in discussions on SRS are verse 30:30 (‘So direct your face toward the religion, inclining to truth. [Adhere to] the fiṭrah of Allah upon which He has created [all] people. No change should there be in the creation of Allah. That is the correct religion, but most of the people do not know’) and verse 4:119: (‘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’).

The majority of Quranic exegetes interpreted the verses on ‘changing the creation of God’ as a reference to God’s religion, considering that God created all people as naturally inclined to the correct religion. However, others have interpreted these verses as referring to an alteration in the physical appearance of human beings and animals.⁴⁶ In this sense,

44 For the English version of the Quran, I use here the *Ṣaḥīḥ International*.

45 ‘ALLĀM 2011: 83-84 for example mentions this interpretation, even though he does not agree with it.

46 For example, in reference to Quran 30:30 both al-Ṭabarī and al-Qurṭubī mention the two interpretations, while al-Zamaḥṣarī, al-Rāzī, al-Maḥallī and al-Suyūṭī only mention religion. In reference to Quran 4:119, al-Ṭabarī, al-Qurṭubī, al-Zamaḥṣarī and al-Rāzī mention both options, while al-Maḥallī and al-Suyūṭī only mention religion.

these verses are also relevant for SRS, because it would be considered a change in what God created.

As regards the Sunna, one hadith in particular is usually mentioned in contemporary discussions on transgenderism, transsexuality and SRS. The hadith exists in three versions.⁴⁷ According to the first version, the prophet Muḥammad visited his wife Umm Salama while a *muḥannaṭ* was in her apartment. When the Prophet entered, the *muḥannaṭ* was describing a woman in detail to Umm Salama's brother, promising that he would have shown her to him if the Muslims had conquered the city of Ṭā'if. Muḥammad realised that the *muḥannaṭ* was perfectly able to describe those features of a woman that could arouse erotic interest. Therefore, he banished him from Umm Salama's house and the entire city.⁴⁸ According to another version of the hadith, which does not give the general context of the story, the Prophet cursed effeminate men (*muḥannaṭūn*) and masculine women (*mutaraḡḡilāt*) and banished them.⁴⁹ The last version of the hadith only states that the Prophet cursed effeminate men and masculine women, without mentioning the context of the story.⁵⁰

While many scholars refer to this hadith to demonstrate Muḥammad's aversion towards effeminate men and masculine women (which is also relevant in contemporary discussion on transgender and transsexual people), Scott Kugle claims that the hadith could also be interpreted in a more queer-friendly way: if we take into account the entire version of the story, then it is clear that Muḥammad banished only that single *muḥannaṭ*, and not for being 'effeminate' but for having described a woman to a man, using details that could arouse the erotic interest of another man. This demonstrated that he was not immune to feminine appeal, as was believed before, and for this reason could not attend the house of a wife of the Prophet, as he would constitute a danger to her respectability.⁵¹

4. Contemporary fatwas on transgenderism, transsexuality and SRS

According to Alipour, until the 1980s SRS was considered forbidden, while by the late 1980s something had changed, and it 'was legalised (made halal) in shari'a (sic!) and/or in state law by the fatwas of Ayatollah Khomeini and Sheikh al-Tantawi in Iran and Egypt, respectively'.⁵² Alipour uses these two examples to show how this kind of *iḡtihād*⁵³ can 'open up an Islamic debate concerning similar and related phenomena, such as homosexu-

47 For a complete reconstruction of the different versions and of the complete *isnād* (chain of transmitters) of this hadith see KUGLE 2010: 93.

48 al-'ASQALĀNĪ, *Fath al-bārī*, IX: 449; MUSLIM, *Ṣaḥīḥ*, IV: 1715-1716; IBN MĀĠĀ, *Sunan*, II: 440; al-NASĀ'Ī, *Sunan*, VIII: 295; ABŪ DĀWŪD, *Sunan*, 534.

49 al-'ASQALĀNĪ, *Fath al-bārī*, XIII: 382; al-NASĀ'Ī, *Sunan*, VIII: 297-298.

50 al-'ASQALĀNĪ, *Fath al-bārī*, XIII: 381; IBN MĀĠĀ, *Sunan*, II: 441; al-TIRMIDĪ, *al-Gāmi' al-kabīr*, IV: 487.

51 KUGLE 2010: 92-97.

52 ALIPOUR 2017: 91. It should be here mentioned that in some cases fatwas can be used as a source of positive law or to support a given position by actors involved in a court case.

53 The term refers to the 'effort' that a Muslim jurist undergoes in order to find a solution to a legal problem using his independent reasoning instead of following former jurists.

ality and bisexuality, aiming at improving Islamic tolerance toward these phenomena'.⁵⁴ While I agree on the possibilities that *iğtihād* can offer to open space of Islamic tolerance toward sexual diversity, I am not sure whether Khomeini's, and especially Ṭanṭāwī's, fatwas can really be considered emblematic of such an approach. On the contrary, I believe that both Khomeini and al-Ṭanṭāwī, as do all the traditionalist jurists I analyse in this article, start from the same pre-assumption, which is far from being 'progressive': they believe that God divided the world into two sex/genders, that each of them has specific roles and specific duties in the society, and that whatever may challenge this scheme is strongly forbidden. This is also the case with Khomeini's permission of SRS for transgender people. Even though I focus mostly on Sunni fatwas, Khomeini's approach should still be mentioned here, as it constitutes the first position on SRS by a Muslim jurist, at least to my knowledge.

The first time that Khomeini deals with this argument is in 1964.⁵⁵ He states that:

it appears that it is not forbidden to change sex from a man to a woman and vice versa and that it is not forbidden for a *ḥunṭa* in order to be attached to one of the two sexes. Is it obligatory for a woman if she sees that she has inclinations similar to those of a man or some signs of masculinity or if a man sees in himself inclinations of the opposite sex or some of its signs? It seems that this is not obligatory if the person really belongs to that sex, but it is possible to change it to the opposite sex.⁵⁶

The fatwa seems to permit SRS without making it obligatory for transgender people also, but remains somehow ambiguous. For this reason, Fereydoon/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 clear to him that she did not have any physical 'ambiguity', that she was born as a 'complete' man, but that she still identified herself as a woman. After having consulted trusted doctors,⁵⁷ Khomeini granted her the permission to undergo SRS, and even offered her a chador.⁵⁸

As Mulkara declared in an interview in 2004:

Khomeini decided then that it was a religious obligation for me to have the sex change because a person needs a clear sexual identity in order to carry out their religious duties. He said that because of my feelings, I should observe all the rites specific to women, including the way they dress.⁵⁹

There is nothing really 'progressive' in this fatwa. Khomeini did not intend to enter into discussion about the patriarchal structure of society: what he was doing was trying to make Mulkara fit into this structure, as the gift of the chador makes clear.

