



## Maqāṣid al-Sharī‘ah in Islamic Jurisprudence and Transgender Rights: A Comparative Analysis of Fatwas in Egypt and Iran

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### Abstract

This article examines how Islamic jurisprudence engages with transgender rights through two landmark fatwas in Egypt and Iran: Sheikh Muhammad al-Tantawi’s 1988 fatwa and Ayatollah Ruhollah Khomeini’s 1987 fatwa. Using qualitative methods—document analysis, hermeneutics, and comparative case studies—the study analyzes how religious authorities interpret sex reassignment surgery (SRS) within Islamic law. Al-Tantawi permits SRS only for intersex individuals, reinforcing binary gender norms and sustaining legal ambiguity and social stigma in Egypt, though his ruling nonetheless inspired activism for more inclusive interpretations. In contrast, Khomeini’s fatwa employs theological principles such as *aṣālat al-ibāḥa* (original permissibility) and *taslīṭ* (personal authority) to allow SRS for transgender individuals diagnosed with gender dysphoria, shaping Iranian state policy through formal medical protocols and insurance coverage. However, tensions remain, as this recognition coexists with the criminalization of homosexuality. The study shows that while medical diagnostics are central to legitimizing contemporary fatwas in both countries, such reliance also reinforces the pathologization of gender variance. By foregrounding this tension, the article demonstrates how medicalization both enables and constrains Islamic legal reasoning. It argues that applying *maqāṣid al-Sharī‘a*—particularly justice, welfare, and human dignity—offers a more compassionate and ethically responsive framework. The findings highlight the need for expanded *ijtihād* that incorporates non-binary and intersectional identities to support a more inclusive, human-centered Islamic legal approach.

**Keywords:** Islamic jurisprudence, transgender rights, sex-reassignment surgery, fatwa, gender identity, *maqāṣid al-Sharī‘a*, LGBTQ rights.

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## Introduction

In recent decades, evolving social realities, medical advances, and growing advocacy for transgender rights have compelled significant reconsideration of Islamic legal and theological perspectives on gender variance. Traditionally, classical Islamic jurisprudence adhered to a strict binary understanding of gender, grounded in the belief that God assigns sex at birth as an immutable and divinely ordained attribute. From this perspective, surgically altering one's sex was generally condemned as an illicit interference with divine creation, often justified by Quran 4:119 and reinforced by conservative interpretations that deemed such acts sinful (M.M., 2010).

Operating within this framework, most jurists considered any departure from one's birth-assigned sex to be an unacceptable violation of the natural order established by God. In recent years, however, scholars have increasingly engaged with modern medical insights into gender dysphoria and have begun to acknowledge the human rights of transgender individuals. This shift has necessitated a re-examination of traditional legal interpretations in many Islamic contexts. This evolving thinking is especially apparent among neo-traditionalist Muslim scholars. They have applied *ijtihād*, independent juristic reasoning, to issues of gender not explicitly addressed in classical texts. Invoking the *maqāṣid al-sharī'ah* (objectives of Islamic law), such as the promotion of welfare (*maṣlaḥa*), justice, and human dignity, these scholars aim to harmonize Islamic ethical principles with contemporary realities.

The shift is exemplified by two landmark fatwas from the late 1980s: one by Ayatollah Ruhollah Khomeini in Iran and another by Sheikh Muhammad Sayyid al-Tantawi in Egypt. These rulings marked a significant departure from the previously prohibitionist stance. Each fatwa, in its own way, conditionally legitimized sex-reassignment surgery within an Islamic legal framework, creating new possibilities for accommodating transgender Muslims' needs under *Sharī'a*. This scholarly turn

parallels global trends in which medical, psychological, and social understandings of gender identity challenge static binary categories and prompt religious traditions to respond with greater thoughtfulness and compassion (Alipour, 2017).

Within this context, the article's central research question is how a legal tradition rooted in premodern methodologies and ethical principles can adapt to the modern challenges posed by transgender realities, and it treats this question not merely as background but as a central analytical problem. At the heart of this inquiry lies a structural tension between, on the one hand, the obligation to uphold established doctrinal commitments such as binary classifications of sex/gender, inherited *fiqh* categories, and long-standing hermeneutical conventions and, on the other hand, the need to acknowledge contemporary social and medical insights into gender identity, psychological distress, and the marginalization experienced by transgender individuals. This tension arises precisely because classical jurisprudence was developed in a context in which transgender identities, as understood today, were neither conceptually elaborated nor empirically documented. In contrast, modern contexts are shaped by clinical diagnoses, psychological research, and human rights discourses that foreground harm, vulnerability, and dignity.

