

THE PERSPECTIVE OF CONTEMPORARY FIQH ON GENITAL SURGERY: BETWEEN MEDICAL NECESSITY AND SHARIA NORMS

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Abstract

The increasing phenomenon of genital reassignment surgery in the modern era has sparked debate between medical necessity and Islamic legal principles. In the field of contemporary fiqh, this issue is crucial to study as it relates to preserving the natural disposition (fitrah) created by Allah and ensuring human well-being (maslahah). The aim of this research is to examine contemporary fiqh perspectives on the legal rulings regarding genital reassignment surgery and to distinguish between medically permissible procedures and those prohibited due to personal motives. Using a literature study method and a descriptive approach, this study explores various scholarly sources, including journals, books, and articles, to highlight the importance of contemporary fiqh views on genital surgery. The findings indicate that Islam permits genital surgery when intended for healing or correcting congenital abnormalities (khuntsa) and restoring organ function, but prohibits it when performed solely to change one's gender identity. Based on the 1980 fatwa issued by the Indonesian Ulema Council (MUI), such procedures do not alter a person's legal gender status. Therefore, contemporary fiqh emphasizes the importance of maintaining a balance between advancements in medical science and the principles of Sharia in determining the legal status of genital surgery.

Keywords: Contemporary Fiqh, Surgery, Genital Organs, Medical Necessity, Sharia Norms

INTRODUCTION

Advancements in the field of medicine have led to increasingly complex medical procedures, including surgical interventions on reproductive organs. These procedures encompass various forms, ranging from corrective interventions for congenital conditions such as hypospadias or intersex, gender confirmation surgeries for transgender individuals, to aesthetic procedures. From an Islamic perspective, every medical action must be evaluated in accordance with Sharia principles, raising urgent legal and ethical questions. This makes modern fiqh a dynamic method within Islamic law, aiming to address emerging issues through proper ijtiha techniques such as qiyas (analogy), maqasid al-syariah (the higher objectives of Sharia), and maslahah (public interest) as key components in legal adaptation. Modern fiqh not only studies classical texts but also fosters dialogue between the rich intellectual heritage of Islam and contemporary medical realities.

Surgery on reproductive organs, in this context, refers to any surgical procedure that alters the shape, function, or appearance of the genital organs, whether driven by purely medical motives such as healing and recovery, or by non-medical factors such as psychological, aesthetic, or gender identity considerations. Classical fiqh perspectives generally distinguish between therapeutic and non-therapeutic surgeries. Procedures aimed at treating disease, correcting congenital abnormalities that impede normal function, or preventing greater harm are typically permitted based on the principle of *dar'u al-mafasid* (preventing harm). However, surgeries that alter God's creation, such as aesthetic procedures without medical justification or gender reassignment operations in individuals with standard biological conditions, have long sparked ongoing debate within Islamic legal scholarship (Ahmad Yani, Oyo Sunaryo, 2024).

A significant conflict arises between the continuous advancement of medical innovation and the immutable principles of Sharia. On one hand, medical technology offers solutions to physical and emotional suffering, such as in cases of sexual development disorders or gender dysphoria. On the other hand, Sharia emphasizes the preservation of lineage (*hifz al-nasl*) and honor (*'irdh*), as well as the prohibition against altering God's creation. This tension makes the issue of reproductive organ surgery an important subject that requires in-depth analysis. Such analysis is crucial in developing clear ethical and legal guidelines for Muslim medical professionals and patients, ensuring that medical interventions are not only scientifically valid but also consistent with Sharia principles.

Previous studies have shown that contemporary Islamic scholars have made significant contributions to understanding the rules governing reproductive organ surgery from various perspectives. Mailiza Fitria (2023), in her work "*Operasi Plastik dan Selaput Dara (Antara Kebutuhan dan Keinginan) dalam Perspektif Hukum Islam*" ("Plastic Surgery and the Hymen [Between Necessity and Desire] in the Perspective of Islamic Law"), states that genital surgery, including hymen restoration, is permissible when based on urgent medical necessity (*dharurah*) or essential needs (*hajjiyyah*). However, if performed solely for aesthetic purposes without medical justification, it is deemed forbidden (*haram*) as it falls under the category of *taghyir khalqillah* (altering God's creation) without legitimate Sharia grounds (Fitria, 2023).