54 ALIPOUR 2017: 91.

55 KHOMEINI, *Tahrīr al-Wasīla*, II: 567-568.

56 Ibid.: 567 (my translation).

57 ALIPOUR 2017: 95.

58 NAJMABADI 2014: 156.

59 MCDOWALL & KHAN 2004. I would like to thank Carlo De Angelo for this reference.

Since then, in Iran SRS has been allowed for intersex and transgender people, but it is not compulsory: after having obtained a medical certificate, it is possible to live as a transgender person without necessarily going for surgery.⁶⁰ As Afsaneh Najmabadi wrote: ‘legal and religious authorities know full well that many certified trans person do very little, beyond living transgender lives, once they obtain their certification: at most they may take hormones’.⁶¹ For this reason, a complex system of ‘filtering’, to clearly distinguish homosexuals from transgenders has been created: though, as Najmabadi states, ‘the very process of psychological filtering and jurisprudential demarcating, far from eliminating gays and lesbians (if that is indeed what the Iranian authorities had hoped), has paradoxically created new social spaces’.⁶² If on the one hand this confirms the productivity of power in a Foucauldian sense, on the other hand the insistence of the judicial apparatus on clearly distinguishing between homosexuals (considered as deviants) and transgenders (considered as ‘unfortunate creatures’ and ‘patients’),⁶³ is clear. Moreover, this also does not take into account the possibility that a person can be at the same time a transgender and a homosexual. Obviously, single people are able to navigate and negotiate with the law, but probably that is not what Khomeini’s *iğtihād* aimed at. Moreover, as Najmabadi also notes, even though ‘it was the overwhelming weight of Ayatollah Khomeini’s fatwa that translated into law’,⁶⁴ still a variety of opinions persist, notwithstanding the relevance and importance of Khomeini’s fatwa:⁶⁵

When it comes to sex change, as with many other issues, there is no unanimity of opinion among Shi’i scholars who issue fatwas in Iran. All consider intersex surgeries permissible because they bring out ‘the hidden genus’ of the body. Some explicitly argue against non-intersex surgeries, while others express doubt about its permissibility or simply do not take a stand. Some have changed their opinion over the years on the permissibility of sex-reassignment surgery.⁶⁶

The case of the *ḥuntā*/intersex is always mentioned in fatwas on SRS, even when the request deals specifically with cases of transgenderism: most Muslim jurists discuss the two cases together, in order to compare the permissibility of SRS for a *ḥuntā* and its prohibition for a transgender person.

Classical jurists tried to determine the ‘real’ sex of a *ḥuntā* by looking at the urinary orifice. If he/she urinated from both urinary orifices, there were different opinions: according

60 NAJMABADI 2014: 173. A translation of the fatwa can be found in ALIPOUR 2017: 96.

61 NAJMABADI 2014: 175.

62 Ibid.: 4.

63 Ibid.: 173; 299.

64 Ibid.: 174.

65 For example, ŞUBĤANĪ 1433 AH [2012]: 65, explicitly says that SRS, when the masculine or feminine sexual organs of the person are complete, is a crime that deserves punishment. Also MOBALLAGĪ 1429 AH [2008], even though more cautious, seems not to accept SRS for cases that cannot be classified as *ḥuntā*.

66 NAJMABADI 2014: 174. See also VAHEDI, ALIMARDANI, BEHROUZH & ASLI 2017 for the debate between Iranian ‘*ulamā*’ on this topic.

to some jurists, the sexual organ from which the urine came first should determine the sex of the hermaphrodite; for others, the orifice that stopped urinating last; for others the one from which the urine came more abundantly;⁶⁷ some Imami and Ismaili jurists even allowed *istiqsām*, a divinatory technique based on the use of arrows.⁶⁸ If the sex could not be determined from the urinary orifice, then jurists suggested waiting for the appearance of one of the so-called ‘signs of puberty’, which for men include the growing of a beard or moustache, spermatic emissions and/or the ability to penetrate a female and for women menstruation, pregnancy, the development of the breast, secretion of milk and/or the possibility of being penetrated.⁶⁹ The attraction of an ambiguous *ḥunṭā* towards men was considered a sign of its femininity, towards women a sign of masculinity.⁷⁰ If the sex of the *ḥunṭā* could not be clarified even after puberty, or if the *ḥunṭā* died before reaching puberty, then it was defined as a ‘*ḥunṭā muškil*’, a problematic and ambiguous *ḥunṭā*, with a special legal status.⁷¹ This category was not created so much in order to accommodate a ‘third gender’ per se, but more in order to accommodate a person whose real gender, which was either masculine or feminine, could not be discovered by jurists.

Nowadays, contemporary Muslim jurists are aware that the classical methods based on the urinary orifice to determine the sex of a *ḥunṭā* are antiquated.⁷² They also often mention that there is a difference between the definition of the *ḥunṭā* in *fiqh* and in medicine: while Muslim jurists focused only on the external sexual organs, in modern medicine the external organs are only one of five factors that are considered when assigning the biological sex, which also include the number and type of sex chromosomes, the gonads (ovaries or testicles), hormones and, finally, internal reproductive anatomy. An intersex person in medicine is a person in whom these five characteristics are not either all typically male or all typically female. Moreover, while in classical *fiqh* the main distinction was between an unambiguous or an ambiguous (*muškil*) *ḥunṭā*, contemporary Muslim jurists believe that progress in modern medicine has solved this problem,⁷³ and that the distinction today should be between a ‘real hermaphrodite’ (who has both testicles and ovaries) and a ‘pseudo-hermaphrodite’ (*ḥunṭā kāḍīb*), who is born with either ovaries or testicles but has external sexual characteristics that are different from those expected when looking at the gonads.⁷⁴

Contemporary jurists are also aware that medical and scientific progress make it possible to determine the sex of a *ḥunṭā* via medical tests that include detailed examinations to

67 CILARDO 1986: 129-134.

68 LO JACONO 1981.

69 CILARDO 1986: 133.

70 ‘ALLĀM 2011: 90.

71 See CILARDO 1986 for more details.

72 ‘ABD al-BARR 1992: 354-355.

73 Aḥmad states, for example, that the development of medicine definitively ‘solved the problem of what is called the third gender’. AḤMAD 2011: 103

74 See, for example, ‘ABD al-BARR 1992: 351-352, which mentions the term ‘*ḥunṭā*’ in Arabic and ‘True hermaphrodite’ and ‘Pseudo hermaphrodite’ in English. Literally *ḥunṭā kāḍīb* could be translated as ‘the lying *ḥunṭā*’, or ‘the false *ḥunṭā*’.

verify the presence of testicles or ovaries, even if they are not visible externally,⁷⁵ and chromosome analysis to verify the person's chromosomal sex.⁷⁶ Moreover, they usually agree on the fact that medicine should be used to ascertain the 'real' sex of the *ḥunṭā*. Once there are no doubts on its 'real' sex, SRS is not only allowed on a *ḥunṭā*, but it is even recommended, as it is intended as a way to heal an illness, either removing a superfluous organ, or disclosing a hidden one, and not as a way to change the sex (and therefore God's creation). Sunni jurists published a number of fatwas on this topic, which all seem to agree on one basic point: SRS can be allowed only when it can be understood as a way to clarify a person's sex and to solve a gender and/or a sex ambiguity, but not when it is a proper 'sex-change'. In this sense, I would say that SRS can be accepted only as long as it represents the modern and somehow final answer to the definition of the 'problematic' sex of the *ḥunṭā*.

Interestingly, while scholars focused mostly on the fatwa issued in 1988 by Ṭanṭāwī, this fatwa has a precedent. Already in 1981 Ğād al-Ḥaqq (d. 1996), at the time Grand Muftī of Egypt, had issued a fatwa on SRS in response to a request from the Malaysian Centre for Islamic Research, which is entitled 'Ġirāḥat taḥwīl al-raġul ilā imra'a wa-bi'l-'aks ḡā'iza li'l-ḍarūra' (The surgery to change a man into a woman and vice versa is allowed in case of necessity), which is almost identical to the one that Ṭanṭāwī would release in 1988.