In the analysis section, this tension is explored by tracing how doctrinal norms and empirical “facts” about transgender lives come into contact, overlap, and sometimes clash. On the doctrinal side, the study examines how premodern *fiqh* methodologies and inherited legal maxims are mobilized to preserve continuity with tradition and maintain clear gender boundaries. On the empirical side, it investigates how medical diagnostics, psychiatric assessments, and lived experiences of suffering are introduced as evidence of psychological harm and social exclusion, thereby pressuring jurists to reconsider the ethical implications of rigid doctrinal positions. The article argues that it is precisely at this intersection, where doctrine confronts contemporary factual realities, that *maqāṣid al-Sharīʿa* can function as a mediating framework, allowing jurists to reassess established rulings in light of demonstrable harm, welfare, and human dignity. By making this doctrinal–factual tension explicit and analyzing how it is negotiated within *fatwa* discourses in Egypt and Iran, the study provides a more thorough and systematic account of the challenges and possibilities involved in adapting Islamic legal reasoning to transgender realities. For centuries, Islamic jurists held that any attempt to change one’s

sex was categorically forbidden, invoking divine wisdom in creation and the immutability of God-given gender as fundamental arguments. These traditional positions did not consider the lived realities of transgender people or the medical recognition of gender dysphoria as a condition deserving compassion.

Accordingly, the present study examines whether Islamic law can legitimately accommodate medical interventions such as sex-reassignment surgery (SRS) without violating Sharī'a's core ethical commitments. Contemporary scholars often propose renewed *ijtihād* as a solution, namely the use of independent reasoning to reinterpret Islamic legal principles in light of current knowledge and human needs. This approach suggests that Islamic law is not static; rather, it can evolve through independent juristic reasoning to address issues that classical jurists never anticipated. In particular, the *maqāṣid* framework (focused on the higher objectives of the law) provides a strong ethical basis for revisiting past prohibitions, emphasizing that legal rulings should be guided by human welfare, dignity, and the alleviation of harm as paramount objectives. Thus, the question is not just whether SRS can be permitted under Islamic law, but more importantly, how any such permission can be ethically and jurisprudentially justified.

Concrete approaches to this issue have been demonstrated by figures such as Khomeini and al-Tantawi, who applied classical Islamic interpretive methods to contemporary cases. Khomeini's fatwa, prompted by Maryam Khatoon Molkara's petition in Iran, took a relatively permissive stance. It highlighted the principle of original permissibility (*hilliyya*) and the concept of [personal authority (*taslīṭ*)], and Khomeini even consulted medical experts to understand the complexities of gender dysphoria. His ruling declared that if credible medical professionals deemed SRS necessary for a person's psychological health and well-being, then undergoing such surgery would not violate Sharī'a. Khomeini's approach drew on the characteristically flexible principles of *Shi'i* jurisprudence, including the presumption that an act is permissible unless explicitly prohibited and the importance of context *zaman wa makān*, which refers to time and place in shaping legal judgments (Alipour, 2017).

Faced with the high-profile case of Sally Mursi (an al-Azhar University student who underwent SRS), al-Tantawi issued a ruling that conditionally allowed SRS in cases deemed medically necessary to treat an innate condition. Al-Tantawi relied on

Sunni legal methods like *qiyās* (analogical reasoning) and *istihsān* (juristic preference) to conceptualize SRS as a type of medical treatment, comparable to surgery used to correct intersex conditions (khunthā) when medically required. He reasoned that if a trustworthy physician confirmed an underlying innate cause necessitating surgery, whether a form of “psychological intersex” or gender dysphoria, then SRS could be justified as a means of relieving harm and restoring the person’s true God-given nature (Alipour, 2017). Al-Tantawi’s fatwa exemplified a cautious but innovative application of *ijtihād*, extending classical principles to address a modern dilemma.

Together, Khomeini’s and al-Tantawi’s fatwas have become foundational reference points in subsequent scholarly and juristic debates. They illustrate that Islamic legal reasoning can be marshaled to meet modern ethical challenges while remaining faithful to tradition. Analysts observe that these rulings exhibit Islamic law’s adaptability, emphasizing that *ijtihād* enables responses to evolving social realities without compromising fundamental ethical principles (Sunata et al., 2022; Wan Nur Izzati Wan Nor Anas et al., 2023). These fatwas also shaped state policies. In Iran, Khomeini’s decision was enshrined in national law, allowing legal gender transitions and providing access to SRS. In Egypt, al-Tantawi’s fatwa set a precedent that opened limited pathways, albeit under strict medical criteria, for partial legal recognition of transgender individuals. Such developments demonstrate the tangible impact that juristic reasoning can have on transgender Muslims’ lives. They also highlight Islamic law’s capacity to evolve in response to contemporary needs.