In addition, Dian Agung Achmad Saputra and Karimuddin Abdullah Lawang (2023), in the *Al-Maqasid* journal, compared Islamic and civil law regulations regarding the practice of sex reassignment. They concluded that Islam permits genital surgery only for medical reasons, such as correcting physical abnormalities or intersex conditions, whereas surgeries performed for non-medical purposes or gender identity changes without a biological basis are considered contrary to Sharia norms (Dian Saputra, 2022).

A study by Dede Hilman Rasyid and Winda Fitri (2023) in the *Jurnal Risalah Kenotariatan* discusses the phenomenon of sex reassignment surgery for *khuntsa* (intersex) individuals. They highlight that Islamic law allows surgical intervention for *khuntsa musykil* as a means of determining the primary biological identity, but it still requires strict medical evaluation and adherence to Sharia ethical principles (dede hilman rasyid, 2023).

Furthermore, a study published in the *Al-Mizan* journal (2023) discusses the prevention of Female Genital Mutilation (FGM) practices. The findings indicate that many modern Islamic scholars reject this practice based on medical evidence and the *maqasid al-shariah* approach, emphasizing the protection of life and the dignity of women (Wijayati, 2023).

From these four studies, it is evident that discussions on genital surgery regulations in recent literature focus on two main aspects: (1) procedures permitted due to medical necessity or *dharurah* conditions, and (2) procedures prohibited when driven by aesthetic motives or gender identity changes without biological justification. Nevertheless, few studies have systematically mapped all types of reproductive organ surgeries using a modern *fiqh* approach grounded in *maqasid al-shariah*, while also considering the psychological and social dimensions of patients. Therefore, this study seeks to fill that gap by developing a more integrated and contextually relevant legal framework that harmonizes medical needs and Sharia norms.

The issue becomes increasingly significant as the demand for such surgeries rises within Muslim societies. Data from hospitals and online consultations show a drastic increase in requests for genital surgeries, both for medical reasons such as obstetric fistula and for non-medical purposes such as vaginoplasty or phalloplasty. The growing phenomenon of gender dysphoria also presents dilemmas for individuals, families, scholars, and medical professionals in making balanced decisions between medical advice and religious rulings.

As a theoretical solution, this study proposes the application of the *maqasid al-shariah* framework to preserve religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-‘aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*), along with the theory of *al-dharurah wa al-hajah* to assess the level of necessity of each medical intervention. This theory is applied to address key questions such as: to what extent can severe psychological conditions like gender dysphoria be classified as emergencies (*dharurah*) that justify surgical intervention? How can the benefits and risks of genital aesthetic surgery be balanced? Through this method, the study aims to formulate a legal categorization that is balanced, ethical, and consistent with Islamic values.

Based on this background, the focus of this article is formulated as follows: “How does modern *fiqh* analyze and determine the legal rulings on various types of reproductive organ surgeries by considering the interaction between medical necessity and Sharia norms?”

IMPLEMENTATION METHOD

This study employs a qualitative approach with a descriptive-analytical technique to systematically examine contemporary Islamic legal issues concerning genital surgery based on relevant literature. The data collection method used is intensive library research, encompassing primary sources (the Qur’an, Hadith, major tafsir works, and specific contemporary *fiqh* literature) and secondary sources (books, journals, and articles related to Islamic jurisprudence, medicine, and bioethics). Data were analyzed through document analysis and a descriptive-analytical approach, involving data classification, interpretation of contemporary *fiqh* texts, critical comparative analysis of scholars’ views regarding medical necessity versus the prohibition of altering God’s creation, and the formulation of conclusions based on the principles of *maqasid al-shariah*. The validity of the data was ensured through source triangulation by comparing classical and modern references. In summary, this research is limited to analyzing the arguments and texts of contemporary scholars on genital surgery within the context of medical necessity and Sharia norms from the perspective of Islamic law

(Wardatul Hani'ah, 2024).