Ğād al-Ḥaqq starts mentioning a hadith transmitted by Usāma b. Šurayk, according to which God did not send any illness without sending also a cure for it. After this hadith, Ğād al-Ḥaqq mentions another hadith according to which Muḥammad authorised 'Arfaġah Ibn As'ad, who lost his nose during a battle and used a nose of silver, to substitute it with one of gold when the silver one started to smell of corruption, to demonstrate how something which is generally forbidden, in this case the use of a gold item on a man, can be allowed in case of necessity (*ḍarūra*).⁷⁷ Ğād al-Ḥaqq then refers to the above mentioned hadith of the *muḥannaṭ* living with Umm Salama, and also states that according to Ibn Ḥaġar al-'Asqalānī's (d. 852/1449) commentary on the *Šaḥīḥ* of al-Buḥārī, the *muḥannaṭ* who is so because of an innate disposition (*min aṣl ḥalqatihi*)⁷⁸ cannot be blamed, but has 'to abandon his softness and his flaccidness in walking and talking', even if gradually.⁷⁹ Ğād al-Ḥaqq also mentions that according to the historian al-Ṭabarī (d. 310/923), if Muḥammad allowed the *muḥannaṭ* to live with his wife until he heard him giving a precise description of a woman, then he had no prejudice against *muḥannaṭūn*, nor did he blame them for being created as such.

75 'ALLĀM 2011: 93-102; AḤMAD 2011: 61-62; 71-73.

76 In some cases, the presence of ovaries and testicles does not reflect the chromosome sex of the individual. There are a number of genetic disorders that can cause such a status like, for example, the XX male syndrome, where a male with testes has a XX karyotype, or the Klinefelter syndrome, where a male with testes has two or more X chromosomes.

77 This same hadith is used by Ğād al-Ḥaqq himself and by other authors also to legitimise organ transplantation: in this case necessity allows the bypass of the prohibition on mutilating a corpse. See KRAWIETZ 1991: 180-182.

78 ĞĀD al-ḤAQQ 1981: 3502.

79 Ibid. (my translation).

Until this point, the fatwa seems to be referring to a *muḥannaṭ*, an effeminate. However, it then takes an unexpected turn and suddenly starts to deal with what would seem to be the intersex, even though the term *ḥunṭā* is never explicitly mentioned.

Indeed, Ḡād al-Ḥaqq states that a surgery

to change a man into a woman, or a woman into a man, is allowed, if a trusted doctor concludes that there are innate causes in the body, i.e. hidden signs of femininity, or covered signs of masculinity, because the surgery would uncover organs which are hidden or concealed, treating an anomaly that cannot be treated in another way.⁸⁰

On the other hand, SRS is not allowed when it is only based on a desire (*raġba*) to change sex, because this would be classified under the hadith according to which ‘God blamed effeminate men and masculine women’.⁸¹ He then concludes:

a surgery to uncover organs of the masculinity or the femininity that are hidden is allowed and becomes even recommended because it should be considered a treatment, whenever suggested by trusted doctors. However, it is not licit in case it is only based on the desire to change the human being’s sex from a woman to a man or from a man to a woman.⁸²

In the late 1980s the discussion on SRS became particularly heated in Egypt. The discussion was triggered by the case of the trans Sayyid/Sally.⁸³ In 1982 Sayyid ‘Abd Allāh, a student of medicine at al-Azhar University, sought psychological treatment due to a bad depression. He was diagnosed with ‘psychological hermaphroditism’ (*al-ḥunūṭa al-naḥsiyya*). After three years of psychological treatment, he was referred for SRS to a surgeon, ‘Izzat ‘Ašam Allāh Ḡibrā’īl. The surgeon asked the opinion of a second psychologist, who confirmed the diagnosis. At that point, Sayyid was treated with female hormones and on 28 January 1988 operated on in Cairo: his penis was removed, a new urinal orifice and an artificial vagina were created and he opted for the name ‘Sally’. Sally applied for admission to the women’s section of the Faculty of Medicine at al-Azhar. A special committee, set up by al-Azhar to examine the case, rejected her request. The Doctors’ Syndicate, at that time dominated by conservative forces, also examined the case and came to the conclusion that the surgeon, the anaesthetist and the psychologists who approved the surgery committed a medical error, because they operated on Sayyid without there being a disorder, damaging him.

At that point, the Doctors’ Syndicate asked for a fatwa from the Grand Muftī, at that time Sayyid Ṭantāwī. The fatwa he released is almost identical to Ḡād al-Ḥaqq’s: it starts with the hadith reported by Usāma b. Šurayk,⁸⁴ then mentions both the necessity to treat

⁸⁰ Ibid.: 3503 (my translation).

⁸¹ Ibid.

⁸² Ibid. (my translation).

⁸³ I am drawing for the summary of the facts on SKOVGAARD-PETERSEN 1997: 319-323.

⁸⁴ Unfortunately, I was not able to obtain the original version of the fatwa from the archives of Dār al-Iftā’. I used instead a version that was printed in an article published on 5 September 2006 in the Saudi magazine *al-Riyāḍ*, devoted to SRS in Saudi Arabia. I also compared Ṭantāwī’s fatwa with the English translation by Skovgaard-Petersen.

effeminate characteristics and al-Ṭabarī's interpretation of the hadith on the *muḥannaḡ* living with Umm Salama. From these hadiths, Ṭanṭāwī also concludes that if reliable doctors believe that there are innate causes in the body then SRS is allowed, while it is prohibited if it is only based on the desire (*rag̃ba*) to change sex.

However, Ṭanṭāwī did not address the crucial issue: was a diagnosis of 'psychological hermaphroditism' enough to allow the surgery or not? Probably, the specific reference to the necessity of 'innate causes in the body' would deny this possibility. Nonetheless, the result of such ambiguity was that the fatwa was 'so vague that both parties cited it in support of their position'.⁸⁵ Al-Azhar took the case to court, asserting that the surgeon had inflicted a disorder on the patient. The public prosecutor appointed a special committee, who agreed on the fact that the procedure had been correct, but the Doctors' Syndicate did not accept the position and cancelled the surgeon's membership. At the end the surgeon was acquitted, and in November 1989 Sally finally obtained the certificate stating that she was a woman.⁸⁶ However, al-Azhar persisted in refusing to admit Sally to the women's section of the Faculty of Medicine to take her final exams. It was only after a ruling of the Administrative Court that al-Azhar's decision was revoked and Sally was allowed to take her final exams at any university.⁸⁷ Here the judicial system, and particularly the Administrative Court, was certainly creative: it not only recognised the change of sex after SRS, but it even intervened to protect Sally from the discrimination she was facing based on her sex and gender identity that made it impossible for her to complete her study curriculum.

Not only Ṭanṭāwī, but also other jurists dealt with Sally's case: 'Aṭiyya Ṣaqr (d. 2006),⁸⁸ at the time President of the Egyptian Supreme Council for Islamic Affairs, an institution founded in the 1960s within the Egyptian Ministry of *Awqāf* (religious endowments) with the aim of producing and publishing educational material related to Islam in Egypt, published a fatwa on the same case in *Minbar al-Islām*. In this fatwa, after having mentioned the importance of medicine, Ṣaqr states clearly that 'the mere feminine inclinations (*al-muyūl al-unṭawiyya*) that a man with complete sexual organs determining him as such can have, are psychological symptoms that do not change him into a real female'.⁸⁹ Ṣaqr also states that in the case of Sayyid/Sally, the SRS 'made him lose his male organ and did not uncover feminine organs: in this way the patient became neither a male nor a female. His feminine inclinations will not be realised through a lawful sexual intercourse. Islam does not approve such surgery, even with the consensus of the patient, and he himself committed a sin'.⁹⁰ Also in this case, as we see, SRS is only allowed as a way to 'disclose' the real sex, not as a way to allow transgender people to feel comfortable in their body.

