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Comparative Analysis of the Jurisprudential Effects of Gender Reassignment in Imami and Hanafi Jurisprudence and Its Reflection in Iranian Law

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ABSTRACT

Gender reassignment, as one of the emerging issues in jurisprudence and law, has generated extensive challenges in the domains of acts of worship, personal status, and transactions. The present study aims to conduct a comparative analysis of the effects of gender reassignment in Imami jurisprudence and Hanafi jurisprudence and to examine its reflection within the Iranian legal system. The research method is documentary and comparative analysis, and the sources include fatwas and jurisprudential texts of Imami and Hanafi schools, Iranian civil law and civil registration regulations, judicial decisions, and contemporary legal studies. The findings indicate that Imami jurisprudence, with an emphasis on expediency and the alignment of psychological and gender identity, accepts the permissibility of gender reassignment under specific conditions, whereas Hanafi jurisprudence, adopting a more conservative approach, permits intervention only in cases of intersex individuals. The comparative examination shows that Imami jurisprudence demonstrates greater flexibility in matters of acts of worship, marriage, and inheritance, and this flexibility is reflected in Iranian law, particularly through judicial practice and the possibility of amending gender markers in identity documents. Nevertheless, legal gaps persist in the areas of personal status and civil liability. The present study recommends the enactment of comprehensive, clear, and comparative legislation grounded in jurisprudential considerations, and suggests that future research address the social, economic, and psychological consequences of gender reassignment, as well as comparative analyses with other legal systems.

Keywords: gender reassignment; Imami jurisprudence; Hanafi jurisprudence; personal status; Iranian law; jurisprudential comparison; emerging legal issues

Introduction

The phenomenon of gender reassignment, as one of the emerging issues of the modern era, has acquired a prominent position in contemporary jurisprudential and legal debates as a result of significant advances in medical sciences, biotechnology, and psychiatry. This phenomenon, which concerns altering or aligning an individual's physical characteristics with their perceived gender identity, raises fundamental questions within Islamic jurisprudence and legal systems derived from it—questions that are directly connected to core concepts such as



sex, legal obligation, legal capacity, public order, and the stability of the family institution. Since Islamic jurisprudence is grounded in the stability of legal subject matters, gender reassignment, as a substantial change in the *subject of the ruling*, can entail far-reaching consequences for both religious rulings and legal regulations (1).

In the legal system of the Islamic Republic of Iran, the jurisprudential–legal significance of gender reassignment is even more pronounced, because legislation and judicial practice are directly inspired by Imami jurisprudence. The acceptance of the permissibility of gender reassignment in Imami jurisprudence—particularly through the historic fatwa of Imam Khomeini—has laid the groundwork for recognizing this phenomenon in Iranian law, and its consequences have manifested in areas such as civil registration, marriage and divorce, inheritance, and liability (2, 3). Nevertheless, the absence of a comprehensive and explicit statute governing the legal effects of gender reassignment has caused courts, in many instances, to face ambiguity, conflicting judgments, and practical challenges—difficulties rooted in the jurisprudential complexity and novelty of the issue.

From a jurisprudential perspective, gender reassignment is not merely a medical or administrative matter; rather, it produces profound effects in the domains of acts of worship, transactions, and personal status. Gender reassignment may lead to changes in rulings related to acts of worship (such as dress codes, congregational prayer, and rules of kinship), financial and contractual relations, and, in particular, fundamental institutions such as marriage, lineage, guardianship, and inheritance. These transformations confront Islamic jurisprudence with the essential question of whether gender reassignment results in a genuine change in the legal titles of *masculinity* and *femininity*, or whether it constitutes only an apparent change while prior legal effects remain intact (4).

In this context, a comparative study between Imami jurisprudence and Sunni jurisprudence—especially the Hanafi school—is of particular importance. Hanafi jurisprudence, as one of the most rationalist Sunni schools and the dominant school in many Islamic countries, adopts a distinctive approach to newly emerging issues and extensively employs analogy, juristic preference, and custom (5). Therefore, comparing the perspectives of Imami and Hanafi jurisprudence on gender reassignment not only clarifies the theoretical foundations of this phenomenon but also enables an assessment of the capacity of Islamic jurisprudence to respond to contemporary human developments.

Accordingly, the main objective of the present article is to analyze the jurisprudential and legal effects of gender reassignment in Imami jurisprudence and Iranian law and to compare them with Hanafi jurisprudential perspectives. The central research question is what effects gender reassignment has on acts of worship, transactions, and personal status in Imami and Hanafi jurisprudence, and to what extent the Iranian legal system has been able to reflect these effects coherently and effectively. The research method adopted in this article is descriptive–analytical with a comparative approach, and the data have been collected and analyzed through library sources, including authoritative jurisprudential texts, statutory laws, juristic opinions, and academic studies.