RESULTS AND DISCUSSION

1. Definition of Contemporary Fiqh

Etymologically, fiqh comes from the Arabic words *faqihah*, *yafqahu*, *fiqhan*, meaning deep understanding. According to the definition in *Jam'u al-Jawami'*, fiqh is a discipline concerned with practical Sharia laws derived from detailed evidences (*adillah tafsiliyyah*). Although regarded as a branch of knowledge, fiqh remains *dzanni* (speculative) in nature because it depends on scholarly *ijtihad*, unlike other sciences that are *qath'i* (definitive). Thus, fiqh is a field of Islamic knowledge that studies the Sharia, focusing on the behavior of individuals who are legally accountable (*mukallaf*), meaning those who are mature and of sound mind. A person who masters fiqh is called a *faqih* (plural: *fuqaha*), or an expert in Islamic law (Hafsah, 2024).

In the Indonesian Dictionary (KBBI), the term “contemporary” refers to the present time or current era. Therefore, contemporary fiqh is the study of Islamic jurisprudence that focuses on modern legal perspectives, interpretations, and methodologies in addressing contemporary issues. Other terms for contemporary fiqh include *masa'il al-fiqhiyyah* and *fiqh al-waqi'*. *Masa'il al-fiqhiyyah* refers to efforts to identify new legal issues arising from modern developments based on the Qur'an and Sunnah, aimed at determining rulings for matters that did not exist during the time of the Prophet, the Rashidun Caliphate, the *tabi'in*, or later generations. Meanwhile, *fiqh al-waqi'* emphasizes deep understanding, broad knowledge, and mastery of current realities both within the Muslim community and in the wider global context, including analysis of strengths, weaknesses, opportunities, and challenges that influence religious rulings (*fatwa*), preaching (*da'wah*), and everyday Muslim life (Musthofa, 2025).

In conclusion, contemporary fiqh is the science of practical Sharia law derived from detailed evidences, addressing present-day legal and ethical issues from the post-modern to the modern era up to the current period.

2. Definition of Genital Surgery

Sex reassignment surgery consists of two words: surgery and sex reassignment. Surgery means a medical operation, while sex reassignment refers to the process or method of changing male or female genitalia. Sex reassignment surgery is a medical procedure that alters and reconstructs the external genital organs from one type to another physically. This procedure is usually performed by doctors on transvestites and transsexuals, who, despite having a normal and complete body and genital organs, feel incompatible with their biological sex and wish to change it to align with their gender identity (Sarah & Diniati, 2025).

From this explanation, it can be concluded that sex reassignment surgery is performed by doctors to modify a person's genitalia according to their inner sense of gender identity, even though their physical genital organs are normal. This type of surgery generally applies to individuals who were born with normal genitalia but wish to change their sex.

In the context of Islamic law, individuals born with complete and normal sexual organs penis (*dhakar*) for males and vagina (*farji*) complete with uterus and ovaries for females are prohibited and forbidden from undergoing sex reassignment surgery. This prohibition is based

on the decree of the Indonesian Ulema Council (MUI) during the Second National Conference in 1980 regarding Sex Change or Correction Surgery. According to this fatwa, even if a person's physical sex is changed, the legal status of their sex in Islamic law remains the same as it was before the operation.

Throughout cultural history, only two sexes have been objectively recognized by society: male and female. This is logical because the definition of sex is directly related to the physical condition of human reproductive organs, making sex a discrete variable, such as male and female. This binary classification then gives rise to behavioral expectations, where men are expected to be masculine and women feminine. Individuals who deviate from these norms are often labeled differently, such as “tomboy” for masculine women or “feminine men” (Septira Putri Mulyana & Lely Mahartina Khoiru Ummah, 2019).

The Holy Qur'an declares that there are only two sexes, male and female. This distinction is based on biological characteristics, where sex refers to the anatomical aspect of the human body that determines one's biological identity as male or female. In social sciences, gender is defined as differences not based on biological or divine aspects but rather as social constructs shaped by culture and society. Gender is dynamic and can change depending on the context, while biological sex is fixed and cannot be altered.