⁸⁵ SKOVGAARD-PETERSEN 1997: 331.

⁸⁶ Ibid.: 323.

⁸⁷ Ibid.

⁸⁸ He was a graduate of al-Azhar who worked as a consultant for a number of Egyptian institutions, including the Egyptian Ministry of *Awqāf*, al-Azhar's Islamic Research Academy, *Dār al-Iftā'* and the Egyptian Supreme Council for Islamic Affairs.

⁸⁹ SAQR 1988: 134 (my translation).

⁹⁰ Ibid. (my translation).

In the years between Ġād al-Ĥaqq's fatwa in 1981 and Ṭanṭāwī's fatwa in 1988 SRS was discussed on another important occasion, with similar results. In 1984 the Third Conference of the Islamic Organization for Medical Sciences (IOMS)⁹¹ took place in Istanbul. In this occasion, one of the topics that were discussed was cosmetic surgery. In a paper on this topic, Māğid 'Abd al-Mağīd Ṭahbūb also discussed SRS (he specifically talks here about sex-change). He starts by stating that this surgery is routinely practised in the West, describes the procedure and then says that it is always accompanied by psychological treatment and hormone therapy. He then adds:

These patients dislike their innate sex, for various reasons. Some of these reasons can be traced back to their early life and their incorrect growing up. There is no ambiguity regarding the determination of their sex, either apparently or not at the time of their birth, like in the cases of an incomplete *ḥuntā*. Plenty of them carry out their role fully, they marry and procreate as they have been created by God. Later they experience a pressing feeling that had always been oppressed, i.e. abandoning their natural sex and living within the other.⁹²

According to him, SRS in this case represents 'a kind of offence towards the will of God in determining the sex of the creature. If sodomy caused a direct punishment from God to eradicate them [the people of Lot],⁹³ the perversion here is a persistence in the sin.'⁹⁴

Even though Ṭahbūb is a medical doctor and not a religious scholar, his intervention is relevant for this discussion, because it constitutes the basis of the official position on SRS of the Conference on Islamic Medical and Health Ethics, that took place in Cairo in 2004. This conference produced a number of documents, which were based on the findings of the previous conferences of the IOMS,⁹⁵ including 'The Arguments of Islamic Law Rulings on Recent Medical Issues: Based on the Recommendations of IOMS'. This document has a chapter on 'Sex Change Procedures for Normal People and Intersexes', where it is stated that: 'The seminar addressed the question of plastic surgery and concluded that the surgical procedures called sex change operations, performed to satisfy decadent desires, are absolutely forbidden. Meanwhile, operations aimed at determining the real sexual status of intersexes are permissible.'⁹⁶

This is also the position that the Egyptian Medical Syndicate took in its new ethical guidelines, released in 2003. SRS is forbidden when it is intended as sex-change (*tağyīr al-ğīns*), and allowed when it constitutes a sex determination (*taṣḥīḥ al-ğīns*), provided that the surgery is approved by a special committee, and that hormonal analyses and chromo-

91 The IOMS is 'an organization that brings together medical scientists and Islamic jurisconsults from across the world to address modern medical and health care issues from an Islamic perspective'. PADELA 2012: 35.

92 ṬAHBŪB 1995: 424 (my translation).

93 He is referring here to the people of Sodom who, according to the Quran, were destroyed by God because they were practicing sodomy. See especially Quran 7:80-84.

94 ṬAHBŪB 1995: 424 (my translation).

95 I would like to thank Thomas Eich for this information.

96 al-'AWADĪ & al-ĠINDĪ 2005: 345-346.

some mapping are carried out. Moreover, it is requested that the patient is under psychiatric and hormonal treatment for at least two years.⁹⁷

In 2003 the prominent Egyptian scholar al-Qaraḍāwī discussed SRS in a fatwa entitled ‘Taḡyīr al-mar’a ilā al-raḡul’ (The change of the woman into the man). This fatwa was solicited by a woman, who described herself as follows: ‘I am a Muslim woman, I pray, I fast, I abide by the duties of God and I avoid what He forbade’.⁹⁸ She then added: ‘My problem is that I do not feel my femininity, namely I do not feel being a female. Deeply inside me, I feel myself a man, not a woman.’⁹⁹ She then told her story: for a long time she refused to get engaged with a man, but she then agreed to marry under pressure from her family. However, the marriage soon ended in divorce. She added: ‘Doctors established that my sexual system is that of a female, and that I am a complete female.’ She wished to undergo SRS and asks al-Qaraḍāwī for his opinion.¹⁰⁰

Al-Qaraḍāwī starts his fatwa by referring to different Quranic verses that he uses to demonstrate that everything has been created in pairs, that men and women have been created to live together, and that they should marry.¹⁰¹ He then states that ‘it sounds very strange that the sister takes such a position towards men, rejecting them, and that she feels deeply inside that she is a man, although specialised doctors have established that she is a full female and that her sexual system has no anomaly’.¹⁰² He believes that ‘there must be profound psychological reasons that necessitate to be investigated and treated by specialists’.¹⁰³

He then refers to the hadith according to which God did not send any illness without sending a treatment for it, stating again that in this case the treatment should be psychological. According to him, SRS is only permitted when ‘there are some signs of femininity in a person that in his real constitution is a man, whose organs, like his testicles or his penis, are hidden in his body, and whose signs of femininity are superficial’.¹⁰⁴ In this case surgery is allowed and even required. On the other hand, a complete change of sex is absolutely forbidden.¹⁰⁵

Al-Qaraḍāwī also mentions that ‘the first consequence of such a change is that it undoubtedly prevents procreation or even the hope of it. If we allow everyone to do so, then

97 al-NIQĀBA al-‘ĀMMA li-AṬIBBĀ’ MIṢR’ 2003: art. 43. In this case the operation is state-subsided. The committee consists of five members; two psychiatric specialists, one andrology specialist, one hereditary and chromosomal studies specialist and a member of the Al-Azhar Board. A number of operations have been approved since then, but recently they have been stopped due to the refusal of the appointed member of al-Azhar to take part to the meetings of the committee. For more details see ISLAM 2015. Though, it is still possible to undergo such surgeries privately in unofficial ways.

98 al-QARAḌĀWĪ 2003, III: 349 (my translation).

99 Ibid. (my translation).

100 Ibid. (my translation).

101 He specifically mentions Quran 36:36; 51:49; 7:189; 2:35; 16:72; 30:21 and 2:187.

102 al-QARAḌĀWĪ 2003: 350 (my translation).