A survey of the relevant literature reveals a dynamic scholarly discourse on these matters. Recent studies underscore the importance of *maqāṣid al-sharī‘ah* in guiding ethical decisions in modern contexts. They advocate interpretations that prioritize human welfare, dignity, and the reduction of harm (Bagas, 2021; Noor et al., 2024). Scholars contend that by invoking *maqāṣid*, Islamic law can interact more constructively with contemporary medical science and human rights frameworks, fostering more inclusive and compassionate responses to gender variance. Furthermore, comparative work on *Sunni* and *Shi‘i* jurisprudence highlights differences in methodological flexibility. *Shi‘i* legal thought, which emphasizes rationality (‘aql) and context, has often been more amenable to progressive rulings (Moleiro & Pinto, 2020; Toosi, 2024). Overall, this

body of research shows that Islamic legal thought is far from monolithic. It encompasses a plurality of approaches, many of which can engage with contemporary ethical dilemmas in nuanced ways.

However, for all these advances, significant research gaps persist. The landmark fatwas of Khomeini and al-Tantawi, while crucial as precedents, addressed only binary gender transitions and left unexamined the issues faced by non-binary persons or the broader LGBTQ+ community. In addition, the practical implementation of these rulings has been uneven. Legal recognition, medical access, and social acceptance for transgender people still vary widely across Muslim-majority societies, even where these fatwas are known. Scholars have thus urged further investigation into how Islamic law might address the full spectrum of gender diversity, especially the experiences of non-binary and gender-nonconforming individuals, and how juristic reasoning can confront the persistent stigma and discrimination they face (Kara, 2020; Sunata et al., 2022). Bridging these gaps will require ongoing *ijtihād* and interdisciplinary dialogue, bringing Islamic legal principles into conversation with contemporary ethical thought, medical science, and human rights perspectives.

Considering the above, the present study offers a comprehensive analysis of the Islamic legal reasoning behind permitting SRS for transgender Muslims. It centers on the landmark fatwas of Khomeini and al-Tantawi as primary case studies. This research is novel in its interdisciplinary approach, integrating Islamic legal theory, gender studies, and medical ethics to assess how classical jurisprudential principles can be applied to contemporary challenges. Employing a tripartite analytical lens that includes legal-*fiqhī* reasoning, theological interpretation, and socio-cultural analysis, the project illuminates both the potential and the limitations of current Islamic legal responses to transgender realities. Ultimately, it argues that a more compassionate and ethically grounded exercise of *ijtihād* can bridge Islamic legal tradition with modern understandings of gender identity, thereby promoting human dignity and social justice in Muslim communities.

## Method

One foundational method is document analysis, which is crucial in Islamic legal research for closely examining the texts of fatwas and other relevant religious rulings. This approach allows for a systematic evaluation of the language, theological assumptions, and interpretive frameworks underlying these legal opinions. For example, analyzing Khomeini's fatwa shows that it invokes *Shi'i* principles like the presumption of permissibility (*aṣālat al-ibāḥa*) and the concept of personal autonomy (*taslīṭ*) to sanction SRS whenever reputable medical experts deem it necessary (Alipour, 2017). By contrast, al-Tantawi's fatwa draws on Sunni methods like *qiyās* (analogy) and *istihsān* (juristic preference). It likens SRS to the surgical correction of intersex conditions (*khunthā*) in cases of medical necessity. Through such document analysis, the study gleans critical insights into how jurists extend classical legal principles to tackle these unprecedented modern dilemmas.

In parallel, the study uses hermeneutics to deepen the interpretation of these fatwas. This hermeneutic approach enables an exploration of the multiple layers of meaning in the religious texts, showing how traditional legal categories are being reinterpreted to address gender dysphoria as a contemporary medical condition. Such analysis is especially useful for understanding how jurists engage with *maqāṣid al-sharī'ah* (the objectives of Islamic law)—principles that emphasise human welfare, justice, and dignity (Sunata et al., 2022; Wan Nur Izzati Wan Nor Anas et al., 2023). By situating each fatwa in its socio-political and theological context, the hermeneutic approach reveals how Islamic jurists navigate the tension between maintaining doctrinal fidelity and exercising compassion when addressing the modern challenges faced by transgender Muslims (Susilo et al., 2022).