Concepts, Theoretical Foundations, and Research Background

For a more precise understanding of the subject and the determination of the research framework, it is first necessary to examine the key concepts and theoretical foundations related to gender reassignment. This stage establishes a connection between medical, psychological, and jurisprudential–legal studies and prepares the ground for a comparative analysis of Imami and Hanafi jurisprudence and an examination of their reflection in Iranian law. A review of the research background and the perspectives of contemporary jurists and legal scholars indicates that distinguishing between gender reassignment, intersex conditions, homosexuality, and gender identity

disorder is not only of scientific importance but also essential for deriving jurisprudential rulings and formulating legal regulations. Consequently, conceptualizing gender reassignment as the initial stage of this research provides a foundation for subsequent analyses and comparative evaluations and delineates the necessary theoretical framework for examining its jurisprudential and legal effects.

Conceptualization of Gender Reassignment

Gender reassignment, as an emerging phenomenon at the intersection of medical science, psychology, and law, has attracted considerable attention in legal and jurisprudential systems in recent decades. In medical literature, gender reassignment refers to a set of therapeutic interventions aimed at aligning an individual's physical characteristics with their perceived gender identity. These interventions may include hormone therapies, gender-affirming surgeries, and psychotherapeutic support, and they do not necessarily imply a change in an individual's genetic or chromosomal structure; rather, they concern modifications in the external and functional attributes of the body (6). In contrast, within Islamic jurisprudence, gender reassignment gains significance insofar as it affects the legal titles of *masculinity* and *femininity*, because these titles constitute the basis of numerous religious and legal rulings, and any alteration in them may result in a change in the subject of the ruling (1).

Distinguishing between gender reassignment and the condition of *intersex* is essential from both jurisprudential and medical perspectives. An intersex individual is one who, from birth, possesses ambiguous or dual sexual characteristics, and classical jurisprudential sources divide such cases into *problematic intersex* and *non-problematic intersex*. In these situations, the primary concern is the discovery of the individual's actual sex and their affiliation with either the male or female category, rather than changing sex from an established state to another (7). From a medical standpoint as well, intersex conditions—now commonly referred to as *disorders of sex development*—arise from congenital variations in chromosomes, hormones, or genital anatomy, and their nature fundamentally differs from gender reassignment, which typically occurs in adulthood and is shaped by gender identity (8).

Moreover, gender reassignment should not be conflated with homosexuality. Homosexuality pertains to an individual's sexual orientation toward persons of the same sex and belongs to the domain of sexual desire, whereas gender reassignment relates to gender identity. A homosexual individual does not necessarily seek to change their physical or legal sex, and from medical and legal perspectives, these two categories are entirely distinct (9). In Islamic jurisprudence as well, homosexuality is examined as a specific behavior with its own independent rulings and bears no direct relation to gender reassignment as a therapeutic or identity-related condition (4).

On the other hand, gender identity disorder—referred to in contemporary medical sources as *gender dysphoria*—is a psychological condition in which an individual experiences profound distress due to a perceived incongruence between the sex assigned at birth and their internal gender identity. When persistent and severe, this condition may lead individuals to seek medical interventions for gender reassignment; however, gender identity disorder itself is not identical to gender reassignment but rather constitutes one of its possible underlying factors (6). This distinction is also significant in jurisprudential analysis, as the jurist must differentiate between an individual's psychological state and the realization of an actual change in the external subject of the ruling.

In terms of terminology, the distinction between medical and jurisprudential concepts is likewise noteworthy. In contemporary medicine, terms such as *transgender* are used to refer to individuals whose gender identity does not align with the sex assigned at birth, whereas the term *transsexual* appears more frequently in earlier literature and

is associated with surgical interventions. Although these terms are not explicitly employed in Islamic jurisprudence, jurists have sought to apply rulings to new instances by referring to specialized custom and subject determination. Accordingly, conceptual precision and careful differentiation constitute a fundamental prerequisite for the correct derivation of jurisprudential rulings and the formulation of legal norms concerning gender reassignment (10).

Jurisprudential and Legal Background of the Research

In classical Imami jurisprudence, the issue of gender reassignment was not discussed independently; however, extensive discussions concerning intersex individuals are found in jurisprudential works, through which the roots of jurisprudential engagement with issues of sex can be identified. Imami jurists, in works such as *Jawahir al-Kalam*, examined the rulings applicable to intersex individuals with a focus on discovering the actual sex and its effects on marriage and inheritance, grounding their analysis in the stability of natural sex and the discovery of objective reality (7). A fundamental shift in the jurisprudential background of gender reassignment occurred with the fatwa of Imam Khomeini, who explicitly declared the act of gender reassignment permissible *per se* and not inherently subject to prohibition, provided that it does not entail other forbidden acts (1). This fatwa represents a turning point in Imami jurisprudence and has served as the foundation for numerous jurisprudential and legal opinions in post-revolutionary Iran. Following him, jurists such as Ayatollah Makarem Shirazi adopted a more cautious approach, accepting the permissibility of gender reassignment in cases of medical diagnosis and gender identity disorder and considering its legal effects contingent upon the actual realization of a change in the subject (4).

In Sunni jurisprudence, particularly within the Hanafi school, discussions related to gender reassignment have largely been addressed under the topics of intersex conditions and the correction of congenital defects. Hanafi jurists, in classical sources such as *Radd al-Muhtar*, generally rejected alterations to creation, except in cases where the objective was to identify or stabilize the actual sex of an intersex individual rather than to create a new sex (5). Contemporary Sunni fatwas similarly tend to distinguish between *corrective treatment for intersex individuals* and *gender reassignment for biologically typical persons*, with most Sunni jurists deeming the latter impermissible as an instance of altering divine creation (10). Nonetheless, some contemporary Sunni jurisprudential bodies, in light of medical advances, have attempted to adopt more interpretive approaches, although no clear consensus has yet emerged.