103 Ibid. (my translation).

104 Ibid.: 351 (my translation).

105 Ibid.

procreation will be interrupted and humanity will come to an end.¹⁰⁶ With this statement, al-Qaraḍāwī is preparing the field for the use of *sadd al-ḍarāʾiʿ* (literally ‘blocking the means’), a concept in Islamic law that is used to prevent or forbid something that will likely lead to a forbidden action. Indeed, he immediately also adds that one of the consequences of allowing SRS would be to make same sex marriages licit, which he considers ‘one of the most strictly forbidden things in Islamic law’.¹⁰⁷

At the end of his fatwa al-Qaraḍāwī also briefly mentions the case of Sally, and concludes that:

God created the couple, the male and the female. He made each of them with their own complexion, and assigned to each of them a role/function in life, that he or she cannot cancel nor hinder. Among the greatest [of these roles] there are paternity and maternity. Whatever hinders paternity and maternity is illicit, because it is a deviation from the innate nature (*fiṭra*), a divergence from sharia, an escape from responsibility, and a moral perversion.¹⁰⁸

His position shows that, for him, a person remains either male or female based on their sex at birth, and that any kind of SRS does not change this ‘essential’ nature. Moreover, it seems to imply a rebuttal of the legal principle of *istiḥāla*. According to this principle, once a prohibited substance changes its nature completely, then it can become licit. The acceptance of this principle, which never became dominant in Islamic jurisprudence, would probably make it possible that such a marriage could be valid, as the person effectively would have changed his/her sex via SRS.¹⁰⁹

In 2006 ‘Abd al-Raḥmān b. Aḥmad al-Ġarī published another fatwa on the argument, after his opinion was solicited by the friend of a woman who ‘feels being a *ḥunṭā*, likes wearing masculine clothing, and wants to take steps toward transition, taking hormones and undergoing the surgery’.¹¹⁰ The petitioner asks what the opinion of Islam is on that (*raʾy al-islām fī ḍālika*) and whether it is possible that God created a man in the body of a woman. Al-Ġarī first of all clarifies: ‘Do not say “what is the opinion of Islam on that”, but say instead “how do you see this question?”’¹¹¹ After that, he makes a clear distinction between *taṣḥīḥ al-ġins* and *taġyīr al-ġins*: in the first case surgery is allowed, because it has the aim of treating a physical malformation. It constitutes a treatment, and not a change to God’s creation or a resemblance of the other sex. On the contrary, *taġyīr al-ġins* is forbidden (*muḥarram*), because it refers to ‘the presence of males or females which have healthy organs and that can fulfil integrally their roles, marrying and procreating in the way God created them, but desire to undergo a surgery on healthy organs in order to convert to the

¹⁰⁶ Ibid.: 352. This is an argument that is also mentioned often in fatwas on homosexuality. See TOLINO 2013: 146-147 (my translation).

¹⁰⁷ al-QARADĀWĪ 2003: 352 (my translation).

¹⁰⁸ Ibid.: 353 (my translation).

¹⁰⁹ Padela has shown how this principle has been used by the IOMS to allow the use of porcine-based vaccine. PADELA 2013. I would like to thank Thomas Eich for this suggestion.

¹¹⁰ al-ĠARĪ 2006: 37 (my translation).

¹¹¹ Ibid.: 38 (my translation).

other sex'. He considers this a change in the creation of God and a resemblance of the other sex, which for him are forbidden.¹¹²

More recent interpretations do not change much the picture: Šawqī Ibrāhīm 'Abd al-Karīm 'Allām and Badī'a 'Alī Aḥmad, both of whom published in 2011 books devoted to the argument, concluded that if it is only the person's gender identity that does not match his/her biological sex, then SRS is forbidden and psychological treatment is instead recommended.¹¹³ SRS is allowed in the case of the *ḥunṭa*, and it could be even considered a way of 'cooperating in righteousness and piety',¹¹⁴ as requested by God, because it allows one to really distinguish the woman from the man. Even though they both agree on the permissibility of SRS in this case, there are still certain conditions that should be respected, that are strongly based on the so-called *qawā'id al-fiqh* (the legal maxims of Islamic jurisprudence).¹¹⁵ For example, the surgery should be allowed by sharia because the body belongs to God; the patient should be in need of it; the patient should give his/her authorisation; the surgeon should be familiar with the surgery from a theoretical and a practical perspective; doctors should be convinced of the success of the operation; it should constitute the lesser evil; it should be useful; it should not damage the patient; any damage that could happen to the patient should not be worse than the illness itself; the status of being a *ḥunṭa* should be clearly diagnosed; the surgery should be the only way to cure the patient; the surgery should really determine the sex of the *ḥunṭa* and the *ḥunṭa* should agree on being operated.¹¹⁶

5. Conclusions

In this paper I have presented the main arguments in the contemporary debate in Sunni Islamic Law on transsexuality, transgenderism and SRS. In order to situate this debate, in the first part of the article I introduced the terms transgenderism, transsexuality and SRS, and I then discussed the relevant terminology in Arabic. In the second part I analysed the most relevant Quranic verses and hadiths that are mentioned by contemporary jurists when dealing with these topics. In the third and last part of the article, I focused on the contemporary discussion on transsexuality, transgenderism and SRS in fatwas released by Muslim Sunni jurists from the 1980s until today.

The analysis of those fatwas showed a general consensus on the permissibility of SRS for intersex people, as it is considered a therapeutic treatment. On the contrary, SRS for people who only have a 'desire' to change their sex is strongly rejected by the great majori-

112 Ibid. (my translation).

113 'ALLĀM 2011: 175-176; AḤMAD 2011: 84.

114 Aḥmad is here referring to Quran 5:2 ('And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty'). AḤMAD 2011: 85.

115 On maxims in Islamic law see KAMALI 2005.

116 AḤMAD 2011: 104-113. She mentions here that in some cases the *ḥunṭa* could be operated on against her will: for example, if a female pseudo-hermaphrodite uses a 'false' masculine status to obtain advantages or rights she would not have in her 'real' sex, or if this could cause sexual confusion and immorality. AḤMAD 2011: 113. 'Allām's list is shorter and can be found in 'ALLĀM 2011: 118.

ty of Muslim jurists, at least in the Sunni context, as it is considered a way to change what God has created, which is a serious sin in Islamic law.

While some scholars have seen in some of these fatwas a possibility for a more queer-friendly *iğtihād* that could also include homosexuality, I tend to disagree with that: there are certainly possibilities in *iğtihād* to open spaces for tolerance for LGBTQI Muslims, but this is not something that Muslim traditionalist jurists have done at this point. Even the fatwa of Ṭaṇṭāwī, that Alipour considered somehow ‘creative’, is a remake of Ğād al-Haqq’s previous fatwa and made clear that a mere ‘wish’ to change sex is not enough to make SRS permissible.

Paradoxically, while intersex people try to problematise and fight SRS, especially when it is forcibly practiced on infants, on the opposite many transgender people fight to be allowed to ‘pass’ to the other sex also physically. Muslim jurists, instead, with the standing exception of Khomeini, allow SRS for intersex people and refuse it for transgender people. This is not surprising: if we put it extremely simply, for most traditionalist Muslim jurists a biological male is a man who, as such, should be attracted to women, and vice versa. Whatever goes beyond this scheme is prohibited and considered a sin. If SRS can confirm this pattern, allowing the intersex to ‘function’ better within this scheme, then it is permitted and even encouraged. If not, then it is considered a serious sin, a change in God’s creation and a challenge to His will. Traditionalist Muslim jurists are not interested in changing the patriarchal structure of the society. As in discussions on hymen-repair,¹¹⁷ both opponents and supporters of SRS start from the same pre-assumption: an essentialised vision of the sexes and the genders, which are organised in a rigid binary. This is the same assumption that drives Khomeini’s fatwa: his permission to undergo SRS for a transgender person is based on his drive to confirm the gender binary, not to challenge it: there is nothing really ‘progressive’ in that, but only the will to make transgender people fit into a vision of society that only allows two (heterosexual) genders to exist.