Case studies form another key component of methodology. They allow an in-depth qualitative exploration of how these religious rulings have affected transgender Muslims in social and legal terms. The research centers on two pivotal cases: Maryam Khatoon Molkara's appeal to Ayatollah Khomeini in Iran, and the case of Sally Mursi brought before Sheikh al-Tantawi in Egypt. Each case provides a rich context for analyzing how personal narratives, medical testimonies, and community pressures shaped these fatwas. Through these real-world examples, one can trace the dynamic



interplay of religious authority, medical ethics, and personal identity. This perspective highlights the way jurisprudence evolves when it engages with lived experience (Etengoff & Rodriguez, 2022).

Within the case study framework, the study also proposes conducting qualitative interviews with scholars, medical professionals, and transgender community members. These interviews aim to yield critical insights into how religious rulings shaped experience, community acceptance, and individual rights. This approach helps uncover the socio-cultural dynamics between traditional scriptural interpretations and contemporary reality, thereby enriching the dialogue on faith, identity, and social justice (Etengoff & Rodriguez, 2022). For instance, in contexts where religious leaders have issued progressive fatwas, interviews can examine whether those rulings have led to more inclusive practices or legal reforms. Conversely, in more conservative settings, such interviews might reveal how strict religious prohibitions continue to reinforce discrimination and social marginalization.

These case studies are valuable in showing how individual narratives intersect with broader cultural and legal frameworks in Muslim societies. For example, Maryam Khatoon Molkara's successful plea to Khomeini resulted in sweeping legal changes in Iran, such as government-subsidised SRS and official gender recognition—demonstrating that religious jurisprudence can adapt to modern medical ethics in ways that affirm human dignity (Alipour, 2017). Similarly, in Egypt, the case of Sally Mursi prompted al-Tantawi to issue a cautious yet groundbreaking fatwa that went on to shape the legal criteria for permitting SRS on medical grounds. These cases underscore the transformative potential of Islamic legal reasoning when it truly engages with human experiences of suffering and identity. They illuminate how jurisprudence can evolve by dialoguing with contemporary medical insights and ethical standards (Zaharin & Pallotta-Chiarolli, 2020).

An interdisciplinary approach is essential for comprehensively understanding the complex issues surrounding gender identity and medical intervention in Islamic legal contexts. Qualitative techniques, such as in-depth interviews and focus group discussions, yield rich, nuanced data capturing the intersections of faith, gender identity, and medical ethics. Through this approach, the research documents personal narratives showing how individuals navigate religious teachings alongside societal



expectations in the context of gender transition. These stories provide insight into the psychological, social, and ethical dimensions of SRS in Muslim contexts (Zaharin & Pallotta-Chiarolli, 2020). Comparative analysis is also central to the methodology. By juxtaposing *Sunni* and *Shi'i* jurisprudential approaches to gender variance and medical interventions, the study highlights where Islamic legal thought converges and diverges on these issues. This analytical strategy engages with feminist and queer theoretical perspectives to critique and interpret the fatwas and legal texts, thereby situating Islamic discourse within the wider global conversations on gender and sexual ethics. Through comparison, scholars can evaluate how different theological commitments and legal methodologies influence the inclusion or exclusion of transgender rights. This contributes to a more holistic understanding of what these religious rulings mean across diverse cultural and sectarian settings.

Additionally, the methodology incorporates Participatory Action Research (PAR) to make the research process inclusive and responsive to the communities it studies. PAR means collaborating directly with transgender individuals, activists, and scholars. This collaborative approach creates a more equitable research process by amplifying the voices of those most affected by religious rulings on gender transition. It empowers community members to co-create knowledge and offers practical insights that can inform policy, both religious and secular, geared towards protecting transgender people's rights and dignity (Budianto, 2023). By centering the experiences and expertise of transgender Muslims themselves, PAR increases the research's relevance and ethical rigor, effectively bridging the gap between academic analysis and real-world advocacy.

Additionally, the project pays close attention to best practices for documenting medical expert testimony within religious legal decision-making, as this is vital for maintaining the study's integrity. It is necessary to comprehensively document medical experts' opinions to clarify how medical standards are interpreted alongside religious rulings. Such documentation involves noting each expert's credentials, their specific field of expertise, and the context of their advice steps that establish the credibility of medical testimony in influencing juristic decisions (Budianto, 2023). Equally important is the integration of multidisciplinary perspectives. The

methodology calls for collaborative discussions among medical professionals, legal scholars, and religious authorities to make sure that deliberations consider scientific, ethical, and cultural dimensions (Zaharin & Pallotta-Chiarolli, 2020). In case studies, it is important to document the expert medical testimony that was presented as evidence in religious legal forums. Such documentation can illuminate how expert opinions influenced outcomes across different jurisdictions, revealing patterns of either acceptance or resistance to medical recommendations for SRS (Hamzah, 2025). Finally, the study recommends creating standardized templates for gathering and presenting expert testimony in religious court settings. These templates would ideally have sections to summarize pertinent medical evidence, ethical considerations, and specific medical needs related to gender transition. They would also incorporate guidance from religious scholars on interpreting medical testimony within an Islamic jurisprudential framework (Akkaymak & Belkhodja, 2020). By adopting these best practices, the research seeks to foster a nuanced dialogue about gender identity, medical ethics, and Islamic law, one that honors traditional frameworks yet also acknowledges modern realities.