In the field of legal scholarship, studies conducted in Iran have primarily expanded after the Islamic Revolution, following the practical acceptance of gender reassignment within the judicial system. Legal scholars such as Nasser Katouzian have analyzed gender reassignment from the perspective of a *change in personal status*, examining its effects on legal capacity, marriage, and inheritance, and emphasizing the necessity of legally recognizing the individual's new status (2). Furthermore, research published in Iranian legal journals has explored the implications of gender reassignment in criminal law, blood money, and civil registration, demonstrating that Iranian law has effectively accepted gender reassignment on the basis of Imami jurisprudence while simultaneously suffering from the absence of comprehensive legislation (3). Studies conducted in other parts of the Islamic world have likewise focused on analyzing jurisprudential fatwas and their relationship to positive law, though these works have generally remained descriptive and have rarely undertaken systematic comparative analyses among jurisprudential schools (10).

Despite the substantial body of jurisprudential and legal scholarship, significant gaps remain in comparative research. First, most existing studies either focus exclusively on Imami jurisprudence or address Sunni

jurisprudence in general terms, while in-depth and systematic examinations of Hanafi jurisprudence alongside Imami jurisprudence are rare. Second, many studies fail to distinguish clearly between jurisprudential foundations and legal effects, neglecting to comprehensively analyze the organic relationship between jurisprudential theory and its reflection in the positive law of Islamic countries. As a result, the comparative potential of Islamic jurisprudence in addressing emerging issues such as gender reassignment has not been fully realized.

Jurisprudential Foundations of Gender Reassignment in Imami Jurisprudence

Given that Qur'anic evidence, hadith-based proofs, and jurisprudential maxims provide the theoretical groundwork for analyzing gender reassignment in Imami jurisprudence, examining the positions of contemporary jurists is a natural step in the process of derivation and the application of these foundations to practical issues. Contemporary jurists, drawing on classical authorities as well as current medical and social realities, analyze the permissibility and conditions of gender reassignment and articulate a more determinate framework for post-transition religious rulings. This stage functions as a bridge between theoretical premises and practical inference, demonstrating that Imami jurisprudence—by relying on principles such as permissibility, the no-harm rule, the negation of undue hardship, and the rule of dominion—can respond to the emerging issue of gender reassignment in a coherent and adaptive manner. In effect, contemporary juristic opinions operationalize general fiqh maxims and make it possible to construct an applied framework that corresponds to societal conditions and modern medicine, thereby reflecting the dynamism of Imami jurisprudence in confronting newly emergent questions.

Evidence for the Permissibility or Impermissibility of Gender Reassignment

In Imami jurisprudence, gender reassignment, as an emerging phenomenon, lacks an explicit Qur'anic or hadith-based text; therefore, its jurisprudential analysis rests on *ijtihād*-based reasoning from general proofs, fiqh maxims, and their application to a newly emergent subject matter. Many Imami jurists maintain that the default rule governing human acts is permissibility unless a معتبر (authoritative) legal proof establishes prohibition. From this standpoint, gender reassignment, as a human act, requires examining potential evidences of prohibition and weighing them against the overarching principles governing Imami jurisprudence (1).

With respect to Qur'anic evidence, the verse most frequently invoked as a basis for prohibiting gender reassignment is: “and I will command them so they will change Allah's creation” (Qur'an 4:119). Some interpret this verse as prohibiting any alteration of divine creation; however, Imami jurists, by analyzing the verse's context, have understood it as referring to altering religion and the monotheistic *fitrah* of human beings, rather than any bodily or medical intervention in the human body. Accordingly, 'Allāmah Ṭabāṭabā'ī in *al-Mizān* states that the intended meaning of “changing Allah's creation” in this verse is changing the path of servitude and obedience to God, not natural or therapeutic bodily changes (11). On this basis, invoking this verse to prove the impermissibility of gender reassignment is regarded as problematic within Imami jurisprudence.

In the sphere of hadith, there is likewise no specific text concerning gender reassignment, and what appears in hadith sources primarily relates to the rulings of intersex individuals. Imami jurists have long treated the intersex individual as a person whose actual sex is concealed, and the jurist's task is to discover the actual sex and apply the corresponding legal effects (7). Consequently, intersex-related reports do not, in themselves, establish permissibility or impermissibility of gender reassignment; rather, they reflect the Lawgiver's concern for precisely determining the subject matter of sex so that rulings can be applied. This general approach has, in contemporary

jurisprudence, been used as a supporting premise for accepting gender reassignment in cases of severe gender identity disturbance.