Bibliography

Sources

- ‘ABD al-BARR, Muḥammad. 1992. ‘Muškilat al-ḥuntā bayna al-ṭibb wa’l-fiqh’. *Mağallat al-Mağma’ al-fiqhī al-Islāmī*, 6: 345-365.
- ABŪ DĀWŪD, Sulaymān b. al-Aṣ‘aṭ. *Sunan Abī Dāwūd*. Riyāḍ: Bayt al-Afkār al-dawliyya, n.d.
- AHMAD, Badī‘a ‘Alī. 2011. *al-Ğawānib al-fiqhiyya al-muta‘alliqa bi-tağyīr al-ğins. Dirāsa fiqhiyya muqārana*. al-Iskandariyya: Dār al-Fikr al-Ğāmi‘ī.
- ‘ALLĀM, Shawqī Ibrāhīm ‘Abd al-Karīm. 2011. *Tahdīd al-ğins wa-tağyīruhu bayna al-ḥaṣr wa’l-mašrū‘iyya. Dirāsa muqārana*. al-Iskandariyya: Maktabat al-Wafā’ al-Qānūniyya.
- al-‘ASQALĀNĪ, Ibn Ḥağar. *Fath al-bārī bi-šarḥ Ṣaḥīḥ al-Buḥārī* / ed. Abū Qutayba Nazar Muḥammad al-Fāryābī. 17 vols. Riyāḍ: Dār ṭibā‘a li’l-našr wa’l-tawzī‘, 2005.
- al-‘AWADĪ, ‘Abd al-Raḥmān / al-ĞINDĪ, Aḥmad Rağa‘. 2005. *The International Islamic Code for Medical and Health Ethics*. Kuwait City: Islamic Organization for Medical Sciences.

117 EICH 2010.

- ĞĀD al-ĤAQQ, ‘Alī Ğād al-Ĥaqq. 1981. ‘Ġirāḥat taḥwīl al-rağul ilà imra’a wa-bi’l-‘aks ġā’iza li’l-ğarūra (*fatwā* 1288)’. In: *Al-Fatāwā al-islāmiyya*, X: 3501-3503. 24 vols. al-Qāhira: Wizārat al-Awqāf, 1980-1998.
- al-ĞAR’Ī, ‘Abd al-Raḥmān b. Aḥmad. 2006. *Al-Fatāwā al-ṭibbiyya al-mu’āšira*. Bayrūt: Mu’assasat al-Rayān.
- IBN FĀRIS al-QAZWĪNĪ, Aḥmad. *Muğmal al-luğa* / ed. Zuhayr ‘Abd al-Muḥsin Şulṭān. Bayrūt: Mu’assasat al-Risāla, 1986.
- IBN MĀĠĀ, Abū ‘Abd Allāh Muḥammad b. Yazīd. *Sunan* / ed. Ḥalīl Ma’mūn Şīḥā. 5 vols. Bayrūt: Dār al-Ma’rifa, 2005.
- IBN MANZŪR, Muḥammad b. Mukarram. *Lisān al-‘arab*. Bayrūt: Mu’assasat al-‘Ālamī li’l-maṭbū‘āt, 2005.
- IBN QUDĀMA al-MAQDISĪ, Muwaffaq al-Dīn. *Al-Muğnī* / ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī and ‘Abd al-Fattāḥ Muḥammad al-Ḥulw. 15 vols. al-Qāhira: Maktabat al-Qāhira, 1968.
- KHOMEINI, Rūḥollāh Moştāfāwī Mōsavī. 1996. *Tahrīr al-Wasīla*. 2 vols. Dimaşq: Sifārat al-ğumhūriyya al-islāmiyya al-Īrāniyya (or. ed. 1964).
- MAĞMA‘ al-FIḤ al-ISLĀMĪ. 1989. “al-Qarār al-sādis bi-ša’n taḥwīl al-ğakar ilà unṭa wa-bi’l-‘aks”. In: *Qarārāt al-Mağma‘ li-dawratihī al-ḥādiyya ‘aşara*, 261-262, Makka.
- al-MAḤALLĪ, Ğalāl al-Dīn Muḥammad b. Aḥmad / al-SUYŪṬĪ, Ğalāl al-Dīn ‘Abd al-Raḥmān b. Abī Bakr. *Tafsīr al-Ğalālayn*. Dimaşq: Dār ibn Kaḫr, 1407 AH [1987].
- MOBALLAĠĪ, Aḥmad. 1429 AH [2008]. “Al-Mawqif al-şar’ī tiğāḥ tağyīr al-ğins”. *Fiqh Ahl al-Bayt*, 51: 121-132.
- MUSLIM, Ibn al-Ḥağğāğ. *Şaḫīḥ* / ed. Muḥammad Fu’ād ‘Abd al-Bāqī. 5 vols. al-Qāhira: Dār al-Ḥadīṭ, 1991.
- al-NASĀ’Ī, Aḥmad b. ‘Alī b. Şu‘aib. *Sunan* / ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī. 12 vols. Bayrūt: Mu’assasat al-Risāla, 2001.
- al-NIQĀBA AL-‘ĀMMA LI-ATṬIBBĀ’ MIŞR. 2003. *Lā’iḥat ādāb al-mihna*. Al-Qāhira 2003: <<http://www.ems.org/eg/rules/sub/27>> (accessed 30 June 2017) (Arabic version with English translation).
- al-QARAH DĀĠĪ, ‘Alī Muḫyī al-Dīn / al-MUḤAMMADĪ, ‘Alī Yūsuf, 2008. *Fiqh al-Qadāyā al-ṭibbiyya al-mu’āšira. Dirāsa fiqhīyya ṭibbiyya muqārana*. 3rd edn. Bayrūt: Dār al-Başā’ir al-Islāmiyya.
- al-QARADĀWĪ, Yūsuf. 2003. *Min hady al-Islām: Fatāwā mu’āšira*. 3 vols. 3rd edn. Madīnat al-Kuwayt: Dār al-Qalam li’l-naşr wa’l-tawzīf.
- al-QURTUBĪ, Abū ‘Abd Allāh Muḥammad b. Aḥmad. *Al-Ġāmi‘ li-aḥkām al-Qur’ān* / ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī. 24 vols. Bayrūt: Mu’assasat al-Risāla, 2006.
- al-RĀZĪ, Faḫr al-Dīn. *Al-Tafsīr al-Kabīr*. 32 vols. Bayrūt: Dār al-Fikr, 1981.
- ŞAQR, ‘Aṭīyya. 1988. “Al-A‘māl al-ṭibbiyya fī zill al-ğawābiṭ wa’l-ādāb al-şar’iyya”. *Minbar al-Islām*, 47.3: 132-134.
- ŞUBḤANĪ, Ğa‘far. 1433 AH [2012]. “Tağyīr al-ğins fī ’l-şar’i’a al-islāmiyya”. *Fiqh Ahl al-Bayt*, 65: 55-68.
- al-ṬABARĪ, Muḥammad ibn Ğarīr. *Ġāmi‘ al-bayān ‘an ta’wīl āyāt al-Qur’ān* / ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī. 24 vols. al-Qāhira: Hağar li’l-ṭibā’a wa’l-naşr wa’l-tawzīf wa’l-i’lān, 2001.
- ṬANṬĀWĪ, Muḥammad Sayyid. 1988. “Fatwā Dār al-Iftā’ al-Mişriyya”. Reproduced in: al-ĠĀRŪŞA, Yāsir, ‘Ustād Sa’ūdī fī mustaşfā al-malik ‘Abd al-‘Azīz bi-Ğadda yanğahu fī iğrā’ 300 ‘amaliyya azālat ġumūd taḥdīd al-ğins’, *al-Riyāḍ*, 5 September 2006: <<http://www.alriyadh.com/184263>> (accessed 16 June 2017).