## **Discussion**

### **A. Egypt: Sheikh Muhammad al-Tantawi's 1988 Fatwa**

#### **1. Immediate Legal and Social Impacts**

Sheikh Muhammad al-Tantawi's 1988 fatwa on SRS was issued in response to the case of Sally Mursi, a transgender woman in Egypt. This ruling became a pivotal moment in Egypt's legal and social discourse on gender identity. From a legal standpoint, al-Tantawi's fatwa only allowed SRS for individuals diagnosed as intersex, which established a nuanced and somewhat ambiguous regulatory framework. This narrow permission reinforced conservative interpretations and effectively limited transgender people's access to SRS (Dabash, 2023; Fortier, 2025). Following the fatwa, Egyptian courts—adhering closely to its restrictive logic—often refused to recognise transgender individuals who underwent or sought medical transition legally. As a result, legal ambiguities persisted, entrenching obstacles to both healthcare access and legal rights for transgender Egyptians. In this way, the fatwa served both as a precedent and as a limiting factor in Egyptian jurisprudence (Noralla, 2024).

## **2. Legal and Social Interpretations**

Over the following decades, al-Tantawi's ruling shaped the stance of Egypt's religious and legal institutions. Influential bodies like Al-Azhar and Dar al-Ifta consistently upheld the fatwa's narrow parameters, maintaining a conservative stance that allowed SRS only in intersex cases and denied its permissibility for transgender people generally. This outlook preserved the notion that gender transition is a forbidden tampering with God's creation, thereby effectively denying transgender individuals any legal protection (Noralla, 2024; Fortier, 2025). The Egyptian judiciary mirrored these religious interpretations as well, routinely denying legal recognition to transgender individuals and reinforcing discriminatory practices. The result was an alignment of

religious authority and legal institutions that together marginalized transgender identities (Dabash, 2023). In the social realm, the fatwa's influence also entrenched stigma against transgender people. Religious authorities often framed transgender identities as pathological, feeding a public narrative that equated gender variance with mental illness or moral deviance. Such a framework worsened social ostracism and made it even harder for transgender people to access healthcare, education, and employment (Fortier, 2025; Dabash, 2023). Nevertheless, resistance has emerged. Advocacy groups have formed to challenge these traditional views and to demand recognition and rights for transgender citizens. Although the fatwa created considerable barriers, it also sparked conversation in religious and public forums. This ongoing dialogue suggests growing awareness and potential for reinterpretation of the rules.

## **3. Role of Medical Diagnostics and Ethical Considerations**

Medical diagnostics, especially psychological evaluations, and the classification of patients as intersex have been pivotal in legitimizing SRS under Egyptian Islamic law. Al-Tantawi's fatwa leaned on an intersex classification to justify surgery, framing SRS as the correction of a biological anomaly rather than as affirmation of one's self-identified gender (Parkinson, 2023). This strategy of aligning religious rulings with medical definitions opened a narrow pathway for transgender people to seek treatment: it often forced individuals to fit their experience into an intersex narrative to qualify. Mental health professionals became central in this process. They were responsible for diagnosing gender

dysphoria and certifying the medical necessity of surgery, which effectively positioned medical experts as gatekeepers for SRS access (Gerritse et al., 2022). This close interplay between medical authority and religious jurisprudence has influenced later fatwas and legal interpretations. Incorporating diagnostic categories into their ethical reasoning allowed these religious rulings to integrate medical expertise, making possible some limited but meaningful accommodations for transgender individuals. This dynamic, in turn, has sparked broader debates—about bodily autonomy, mental health, and the ethical responsibilities of Islamic law to relieve human suffering. On the one hand, medicalisation has occasionally led to more compassionate religious interpretations. On the other hand, critics argue that it reinforces a pathologizing approach to transgender identities (SUSILO et al., 2022). This tension highlights the evolving character of Islamic legal thought as it grapples with modern medical ethics.