At the level of fiqh maxims, the *no-harm* rule (*lā ḍarar*) is among the most important foundations advanced for permissibility. Jurists who consider gender reassignment permissible in cases of severe gender identity disturbance argue that compelling an individual to remain in a persistent state of profound psycho-physical incongruence constitutes serious and continuous harm; under the maxim “no harm and no reciprocating harm in Islam,” such harm is not endorsed by the Lawgiver (12). In addition, the maxim of negating undue hardship (*nafy al-‘usr wa al-ḥaraj*) indicates that the Lawgiver does not impose rulings that produce non-customary hardship for the legally responsible person, and in some cases gender reassignment is treated as a means of removing acute hardship.

The *rule of dominion* (*qā’idat al-saltānah*) is another jurisprudential basis in this field. Under the maxim “people have dominion over their property and their selves,” a person has the right to exercise control over their own body within the bounds of the Sharī‘a and where no legal prohibition exists. Some Imami jurists, relying on this maxim, have deemed medical intervention in the body permissible when it is rationally justified and undertaken for therapeutic purposes, and they have analyzed gender reassignment—under certain conditions—within this same framework (13). Moreover, the theory of *change of subject matter* (*taghayyur al-mawḍū‘*) plays a central role in the jurisprudential analysis: that is, once a real change in sex is realized, the subject of the relevant rulings changes, and the rulings of the new sex attach to the individual, rather than the prior rulings remaining in force.

Positions of Contemporary Imami Jurists

Among contemporary Imami jurists, Imam Khomeini is the first to have explicitly and in writing affirmed the permissibility of gender reassignment. In *Tahrir al-Wasilah*, he states that gender reassignment is not inherently prohibited and, provided it does not entail another forbidden act, it is not subject to a Sharī‘a-based ban (1). The significance of this fatwa lies in the fact that Imam Khomeini raised gender reassignment not only in relation to intersex cases but in general terms, and this became a jurisprudential foundation for its legal acceptance in the judicial system of the Islamic Republic of Iran.

Ayatollah Khamenei, in response to multiple *istiftā’āt* (queries for legal opinion), has likewise regarded gender reassignment as permissible where there is a credible medical diagnosis and real effects follow from it. He further states that after gender reassignment has been realized, all Sharī‘a rulings—such as those concerning marriage, rules of kinship, and inheritance—follow the new sex (14). This position is grounded in the theory of change of subject matter and plays an important role in achieving jurisprudential–legal coherence on the issue.

Ayatollah Makarem Shirazi, adopting a more cautious approach, deems gender reassignment permissible only in cases where a genuine gender identity disturbance is verified by specialist physicians, treating it as a form of medical treatment. He emphasizes that gender reassignment should not be driven by transient inclinations or irrational motives (4). Ayatollah Sistani, in his fatwas, has not rejected the principle of permissibility; however, he emphasizes the need for strict precaution and meticulous subject verification, and he conditions Sharī‘a effects on the actual realization of change (15).

In summary, although there are differences regarding the conditions and constraints of permissibility, the prevailing position among contemporary Imami jurists is that gender reassignment is not intrinsically prohibited and may be permitted under specific conditions. By relying on governing fiqh maxims, the theory of change of subject matter, and the default rule of permissibility, this position provides a coherent basis for jurisprudential and legal

analysis of gender reassignment and renders Imami jurisprudence a dynamic and responsive system in confronting this emerging phenomenon.

Jurisprudential Effects of Gender Reassignment in Imami Jurisprudence

Because gender reassignment has both devotional dimensions and legal and liability-related consequences, its jurisprudential analysis requires a comprehensive approach. Devotional rulings such as prayer, fasting, dress codes, and the boundaries of kinship are contingent upon the legally recognized sex of the legally responsible person, and once a real change is established through medical verification, the new sex becomes the operative criterion. At the same time, gender reassignment produces direct effects in personal status domains such as marriage, lineage, guardianship, and inheritance. In the sphere of transactions and obligations, although a person's basic legal capacity does not change, sex-linked duties may be altered. Therefore, a jurisprudential analysis of gender reassignment must simultaneously address devotional rulings, personal status, and civil responsibilities in order to provide a comprehensive framework for Shari'a rulings and their legal effects. This transitional framing establishes a logical linkage among the various dimensions of the jurisprudential effects of gender reassignment in Imami jurisprudence and strengthens the internal coherence of the text.

Devotional Effects

One of the most significant issues in Islamic jurisprudence is the effect of gender reassignment on devotional rulings. In Imami jurisprudence, devotional duties such as prayer, fasting, dress codes, and the boundaries of kinship are dependent on the legally relevant sex of the legally responsible person. In contemporary jurisprudential approaches, once the reality of gender reassignment is established through medical diagnosis, the individual's new legally relevant sex becomes the criterion for devotional rulings; thus, if a man's sex is reassigned to female, the devotional rulings and kinship boundaries applicable to women become operative for that person, and conversely the rulings applicable to men become operative for a person whose sex is reassigned from female to male (16). For instance, after reassignment, obligations such as dress requirements are binding according to the new status, and the parameters of duties such as prayer and fasting are determined on the basis of the new sex, because in Imami jurisprudence the applicable category and its rulings follow the reality that has been realized for the individual.