- TAHBŪB, Māğid ‘Abd al-Mağīd. 1995. “Ġirāḥat al-tağmīl bayna al-mafhūm al-ṭibbī wa’l-mumārasa”. In: al-AWADĪ, ‘Abd al-Raḥmān / al-ĠINDĪ, Aḥmad Rağā‘ (eds.) *Al-Ru’ya al-islāmiyya li-ba’d al-mumārāsāt al-ṭibbiyya*. 2nd edn. Madīnat al-Kuwayt: al-Munazzama al-islāmiyya li’l-‘Ulūm al-ṭibbiyya: 419-424.
- al-TIRMIDĪ, Muḥammad b. ‘Īsā. *al-Gāmi‘ al-kabīr* / ed. Hišām ‘Awwāq Ma‘rūf. 6 vols. Bayrūt: Dār al-ğarb al-islāmī, 1996.
- al-ZAMAḤŞARĪ, Abū ‘l-Qāsim Maḥmūd b. ‘Umar. *Al-Kaššāf ‘an ḥaqā’iq ġawāmiḍ al-tanzīl wa-‘uyūn al-aqāwīl fī wuğūḥ al-ta’wīl* / ed. ‘Ādil Aḥmad ‘Abd al-Mawğūd and ‘Alī Muḥammad Mu‘awwaq. 6 vols. Riyāq: Maktabat al-‘Ubaykān, 1998.

Secondary Literature

- ADANG, Camilla. 2003. “Ibn Ḥazm on Homosexuality. A Case-Study of Zāhiri Legal Methodology”. *Al-Qanṭara*, 24.1: 5–31.
- ALIPOUR, M. 2017. “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”. *International Journal of Transgenderism*, 18.1: 91-103.
- AMERICAN PSYCHIATRIC ASSOCIATION. 2016. *Diagnostic and Statistical Manual of Mental Disorders*: <<https://www.psychiatry.org/psychiatrists/practice/dsm>> (accessed 30 June 2017).
- BAHREINI, Raha. 2008. “From Perversion to Pathology: Discourses and Practices of Gender Policing in the Islamic Republic of Iran”. *Muslim World Journal of Human Rights*, 5.1: 1-49.
- BAUSANI, Alessandro. (ed.). 1981. *La Bisaccia dello Sheikh: omaggio ad Alessandro Bausani islamista nel sessantesimo compleanno*. Venezia: Università di Venezia.
- BENJAMIN, Harry. 1954. “Transsexualism and Transvestism as Psycho-Somatic and Somato-Psychic Syndromes”. *The American Journal of Psychotherapy*, 8.2: 219-230. Reprinted in STRYKER / WHITTLE (eds.) 2006: 45-52.
- BROUWER, Lenie. 2004. “Dutch-Muslim on the internet: a new discussion platform”. *Journal of Muslim Minority Affairs*, 24.1: 47–55.
- CILARDO, Agostino. 1986. “Historical Development of the Legal Doctrine Relative to the Position of the Hermaphrodite in the Islamic Law”. *The Search: Journal for Arab and Islamic Studies*, 7: 128-170.
- COLLINS, Rodney. 2012. “Effeminés, Gigolos and Msms in the cyber-networks, coffeehouses and ‘secret gardens’ of contemporary Tunis”. *Journal of Middle East Women’s Studies*, 8.3: 89-112.
- DUPRET, Badouin. 2001. “Normality, Responsibility, Morality: Norming Virginity and Rape in the Legal Arena”. In: SALVATORE (ed.) 2001: 165-183.
- . 2002. “Sexual Morality at the Egyptian Bar: Female Circumcision, Sex Change Operations, and Motives for Suing”. *Islamic Law and Society*, 9.1: 42-69.
- . 2013. “Disposer de son corps. Excision, virginité, transsexualisme et transplantation en droit égyptien”. In: MOULIN (ed.) 2013: 253-273.
- EICH, Thomas. 2008. “Verfügungsrechte am eigenen Körper in der sharia am Beispiel von Schönheitsoperationen, Intersexualität und Hymen-Restoration”. In: STEINECK & DÖRING (eds.) 2008: 149-162.
- . 2010. “A Tiny Membrane Defending ‘Us’ Against ‘Them’: Arabic Internet Debate about Hymenorrhaphy in Sunni Islamic Law”. *Culture, Health and Sexuality*, 12.7: 755-769.
- FOUCAULT, Michel, 1978. *The History of Sexuality*. Vol. 1 / trans. Robert Hurley. New York: Pantheon Books.

- FREIMARK, Peter. 1970. "Zur Stellung des Zwitters im rabbinischen und islamischen Recht". *Zeitschrift der Deutschen Morgenländischen Gesellschaft*, 120: 85-102.
- GORKEMLI, Serkan. 2012. "'Coming Out of the Internet': Lesbian and Gay Activism and the Internet as a 'Digital Closet' in Turkey". *Journal of Middle East Women's Studies*, 8.3: 63-88.
- HEKMA, Gert. 2002. "Imams and Homosexuality: A Post-gay Debate in the Netherlands". *Sexualities*, 5.2: 237-248.
- ISLAM, Salma. 2015. "The Untold Story Of Egypt's Transgender Community". *Egyptian Streets*, 12 July 2005: <<https://egyptianstreets.com/2015/07/12/the-untold-stories-of-egypt-transgender-community/>> (accessed 30 June 2017).
- JAVAHERI, Fatemeh. 2010. "A Study of Transsexuality in Iran". *Iranian Studies*, 43.3: 365-377.
- KALRA, Gurvinder / SHAH, Nilesh. 2013. "The Cultural, Psychiatric and Sexuality Aspects of Hijras in India". *International Journal of Transgenderism*, 14.4: 171-181.
- KAMALI, Mohammad Hashim. 2005 (or. ed. 1988). *Principles of Islamic Jurisprudence*. Cambridge: Islamic Texts Society.
- KEDDIE, Nikki R. / BARON, Beth (eds.) 1991. *Women in Middle Eastern History: Shifting Boundaries in Sex and Gender*, New Haven, CT: Yale University Press.
- KRAWIETZ, Birgit. 1991. *Die Hurma: Schariatrechtlicher Schutz von Eingriffen in die körperliche Unversehrtheit nach arabischen Fatwas des 20. Jahrhunderts*. Berlin: Duncker and Humblot.
- KUGLE, Scott. 2003. "Sexual Diversity and Ethics in the Agenda of Progressive Muslims". In: SAFI (ed.) 2003: 190-234.
- . 2010. *Homosexuality in Islam. Critical Reflection on Gay, Lesbian, and Transgender Muslims*. Oxford: Oneworld Publications.
- . 2013. *Living Out Islam: Voices of Gay, Lesbian, and Transgender Muslims*. New York: New York University Press.
- / HUNT, Stephen. 2012. "Masculinity, Homosexuality and the Defence of Islam: A Case Study of Yusuf al-Qaradawi's Media Fatwa". *Religion and Gender*, 2.2: 254-279.
- KURTOĞLU, Ayça. 2009. "Sex Reassignment, Biological Reproduction and Sexual Citizenship in Turkey". *Fe Dergi: Feminist Eleştiri*, 1.2: 79-88.
- LITTLEWOOD, Roland. 2002. "Three into Two: The Third Sex in Northern Albania". *Anthropology and Medicine*, 9.1: 37-50.
- LO JACONO, Claudio. 1981. "Su un caso di Istiqsām nel fiqh imamita e ismailita-fatimide: il ricorso alla Qur'ah nelle farā'id". In: BAUSANI (ed.) 1981: 221-224.
- MAKAREM, Ghassan. 2011. "The Story of HELEM". *Journal of Middle East Women's Studies*, 7.3: 98-112.
- MARCOTTE, Roxanne D. 2010. "Gender and Sexuality Online on Australian Muslim Forums". *Contemporary Islam*, 4: 117-138.
- MCDOWALL, Angus / KHAN, Stephen. 2004. "The Ayatollah and the Transsexual". *The Independent*: <<http://www.independent.co.uk/news/world/middle-east/the-ayatollah-and-the-transsexual-21867.html>> (accessed 30 June 2017).
- MÉNDEZ, Juan E. 2013. *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. UN Document A/HRC/22/53, Geneva.
- MOULIN, Anne Marie (ed.). 2013. *Islam et révolutions médicales: Le labyrinthe du corps*. Marseille and Paris: IRD and Karthala.
- NAHAS, Omar. 2003. "Yoesuf". *Journal of Gay and Lesbian Social Services*, 16.1: 53-64.