## **B. Iran: Ayatollah Khomeini's 1987 Fatwa**

### **a. Legal Framework and State Policy Development**

Khomeini's 1987 fatwa marked a transformative change in Iran's approach to gender transition. Unlike al-Tantawi's cautious stance, Khomeini's ruling explicitly allowed SRS for transgender people diagnosed with gender dysphoria, giving a direct religious sanction to these medical procedures (Dickens, 2020). His fatwa effectively paved the way for SRS to be formally incorporated into Iran's legal system, allowing individuals to legally change their gender through state-approved procedures. Iranian medical authorities subsequently established protocols that mandated psychological evaluations to confirm gender dysphoria, thereby closely intertwining medical practice with religious jurisprudence.

In the wake of Khomeini's fatwa, the Iranian government began to institutionalize support for transgender people—for example, by subsidizing SRS via the public health insurance system. This policy change aligned religious approval with state welfare measures, casting treatment for gender dysphoria as a legitimate and necessary part of healthcare (Nesvaderani, 2023). However, the Iranian framework contained contradictions: even as it facilitated gender transition, the state continued to criminalise homosexuality harshly. This paradox has reportedly led some Iranians to feel compelled to undergo SRS to avoid punishment and fit into state-enforced

heterosexual norms (Ahmad et al., 2023). These dynamics underscore the complexities of Iran's legal adaptations, which combine progressive policies with coercive social-control measures.

### **b. Theological Principles Underpinning the Fatwa**

Khomeini grounded his fatwa in specific theological principles that justified its permissive stance. Foremost was *aṣālat al-ibāḥa*—the notion that everything is permissible unless expressly forbidden by Islamic law. This principle enabled Khomeini to argue that since no scripture explicitly forbids SRS, the procedure could be allowed if it is medically necessary to relieve a person's distress (Mao et al., 2024). Another key principle he cited was *taslīt*, which emphasizes an individual's authority over their own body and property. Through *taslīt*, Khomeini effectively recognized a person's right to make personal bodily decisions especially regarding medical treatments for gender dysphoria (Li et al., 2023). Ethical considerations were also integral to how the fatwa was formulated. In recognizing gender dysphoria as a legitimate medical condition, Khomeini's ruling was consistent with Islamic ethical imperatives to relieve suffering and promote well-being (Ali & Majid, 2020). This perspective brought medical ethics into conversation with Islamic jurisprudence, showing that religious law could engage with modern medical insights without betraying its own ethical foundations. All these theological principles and ethical considerations underpinned the formal regulatory framework Iran eventually developed, one that effectively embedded religious approval into the state's legal management of gender transition.

### **c. Maryam Khatoon Molkara's Advocacy**

Maryam Khatoon Molkara's activism was crucial in influencing Iran's religious and legal approach to transgender rights. As a transgender woman, Molkara engaged directly with Khomeini and other clerics, putting a human face on the issue and situating transgender experiences within an Islamic moral narrative (Jahamou, 2021). Through her persistent advocacy for acknowledgment and medical care, Molkara became a living case study underscoring the need for more compassionate legal adaptations. Her high-profile efforts challenged inflexible interpretations of the law and prompted religious scholars to pay closer attention to the actual lived experiences

of transgender people (Shakil & Cheema, 2024). Molkara's efforts also had a hand in shaping legal frameworks by highlighting the need for standardized SRS protocols. Her case made clear the importance of formal psychological evaluations and medical certifications, helping to pave the way for state policies to regulate the gender transition process systematically. Iran's legal recognition of SRS—largely sparked by Molkara's case—set the country apart from most other Muslim-majority societies, as it integrated SRS into its official healthcare and legal systems (Jahamou, 2021). On the social front, Molkara's activism confronted entrenched stigmas. It fostered increased public awareness and empathy toward transgender people, even though significant conservatism and contradictions in Iranian society remain.

### **C. Comparative Analysis and Broader Implications**

#### **1. Reception and Critique by Contemporary Scholars**

Modern Islamic scholars have reacted to Khomeini's and al-Tantawi's fatwas with a mix of approval and criticism. Proponents consider the rulings progressive steps that align with modern medical insights into gender dysphoria and provide an Islamic rationale for reducing suffering through SRS (Demartoto, 2020). According to this view, the fatwas illustrate the flexibility of Islamic jurisprudence, achieved through *ijtihād*, by responding compassionately to human needs without sacrificing doctrinal integrity. Critics, however, point out that both rulings fundamentally rely on the medicalizing of transgender identity, effectively treating it as a condition to be corrected. They warn that this approach can perpetuate stigma by casting transgender experiences as pathological (Anas et al., 2023).