In this connection, the question of religious emulation (*taqlid*) and the scope of obligation after reassignment is also a jurisprudential concern. Since Shari'a obligation is imposed on the legally responsible person when criteria such as maturity and reason are met and the sex category relevant to sex-linked duties is identifiable, gender reassignment entails that duties dependent on sex—such as certain parameters associated with dress codes and kinship boundaries—are applied in accordance with the new sex (16). This understanding is derived from the maxim of change of subject matter in Imami jurisprudence: once the external reality is realized, the subject of the ruling—including the operative sex category for devotional matters—changes, and it is no longer appropriate to issue rulings on the basis of the prior sex category.

Jurisprudential–Legal Effects in Personal Status

In the domain of personal status, gender reassignment has clear legal effects that have been analyzed in Imami jurisprudence and the Iranian legal system. One of the most important effects concerns marriage and its dissolution, because marriage in Islamic jurisprudence is concluded between a man and a woman; if one spouse undergoes

gender reassignment—especially where this results in both spouses being of the same sex—the marriage contract cannot remain valid on the premise that a same-sex marriage contract is not legally recognized. The dissolution of marriage also requires analysis of its financial and non-financial consequences, such as the dower and maintenance; where consummation has not occurred, the amount of dower is affected, whereas where consummation has occurred, the full dower is due.

Lineage and guardianship are also among the affected areas. After gender reassignment, parental titles may change in description, and a person may no longer be described as “father” and instead be described as “mother,” which has implications for guardianship; for example, guardianship over a child may cease after reassignment, even though the underlying relationship of kinship remains. Likewise, in inheritance, the individual’s new sex may be treated as determinative of the applicable share, in the sense that inheritance allocation is calculated in accordance with the sex category applicable at the time of death.

Effects in Transactions and Liability

The effects of gender reassignment in transactions and liability are also notable. One of the most significant issues here is legal capacity. Legal capacity refers to a person’s legal ability to enter into transactions and participate in legal relations, and in Imami jurisprudence it is generally discussed in connection with factors such as reason and maturity. Gender reassignment does not eliminate a person’s capacity to contract and engage in legal transactions; however, certain sex-linked legal duties—such as rules that may apply differently to men and women in specific contexts—may be transformed. In civil liability as well, gender reassignment does not directly affect the general principles of liability, because civil liability focuses primarily on fault and harm and their legal consequences rather than on sex as such.

Gender Reassignment in Hanafi Jurisprudence

Because Hanafi jurisprudence applies its own distinctive principles of derivation when addressing emerging issues such as gender reassignment—and places substantial emphasis on analogy, juristic preference, and custom—a careful analysis of the jurisprudential and legal effects must be undertaken within this methodological framework. Consequently, a precise examination of Hanafi jurists’ positions on the permissibility or impermissibility of gender reassignment, their reliance on general fiqh maxims, and their analysis of devotional effects, personal status consequences, and related legal questions cannot be complete without reference to the Hanafi school’s jurisprudential foundations. This linkage between interpretive method and practical effects provides a basis for subsequent analyses of rulings, legal implications, and comparative evaluation with other schools of Islamic jurisprudence in a comprehensive and well-supported manner.

Jurisprudential Foundations and Derivational Principles in Hanafi Jurisprudence

Hanafi jurisprudence, as one of the four Sunni schools of law (Hanafi, Maliki, Shafi’i, and Hanbali), has a defined set of interpretive principles that are employed when addressing emerging subjects such as gender reassignment. Within this school, *qiyās* (analogical reasoning), *istiḥsān* (juristic preference), and *‘urf* (custom) are regarded as central methodological bases that may be used to derive a Sharī‘a ruling in the absence of an explicit textual proof. For example, when an issue is not addressed in the foundational sources, a Hanafi jurist may employ *qiyās* to connect it to a comparable subject with an established ruling and thereby infer the relevant judgment; likewise,

istihsān functions as a technique for preferring a more reasonable ruling aligned with public interest over an outwardly apparent ruling that conflicts with it, and *ʿurf* often serves as a key reference point for identifying social roles and governance-related expectations (5).

Hanafi jurisprudence generally approaches newly emergent issues by relying on the foregoing methodological tools and by applying overarching fiqh objectives such as preserving social order and preventing harm, meaning that the ruling should be compatible with public welfare and the avoidance of social *فساد* (harmful consequences). With respect to gender reassignment as a modern issue emerging at the intersection of medicine and law, Hanafi jurists commonly return to these general foundations and attempt to approximate the ruling through analogical comparison with the jurisprudence of intersex cases or through broad fiqh maxims; however, because gender reassignment was not clearly and systematically discussed in classical Hanafi works, contemporary interpretations in this area vary and are grounded primarily in general principles and derivational methods. In Hanafi analysis, *ʿurf* and *maṣlaḥah* (welfare/interest) are also given substantial weight in addressing newly emergent topics, and a jurist may analyze the ruling in light of contemporary social and medical realities (10).