- NAJMABADI, Afsaneh. 2008. "Transing and Transpassing Across Sex-Gender Walls in Iran". *Women's Studies Quarterly*, 36.3-4: 23-42.
- . 2014. *Professing Selves*. Durham, NC and London: Duke University Press.
- NANDA, Serena. 1999. *Neither Man nor Woman: The Hijras of India*. Belmont: Wadsworth Publishing Company.
- OMAR, Sara. 2012. "From Semantics to Normative Law: Perceptions of *Liwāt* (Sodomy) and *Siḥāq* (Tribadism) in Islamic Jurisprudence, (8th–15th Century CE)". *Islamic Law and Society*, 19: 222–256.
- PADELA, Aasim. 2012. "Fiqh Councils and Health Policy Actors: Gaps in the Applied Islamic Bioethics Discourse around Vaccines with Porcine Components". In: SCHREIBER, EICH & CLARK (eds.) 2013: 33-42.
- PIERCE, Leslie. 1992. *Transgender Liberation: A Movement Whose Time Has Come*. New York: World View Forum. Repr. in: STRYKER & WHITTLE (eds.) 2006: 205-220.
- REDDY, Gayatri. 2006. *With Respect to Sex: Negotiating Hijra Identity in South India*. Chicago, IL: Chicago University Press.
- REDISSI, Hammadi / BEN ABID, Slah Eddine. 2013. "L’Affaire Samia ou le drame d’être ‘autre’. Commentaire d’une décision de justice". In: MOULIN (ed.) 2013: 237-251.
- ROWSON, Everett K. 1991. "The Effeminate of Early Medina". *Journal of the American Oriental Society*, 111.4: 671-693.
- SAFI, Omid (ed.). 2003. *Progressive Muslims: on Justice, Gender, and Pluralism*. Oxford: Oneworld Publications.
- ŞALIḤ, FAWWĀZ. 2003. "Ġirāḥat al-ḥunūṭa wa taḡyīr al-ḡins fī'l-qānūn al-sūrī". *Mağallat Ġāmi'at Dimašq*, 19.2: 49-77.
- SALVATORE, Armando (ed.). 2001. *Muslim Tradition and Modern Techniques of Power: Yearbook of the Sociology of Islam*, 3. Münster: LIT.
- SANDERS, Paula. 1991. "Gendering the Ungendered Body: Hermaphrodites in Medieval Islamic Law". In: KEDDIE & BARON (eds.) 1991: 74-95.
- SCHMITT, Arno. 2001-2002. "Liwāt im fiqh: Männliche Homosexualität?" *Journal of Arabic and Islamic Studies*, 4: 49-110.
- SCHREIBER, Jenny / EICH, Thomas / CLARK, Morgan (eds.). 2013. *Conference Proceedings of the international Conference: Health Related Issues and Islamic Normativity*. Halle: Universitäts-und Landesbibliothek Sachsen Anhalt, 2013.
- SHAH, Shanon. 2016. "Constructing an Alternative Pedagogy of Islam: The Experiences of Lesbian, Gay, Bisexual and Transgender Muslims". *Journal of Beliefs and Values*, 37.3: 308-319.
- SHANNAHAN, Dervla Sara. 2009. "Sexual Ethics, Marriage, and Sexual Autonomy: The Landscapes for Muslimat and Lesbian, Gay, Bisexual and Transgendered Muslims". *Contemporary Islam*, 3: 59-78.
- SKOVGAARD-PETERSEN, Jakob. 1997. *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dar al-Ifta*. Leiden: Brill.
- STEINECK, Christian / DÖRING, Ole (eds.). 2008. *Kultur und Bioethik: Eigentum am eigenen Körper*. Baden-Baden: Nomos.
- STRYKER, Susan, 2006. "(De)Subjugated Knowledges: An Introduction to Transgender Studies". In: STRYKER & WHITTLE 2006: 1-17.
- STRYKER, Susan / AIZURA, Aren Z. (eds.) 2013. *The Transgender Studies Reader 2*. New York: Routledge.

- . 2013. "Introduction: Transgender Studies 2.0". In: Id. (eds.) 2013: 1-12.
- STRYKER, Susan / WHITTLE, Stephen (eds). 2006. *The Transgender Studies Reader*. New York: Routledge.
- TOLINO, Serena. 2013. *Omosessualità e atti omosessuali fra diritto islamico e diritto positivo: il caso egiziano con alcuni cenni all'esperienza libanese*. Napoli: Edizioni Scientifiche Italiane.
- . 2014. "Homosexual Acts in Islamic Law: *Siḥāq* and *Liwāt* in the Legal Debate". *GAIR-Mitteilungen, Zeitschrift der Gesellschaft für Arabisches und Islamisches Recht*, 6: 187-205.
- VAHEDI, Mostafa / ALIMARDANI, Armin / BEHROUZH, Mohammad Reza / ASLI Mehrad Rayejian. 2017. "Gender Dysphoria in Iran: Legal and Islamic Jurisprudence Perspectives". *Bioethics and Health Law Journal*, 1.1: 41-48.
- WALSH-HAINES, Grant. 2012. "The Egyptian Blogosphere. Policing Gender and Sexuality and the consequences for Queer Emancipation". *Journal of Middle East Women's Studies*, 8.3: 41-62.
- WIKAN, Unni. 1977. "Man Becomes Woman: Transsexualism in Oman as a Key to Gender Roles". *Man*. New Series, 12: 304-319.
- WHO (World Health Organization). 1993. *International Statistical Classification of Diseases and Related Health Problems (ICD)*, 11: <<http://apps.who.int/classifications/icd10/browse/2016/en>> (accessed 30 June 2017).
- . 2017. *International Statistical Classification of Diseases and Related Health Problems (ICD)*, 11. Beta version: <<http://apps.who.int/classifications/icd11/browse/l-m/en/#/>> (accessed 30 June 2017).
- YIP, Andrew Kam-Tuck. 2008. "The Quest for Intimate/Sexual Citizenship: Lived Experiences of Lesbian and Bisexual Muslim Women". *Contemporary Islam*, 2: 99-117.

© Serena Tolino, Asien-Afrika-Institut, Universität Hamburg / Germany
◀ serena.tolino@uni-hamburg.de ▶