Thus, sex and gender are interconnected but not identical; sex is a fixed biological attribute, whereas gender can change according to individual characteristics and choices. This understanding is essential, especially for those considering physical changes such as sex reassignment surgery. In Islam, such surgery is only permissible to correct deformities or restore the function of genital organs, particularly in cases of *khuntsa* (individuals possessing both male and female characteristics). Performing surgery to change one's sex without medical necessity is considered haram, as it constitutes an alteration of Allah's creation (Dimiyati, 2021).

3. Fiqh Perspective on Genital Surgery

The Islamic jurisprudential view on genital surgery, particularly sex reassignment surgery, generally states that such actions are prohibited (*haram*). The Fatwa of the Indonesian Ulema Council (MUI) Number 02 of 1980 explicitly declares that intentionally changing one's genital organs from male to female or vice versa through surgery is forbidden because it is considered an alteration of Allah's creation (human *fitrah*), which contradicts the principles of *sharia*. This ruling is based on the Qur'anic verse in Surah An-Nisa (4:119), which forbids altering Allah's creation, as well as the Hadith of Prophet Muhammad (peace be upon him) that prohibits men from imitating women and vice versa (Ridwan, Kasjim Salenda, 2024).

However, the MUI fatwa provides exceptions in the context of medical correction or reconstruction surgeries, such as for individuals with congenital abnormalities like *khunsa* (intersex) or clear physical deformities that impair genital function. Such operations are permissible as long as they aim to restore normal function and health, not to change gender or sexual identity merely for psychological reasons. In these cases, the medical procedure must be carried out based on strong medical considerations and not on personal desires that contradict the natural order of creation.

The MUI fatwa also emphasizes that even if a person undergoes a sex reassignment surgery, their gender status in Islamic law remains according to their original biological sex

at birth. For instance, someone born male remains subject to the legal and religious rulings applicable to men, even after undergoing such surgery, and the same applies to women. This has implications for legal matters such as marriage, inheritance, and religious obligations, which continue to follow the person's original gender.

4. Genital Surgery Between Medical Necessity and Sharia Norms

The debate surrounding genital surgery lies at the intersection of scientific medical necessity and the ethical and spiritual norms of *sharia*. Islam, as a religion of mercy for all creation (*rahmatan lil 'alamin*), does not reject the progress of medical science but instead provides moral and legal boundaries to ensure that medical interventions remain aligned with the principles of preserving human nature and welfare (*hifz al-nafs wa al-nasl*) (Zabidi, 2019).

Therefore, it is essential to understand the fundamental distinction between surgeries performed out of genuine medical necessity (*darurah*) and those that contradict *sharia* norms namely, altering God's creation without legitimate justification.

a. Genital Surgery in Medical Necessity

In a medical context, genital surgery is permissible when performed for therapeutic purposes. The aim is not to alter God's creation but to restore damaged or abnormal function. Examples include:

1. Case of *Khuntsa Musykil* (Ambiguous Genitalia):

A person born with dual or ambiguous genital organs (intersex) is referred to in *fiqh* as *khuntsa*. Islam permits surgery to determine the true biological sex based on strong medical evidence such as chromosomal structure, gonadal glands, and hormonal function (Abror et al., 2022). The permissibility of this procedure is supported by the *fiqh* principle:

الضَّرُورَاتُ تُبَيِّحُ الْمَحْظُورَاتِ

Meaning: "Necessity permits what is otherwise forbidden."

So, this operation is not a sex change, but rather the determination of the true sex according to one's biological nature.

2. Congenital Abnormalities or Physical Defects:

For example, abnormalities of the urinary tract (*hypospadias* or *epispadias*), genital cancer, or severe injuries resulting from accidents. The purpose of such surgery is reconstruction and restoration of biological functions (urination, reproduction, and normal sexual relations). In *sharia*, this procedure is categorized as *tadāwī* (medical treatment), which is encouraged and even considered an act of worship, as stated by the Prophet Muhammad (peace be upon him):

إِنَّ لِكُلِّ دَاءٍ دَوَاءً

Meaning: "Every disease has its cure." (Narrated by Muslim)

3. Medical Psychological Condition (Gender Dysphoria):

A small number of cases involve a mismatch between biological condition and psychological identity. In Islam, treatment must be gradual, beginning with psychological therapy and spiritual guidance rather than immediate surgery. Surgery may only be considered if it is medically proven that the patient falls into the category of *khuntsa*, whose

biological sex remains indeterminate (Utami & Rachmainy, 2023). Thus, in *fiqh*, such surgery is classified as *rukhsah* (dispensation) due to medical necessity.

b. Operasi Genital Surgery that Contradicts Sharia Norms

Unlike medical cases, surgery performed solely based on a subjective desire to change one's sex is considered *haram* (forbidden) from both the perspective of *sharia* and medical ethics (Abdillah et al., 2023).