Hanafi Jurists' Views on Gender Reassignment

In classical Hanafi jurisprudence, due to the absence of today's medical possibilities, there is no independent, direct, and detailed discussion of gender reassignment surgery in the primary sources, and related discussions appear mainly under the rulings of intersex individuals and the correction of congenital anomalies, because the issue did not arise in earlier periods in the form known today. Nevertheless, in contemporary Sunni approaches, various religious authorities have addressed the subject. Many Sunni jurists and respected contemporary fiqh bodies have treated gender reassignment performed to align bodily sex with an internal identity as impermissible, characterizing it as falling under the general prohibition of altering divine creation; accordingly, they tend to regard surgical or hormonal attempts to change sex as generally prohibited, except in very limited circumstances that closely resemble intersex conditions, in which classical fiqh already recognizes a basis for medical intervention aimed at clarifying or stabilizing an individual's natural sex status (10).

In other words, many contemporary Hanafi-oriented legal views permit intervention when the underlying biological condition is naturally ambiguous and determining the actual sex is necessary; however, where an individual is biologically typical and is naturally identified as male or female, these views do not allow alteration of creation and, on the basis of general textual and jurisprudential principles, prohibit such intervention (5). Even in contemporary Sunni discussions, efforts have been made to distinguish intersex conditions from transgender identity claims: in intersex cases, where Sharīʿa reasoning is framed around determining the actual sex category, surgery may be treated as a determinative or corrective measure, whereas identity-based therapeutic gender reassignment is not accepted as a general rule (10).

In some strands of Sunni legal-historical discussion, there are also references to categories related to gendered behavior—for example, historical discussions of *mukhannathūn* (individuals whose mannerisms or social presentation were perceived as resembling the other sex). However, these discussions cannot be treated as a precise equivalent of contemporary gender reassignment, and contemporary Sunni jurists have generally offered refined positions in this area that, in most cases, incline toward prohibition or severe restriction.

Jurisprudential Effects of Gender Reassignment in Hanafi Jurisprudence

Although the jurisprudential effects of gender reassignment have not been discussed in Hanafi jurisprudence to the same extent as in Imami jurisprudence, the topic—if assumed hypothetically—can have notable implications for devotional rulings and personal status. From a Sunni perspective, just as sex plays a foundational role in devotional rulings such as prayer, fasting, dress requirements, and the boundaries of kinship, a genuine change in sex could, in principle, transform the subject of the ruling; however, because the dominant Hanafi approach tends to treat gender reassignment surgery as non-authoritative and as an inadmissible innovation, devotional rulings are generally maintained on the basis of the individual's original sex, and external or surgical changes are not treated as producing direct legal effects—except where the individual's natural bodily status is ambiguous and accurate sex determination requires medical intervention (5).

In the domains of marriage, lineage, and inheritance as well, if sex transformation were accepted, it could affect spousal eligibility and inheritance entitlements; yet because the prevailing contemporary Hanafi position holds that gender reassignment does not truly convert a person into the other sex, the rulings governing marriage and inheritance are generally applied according to the sex that was identified at birth based on natural and customary indicators, rather than the sex that may appear after medical intervention. For this reason, where gender reassignment surgery has occurred, Hanafi jurists may regard its legal effects—particularly where it would alter the subject of a ruling—as uncertain or illegitimate, emphasizing the supremacy of general texts and fiqh maxims over outward changes (10). Overall, Hanafi jurisprudence approaches the subject with a critical and conservative posture and, in analyzing the effects of gender reassignment, stresses both traditional interpretive principles and the necessity of distinguishing intersex conditions from transgender identity claims and returning to classical fiqh materials—an approach reflected in contemporary Sunni legal writings and analyses (5).

Comparative Examination of Imami and Hanafi Jurisprudence on Gender Reassignment

A comparative review of Imami and Hanafi jurisprudential positions on gender reassignment shows that the two schools have adopted different approaches both in the foundations of permissibility/impermissibility and in the resulting jurisprudential and legal effects. In Imami jurisprudence, contemporary fatwas—especially those associated with Imam Khomeini—play a decisive role: gender reassignment is accepted as conditionally permissible when medical necessity is established under specialist supervision, and it is emphasized that there is no definitive proof for its intrinsic prohibition; accordingly, Imami jurisprudence allows gender reassignment in specific circumstances and grounds this position in principled analysis and contemporary juristic practice. Within the Imami framework, post-reassignment rulings are also organized according to the new sex, including devotional rulings, marriage, and inheritance, such that once the individual is deemed to have acquired a new sex reality, the corresponding rulings attach to that person; this approach has been examined in Shi'a jurisprudential–legal scholarship through descriptive–analytical methods and is associated with the idea that a genuine sex change can alter the subject of legal rulings (17).

By contrast, Hanafi jurisprudence—particularly in contemporary Sunni positions—often adopts a more conservative approach toward gender reassignment surgery. Classical Hanafi sources do not discuss gender reassignment as such, and instead address adjacent issues such as intersex status; however, in many contemporary Sunni fatwas, gender reassignment undertaken to align outward sex with an individual's inner

preference or identity is treated as illegitimate, and only in limited cases of genuine ambiguity (such as natural intersex conditions) may a ruling permitting sex determination be issued (5, 10). In other words, contemporary Hanafi jurists generally permit intervention when determining the actual sex is necessary, not merely for psychological or identity-based satisfaction, and they reject altering divine creation in many instances; although some differentiate intersex cases from transgender identity claims—treating the former as potentially subject to Sharī‘a evaluation and the latter as generally unacceptable (5, 10).