The examination of Islamic legal responses to transgender identities—epitomized by the fatwas of Sheikh Muhammad al-Tantawi in Egypt and Ayatollah Ruhollah Khomeini in Iran—shows that classical jurisprudence has both a capacity to adapt and certain inherent limits when confronted with contemporary issues of gender variance. These fatwas have carried wide-ranging legal, social, and ethical implications, highlighting the tension between tradition and reform in Muslim-majority societies. Al-Tantawi's 1988 fatwa, issued in response to Sally Mursi's case, created only a very narrow legal pathway: it allowed SRS solely for intersex

individuals, upholding a strict interpretation focused on preserving the divine order of creation (Noralla, 2024). Because the fatwa required medical professionals to certify an intersex condition, it established a gatekeeping system that simultaneously relied on medical authority and circumscribed it (Gerritse et al., 2022). In effect, mental health experts became arbiters of which transitions were religiously permissible, thereby embedding medical authority into the workings of religious law.

This framework has had a twofold impact. On one hand, it offered a narrow legal avenue for specific transgender individuals (specifically those whose situations could be framed as “psychological intersex”). On the other hand, it reinforced social stigma by treating gender variance as a pathology. In practice, Egyptian courts frequently invoked al-Tantawi’s ruling to refuse legal recognition to transgender people, a pattern that perpetuated discrimination and social exclusion (Dabash, 2023). By hewing to the fatwa’s strict terms, institutions like Al-Azhar and Dar al-Ifta further entrenched conservative legal norms, effectively marginalizing anyone whose identity fell outside of the male/female binary. At the same time, the social consequences of this restrictive stance have galvanized activism. For example, in 2017, “Transat” was founded, an advocacy group that directly challenges these institutional barriers and urges reinterpretations of Islamic law that uphold human rights and dignity (Fortier, 2025).

In contrast, Khomeini’s 1987 fatwa in Iran was more permissive. It incorporated principles of *aṣālat al-ibāḥa* and *taslīṭ* to affirm personal bodily autonomy and legitimize SRS for transgender individuals diagnosed with gender dysphoria (Mao et al., 2024). By relying on the presumption of permissibility and affirming individual autonomy, the fatwa provided a broad legal foundation that Iran’s government ultimately wove into its regulatory frameworks. The establishment of medical protocols mandating psychological evaluations and the provision of state-funded SRS through insurance signaled institutional recognition of transgender rights within an Islamic paradigm (Dickens, 2020). However, this progress came with contradictions. Even as the fatwa enabled transgender Iranians to gain medical and legal recognition, homosexuality remained harshly criminalized. This situation has reportedly led some people to feel compelled to undergo SRS to avoid punishment and conform to state-enforced heterosexual norms (Ahmad et



al., 2023). This dynamic exposes a complex interplay between progressive legal adaptations and the conservative impulse of the state to control sexuality.

Maryam Khatoon Molkara's experience in Iran illustrates how an individual narrative can significantly reshape religious and legal discourse. Her direct appeal to Khomeini, coupled with her insistence on being recognized as a transgender Muslim woman, transformed an abstract jurisprudential debate into a concrete human reality, compelling religious authorities to confront the lived experience of gender dysphoria (Jahamou, 2021; Shakil & Cheema, 2024). Her efforts prompted the establishment of formal medical and psychological evaluation procedures, thereby embedding individual rights within the legal framework. In this process, religious authority itself became a mechanism for legitimizing gender transition. Moreover, Molkara's activism catalyzed broader public conversations that challenged entrenched stigmas and encouraged more empathetic understandings of transgender lives, even as cultural conservatism in Iran continues to exert strong influence (Ahmad et al., 2023).

It is also important to scrutinize the theological rationales behind each fatwa. Al-Tantawi's application of *qiyās* and *istihsān* to treat SRS as analogous to surgery for intersex conditions was a cautious yet notable extension of classical jurisprudence (Alipour, 2017). However, his reasoning was still tied to a strictly binary framework. It did not account for non-binary or third-gender individuals, a shortcoming pointed out by modern critics who urge moving past rigid gender categories (Arqum, 2023). Similarly, Khomeini's use of *aṣālat al-ibāḥa* and *taslīṭ* theologically justified personal bodily autonomy, but it also leaned on medicalizing transgender identity. It casts being transgender as a condition to be treated instead of acknowledging it as a valid identity in its own right.

This medicalized framing has drawn criticism. Some scholars argue that it reinforces stigma by treating transgender experiences as pathologies, thereby undermining the legitimacy of gender diversity itself (Noor et al., 2024; Anas et al., 2023). These critiques underscore a need for more reformist interpretations—ones that recognize non-binary identities and do not rely solely on medical gatekeeping for validation. After all, although involving mental health professionals and diagnostic labels has provided a route to religiously sanctioned care, it also risks recreating authority hierarchies that limit

personal autonomy and continue to exclude people (Parkinson, 2023; Gerritse et al., 2022).