1. Theological Aspect: This type of surgery is considered an act of altering God's creation (*taghyīr khalq Allāh*). As stated by Allah Almighty:

وَلَا ضَلَّانَهُمْ وَلَا مِئِينَئِهِمْ وَلَا مَأْمَنَهُمْ فَلْيُبَيِّنَنَّ أَذَانَ الْأَنْعَامِ وَلَا مَأْمَنَهُمْ فَلْيَغْيِرَنَّ خَلْقَ اللَّهِ وَمَنْ يَتَّخِذِ الشَّيْطَانَ وَلِيًّا مِنْ دُونِ اللَّهِ فَقَدْ خَسِرَ خُسْرًا مُبِينًا ١١٩

Meaning: "I will surely mislead them, arouse in them false desires, and 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." (Qur'an, Surah An-Nisa: 119)

This verse indicates that altering God's creation may refer to physical changes, such as changing one's sex, or internal alterations, such as corrupting human nature (*fitrah*) by abandoning Islam for another belief.

2. Ethical and Social Aspects:

Give rise to Such procedures create legal identity confusion regarding marital status, lineage (*nasab*), *aurah* (intimate boundaries), inheritance, and social roles. They may also lead to new psychological disorders after surgery, as the body cannot fully function according to the desired gender. This contradicts the objectives of *maqāṣid al-sharī'ah*, particularly the aims of preserving honor (*hifẓ al-'irdh*) and lineage (*hifẓ al-nasl*) (Alipour, 2017).

Islamic scholars and institutions have issued clear positions on this matter. The Indonesian Ulema Council (*Majelis Ulama Indonesia*) declares that sex reassignment surgery is *haram* (forbidden) except for correcting congenital abnormalities. Meanwhile, the *Majma' al-Fiqh al-Islami* forbids gender reassignment surgeries based solely on psychological reasons, as they lack medical necessity. Similarly, *Dar al-Ifta' Al-Azhar* permits surgery for *khunṭsa* individuals but prohibits it for those with normal biological anatomy.

CONCLUSION

Contemporary Fiqh is a branch of Islamic jurisprudence that addresses various modern issues based on detailed evidence from the Qur'an and the Sunnah. This discipline is dynamic in nature, as it seeks to harmonize the principles of *sharia* with the developments of contemporary life social, cultural, and technological. Also known as *masa'il al-fiqhiyyah* or *fiqh al-waqi'*, this field requires a deep understanding of modern realities so that Islamic law remains relevant and capable of providing solutions consistent with the fundamental principles of *sharia*.

In the matter of genital surgery, Islam distinguishes between procedures performed for medical reasons and those driven by personal desire. Changing one's sex organs in individuals with normal physical conditions is deemed *haram* (forbidden) because it constitutes an alteration of Allah's creation. According to the 1980 Fatwa of the Indonesian Ulema Council (*Majelis Ulama Indonesia*), a person who undergoes sex reassignment surgery is still regarded as having the same gender as their original biological sex. Conversely, surgery is permitted when it aims to correct congenital defects such as in cases of *khuntsa* (intersex) or reproductive organ abnormalities in line with the *fiqh* maxim "*al-dharūrāt tubīh al-mahzūrāt*" (necessity permits the prohibited) and the principles of preserving life and lineage.

Therefore, from a *fiqh* perspective, genital surgery based on medical necessity is considered a permissible form of treatment and may even carry spiritual merit. However, surgery performed solely to change one's gender identity contradicts Islamic law, as it defies human *fitrah* (natural disposition) and may cause social, legal, and moral disorder. Islam reminds believers that scientific advancement must always be accompanied by moral responsibility, so as not to transgress the limits set by Allah SWT, in order to uphold human dignity and collective well-being.

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