With respect to jurisprudential and legal effects, the divergence between the two schools is also evident. In Imami jurisprudence, due to conditional permissibility, devotional rulings (such as prayer, fasting, and dress requirements) and personal status rulings (marriage, lineage, inheritance) become dependent on the individual’s new sex once a real change in the subject is established, which can lead to a reconfiguration of family relations and legal responsibilities; for example, scholarship has discussed that after a genuine sex change, family statuses and inheritance shares are structured in accordance with the new sex (17). By contrast, Hanafi jurisprudence, at least in most contemporary formulations, does not generally reach this conclusion for ordinary cases of gender reassignment, because the default premise is the stability of natural creation and because altering creation is not regarded as legitimate in many instances; therefore, effects in devotional law and personal status are typically not recognized unless the case is diagnosed as a natural intersex condition and sex determination is affirmatively established (5, 10).

In identifying points of convergence and divergence, it can be said that both jurisprudential systems, when confronting the emerging issue of gender reassignment, resort to general fiqh principles and, in the absence of explicit texts, invoke broad considerations such as permissibility as a default, preserving social order, preventing harm, and maintaining the integrity of foundational norms. The core difference, however, lies in interpreting the concept of changing creation and in the degree to which medical intervention is accepted as legally transformative. Imami jurisprudence, relying on principled reasoning and emphasizing the possibility of a new sex category and its downstream legal effects, adopts a more adaptive and solution-oriented approach, whereas contemporary Hanafi jurisprudence, exercising caution regarding altering creation and adopting a conservative stance, generally does not accept gender reassignment in ordinary cases and instead limits acceptance to situations analogous to natural intersex conditions where the ruling is framed as determining the actual sex.

An evaluation of the practical effectiveness of each jurisprudential system in confronting emerging issues indicates that each has distinct advantages and challenges. Imami jurisprudence, due to the diversity of contemporary fatwas and responsiveness to societal legal needs (especially in personal status and devotional matters), has been able to offer more operational answers, but it also requires precise diagnostic criteria and safeguards against legal misuse. By contrast, Hanafi jurisprudence, by emphasizing traditional principles and caution toward altering creation, may encounter legal gaps in certain practical cases, particularly in societies where medical advances and psychological research have made questions of gender identity more salient; this situation calls for further jurisprudential–scientific engagement aimed at moving toward workable solutions.

Table 1. Comparative Overview of Imami and Hanafi Jurisprudential Positions on Gender Reassignment

Axis of Comparison	Imami Jurisprudence	Hanafi Jurisprudence
Foundations of permissibility / impermissibility	Conditional permissibility where medical necessity is established under specialist supervision; reliance on contemporary fatwas and principled reasoning (1, 4, 14, 15)	Generally prohibited except in cases of natural intersex conditions; reliance on classical jurisprudential sources and conservative principles; altering divine creation is typically rejected (5, 10)
Devotional jurisprudential effects	After a genuine change of sex, rulings on prayer, fasting, dress requirements, and kinship boundaries are determined according to the new sex	Gender reassignment surgery is generally not treated as legally authoritative; devotional rulings remain based on the individual's original sex, except in cases of intersex sex determination (5)
Jurisprudential–legal effects in personal status	Marriage, lineage, and inheritance follow the new sex after a genuine change in the subject is established (2, 3)	Gender reassignment is generally not regarded as altering marriage, inheritance, or lineage, except in natural intersex determination cases (5)
Points of convergence	Use of general fiqh principles such as preventing harm, preserving social order, and the default rule of permissibility	Use of general jurisprudential principles and conservative maxims in addressing newly emergent issues
Effectiveness in emerging issues	More responsive and adaptive; capable of providing operational solutions within legal and medical contexts, though requiring precise criteria and safeguards	Conservative and limited; legal gaps may arise in certain cases, necessitating further jurisprudential–scientific dialogue

Reflection of the Jurisprudential Treatment of Gender Reassignment in Iranian Law

The reflection of the jurisprudential treatment of gender reassignment in Iranian law should be examined through existing laws and regulations, the position of Imami jurisprudence in legislative policymaking, and the related legal challenges and gaps. In Iran, despite the absence of an independent statute titled “Gender Reassignment Law,” and despite the judiciary not having enacted a comprehensive codified law on this matter, judicial practice and Shi’a juristic opinions operate as the practical determinants. In this regard, Article 939 of the Iranian Civil Code provides that “if the signs of one sex predominate in an individual, the religious and legal rulings shall be applied based on that sex.” In addition, the Family Protection Law (adopted in 2012) states that “applicants for gender reassignment must refer to the family court in order to obtain legal authorization.” These provisions explicitly aim to prevent incomplete or inconsistent records and, although they do not specify operational details, they establish a legal basis for reflecting gender reassignment in a person’s identity documentation.

Within this framework, the family court is recognized as the competent judicial authority for adjudicating requests for gender reassignment, and after the issuance of a judgment, the individual may implement changes in identity documents—changes that have significant implications for other rights. However, this pathway is not founded on a clear, comprehensive statute dedicated to gender reassignment; rather, it has largely taken shape through civil-registration practice, court procedure, and jurisprudential (fatwa-based) interpretation within Imami fiqh, which indicates that the Iranian legal system has relied more on practice and juristic authority than on transparent, detailed legislation.