Considering these issues, the principles of *maqāṣid al-Sharī'a* present a promising framework for evolving Islamic legal responses to gender variance. Because *maqāṣid* emphasizes human welfare (*maṣlaḥa*), justice (*'adl*), and the reduction of harm, it encourages scholars to perform *ijtihād* that is attuned to present-day social realities (Alipour, 2017; Ismail & Baharuddin, 2023; Zaharin & Pallotta-Chiarolli, 2020). Using a *maqāṣid* perspective allows for a more flexible interpretation—one that prioritizes the well-being of transgender individuals and regards gender-affirming care not as defiance of divine order but as fulfilling Islamic ethical mandates of compassion and justice (Rahmi et al., 2024). This approach echoes the appeals of reformist scholars who advocate for inclusive interpretations of Islamic texts—interpretations that acknowledge human diversity and uphold individual autonomy.

Moreover, these legal changes in Egypt and Iran also carry broader implications for LGBTQ rights in Muslim societies. Khomeini's fatwa established official procedures for SRS, setting a precedent that activists have since invoked in pushing for wider sexual and gender rights (Mokodenseho et al., 2024). Although Iran's context is still constrained by laws criminalizing homosexuality and rigid gender norms, its experience shows that religious rulings can carve out legal recognition and healthcare access for transgender people, albeit within certain limits. Similarly, Egypt's framework remains restrictive; yet the activism it has galvanized reveals a growing call for reinterpretations of Islamic law that uphold human dignity and rights (Fortier, 2025). Overall, Islamic jurists still face the fundamental challenge of steering between tradition and modernity. Effective *ijtihād* demands a balance: maintaining fidelity to classical sources while also responding to contemporary medical knowledge, ethical thought, and human rights norms. This balance becomes even more difficult due to pushback from conservative factions, who argue that departing from binary gender norms undermines divine creation and threatens social stability (Helim et al., 2024; Tulasmi et al., 2021). Reform-minded scholars and activists must navigate these tensions carefully as they work to articulate new interpretations that remain true to Islam's ethical principles of justice, compassion, and welfare.

Additionally, an intersectional perspective is critical in these discussions. Gender identity doesn't exist in a vacuum; it intersects with factors like class, ethnicity, and other social dimensions that influence how someone might be marginalized or able to access their rights. Any genuinely inclusive Islamic legal framework needs to acknowledge these complexities. It should broaden its scope beyond gender transition to encompass the full spectrum of LGBTQ identities and experiences (Tulasmi et al., 2021). Achieving this will require ongoing dialogue and collaboration with affected communities, scholars, and activists. Only through such engagement can interpretations of Islamic law truly reflect the lived realities of those most impacted and foster an environment of safety, dignity, and belonging.

## **Conclusion**

This study has illustrated the complex, evolving relationship between Islamic jurisprudence and transgender rights by examining the landmark fatwas of Sheikh Muhammad al-Tantawi and Ayatollah Ruhollah Khomeini. Al-Tantawi's 1988 fatwa in Egypt exemplified a restrictive approach: it sanctioned SRS exclusively for intersex individuals, a stance that reinforced binary gender norms and left transgender people marginalized. That narrow legal framework perpetuated social stigma, but it also sparked activism calling for more inclusive interpretations of Islamic law. By contrast, Khomeini's 1987 fatwa in Iran was more permissive. It incorporated principles of *aṣālat al-ibāḥa* and *taslīṭ* to affirm personal bodily autonomy and legitimize SRS for transgender individuals diagnosed with gender dysphoria. Khomeini's fatwa went on to shape state policy: Iran implemented formal medical protocols and granted a measure of legal recognition to gender transitions. At the same time, this progress came with contradictions, namely, the state maintained conservative stances on sexuality and continued to criminalize homosexuality.

The study highlights how medical diagnostics have influenced these religious rulings and brings attention to the ethical tensions that arise from medicalizing transgender identities. It underscores that future interpretations of Islamic law should be grounded in *maqāṣid al-Sharī'a*—prioritizing justice, welfare, and human dignity. By examining the varied legal adaptations in Egypt and Iran, the research contributes to a better understanding of how Islamic law can evolve to meet modern challenges,

as well as how it remains limited—especially in its recognition of non-binary identities. Future studies should investigate how Islamic jurisprudence might develop more inclusive interpretations that move beyond a strictly binary view of gender. This would involve integrating broader LGBTQ rights into Islamic legal thinking and addressing intersectional factors—such as class, ethnicity, and social stigma—to promote accurate equity and compassion.

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