The position of Imami jurisprudence in Iran’s legislative policy is one of the influential factors shaping the legal reflection of gender reassignment. Since the issuance of Imam Khomeini’s well-known fatwa—formulated in a jurisprudential register and incorporated into his juristic work—authorizing gender reassignment surgery under specific conditions, the issue entered the legal arena in Iran and gradually came to be recognized by the judiciary and legal experts as a practical basis for decision-making (1). This Shi’a juristic approach, which frames the issue in terms of aligning legally relevant sex with an actual condition, has contributed to the legal acceptance of gender reassignment in Iran in a manner that differs from many other Islamic jurisdictions (2).

This jurisprudential acceptance has not been fully transformed into explicit statutory text by the formal legislature; rather, it is observable primarily in operative legal practice, insofar as courts—drawing on this jurisprudential orientation—issue authorizations for gender reassignment and the issuance of new identity documents. In addition, the administrative system, operating in light of this Imami-jurisprudential acceptance, has facilitated the procedural route such that, after obtaining a judicial ruling, a person can amend identity documentation; nevertheless, this route remains largely subject to judicial discretion and practice rather than being grounded in a dedicated, codified statute (3).

Despite this jurisprudential–legal reflection, there are substantial legal challenges and gaps in Iranian law regarding gender reassignment. First, Iran’s positive laws do not fully and specifically define post-transition rights—such as inheritance and other personal-status rules—and have largely confined themselves to recognizing the permissibility of identity amendment; this gap has led judges in many cases to rely on jurisprudential interpretation and comparative legal reasoning, which in turn has produced divergent rulings and a lack of unified judicial practice.

Another major challenge is that Iranian law still lacks a unified and clear framework to protect social and economic rights and to prevent discrimination after gender reassignment, such that individuals who have undergone gender reassignment may face difficulties in areas such as employment, education, and access to social services. This issue is particularly salient because the Iranian legislator has not defined or protected “gender identity” within legal instruments addressing vulnerable groups, and instead has largely relied on judicial practice and jurisprudential opinions.

Overall, it can be said that the jurisprudential reflection of gender reassignment in Iranian law is evident at the levels of court practice, administrative procedure, and identity documentation; however, at the level of positive legislation, there remains a need for comprehensive and clear rules capable of guaranteeing the individual and social rights of persons who have undergone gender reassignment. Such legislation should, alongside jurisprudential acceptance, precisely define post-transition social, economic, and family-law rights in order to address current gaps and reduce legal ambiguity.

Conclusion

The present study was conducted with the aim of providing a jurisprudential and legal analysis of gender reassignment in Imami jurisprudence and Hanafi jurisprudence and examining its reflection in the Iranian legal system. The findings indicate that Imami jurisprudence adopts a more adaptive and flexible approach toward gender reassignment; in particular, the fatwas of contemporary jurists such as Imam Khomeini and some other authorities have recognized the permissibility of gender reassignment under specific conditions and following medical diagnosis, emphasizing the necessity of harmonizing psychological identity with legally recognized sex. In contrast, Hanafi jurisprudence, with its conservative approach and emphasis on traditional jurisprudential principles, permits gender reassignment only in cases of intersex individuals and generally does not consider therapeutic gender reassignment based on psychological identity to be permissible.

The comparative analysis shows that the two schools share common ground in their concern for preserving public interest and preventing harm; however, with regard to jurisprudential and legal effects, Imami jurisprudence demonstrates greater flexibility in devotional rulings and personal status matters, whereas Hanafi jurisprudence places stronger emphasis on classical textual sources and natural criteria. In the context of Iranian law, the influence of Imami jurisprudence is clearly observable: judicial and administrative practice, relying on juristic opinions, has

practically accepted gender reassignment, allowing individuals, after the issuance of a court judgment, to change their name and sex designation in identity documents. Nevertheless, positive law in Iran still contains significant gaps with respect to family law, inheritance, and the social rights of individuals who have undergone gender reassignment.

In light of these findings, the comparative analysis indicates, first, that the foundations for the permissibility or impermissibility of gender reassignment in Imami jurisprudence are based on considerations of expediency and the alignment of psychological identity with legally recognized sex, whereas in Hanafi jurisprudence permissibility is confined to intersex conditions. Second, the jurisprudential and legal effects of gender reassignment encompass devotional rulings, marriage, inheritance, and legal capacity, with Imami jurisprudence exhibiting greater flexibility and Hanafi jurisprudence adopting a more restrictive stance. Third, the reflection of gender reassignment in Iranian law shows that acceptance has occurred primarily through Imami jurisprudence and judicial practice, while explicit statutory provisions lack comprehensive and clear coverage of the resulting legal issues.

In conclusion, gender reassignment, as an emerging issue, requires reconsideration and adaptation to the conditions of modern society from both jurisprudential and legal perspectives. The Iranian legislator, by drawing upon Imami jurisprudence and employing comparative analysis, can develop more effective laws and procedures to ensure appropriate legal protection for individuals who have undergone gender reassignment.

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Authors' Contributions

All authors equally contributed to this study.

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The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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