

## Legal and Social Status of Eunuchs Islam and Pakistan

\* Rizwana Gul, PhD Scholar (Corresponding Author)

\*\* Nadia Zafar, PhD Scholar

\*\*\* Shaista Naznin, PhD Scholar



### Abstract

Media interest on eunuch and their problems has blossomed over the past decade. Stories about eunuchs have been the focus of dozens of books, movies, television dramas, and documentaries. Similarly, eunuchs now has moved from being a relatively obscure topic, Examined in a handful of medical journals, to becoming the central topic of numerous books and articles in a variety of disciplines, including psychology, history, anthropology, and medical ethics. Eunuchs now a day has also become a hot topic in legal circles. In the past ten years, more than a hundred legal articles and books have included a discussion on eunuchs and their problems. Most of these publications do not focus on the issues that have a direct effect on the lives of eunuchs.

Understanding how the issues that are critical to people with such condition can be conflated with the issues affecting other people who challenge sex and gender norms requires a basic understanding of the nature of intersexuality. The meaning of the term eunuch has varied and the issue is still a topic of sometimes heated discussion. Although doctors and activists debate exactly what conditions qualify as to be called eunuch I am using the term in its broadest sense to include anyone with a congenital condition whose sex chromosomes, gonads, or internal or external sexual anatomy do not fit clearly into the binary male/female norm.

Activists working to enhance the rights of eunuch's advocate of eliminating harmful practices based on sex and gender stereotypes. In addition, both groups seek to enhance the right to sexual self-determination. The primary focus of each group differs, however. The primary goal of the eunuch's movement is to eliminate or decrease the number of medically unnecessary genital surgeries being performed on children with an intersex condition. Intersex advocates believe that these medical interventions often result in physical and emotional trauma. Thus, they believe that these surgeries should not be performed on children and should only be undertaken with the informed consent of patient's parents when they reach an age at which they can fully understand the risks and can decide for themselves whether they want to undergo genital surgery. The eunuch's activist movement is still in its infancy and is in the process of developing its advocacy strategies.

Although scholars in a variety of disciplines, including medical ethics, history, psychology, sociology, and anthropology, have published books on eunuchs, none has examined the role that the law can play in enhancing the lives of people with an intersex condition. The legal frameworks used by social justice movements that have effectively brought challenges to discriminatory practices and explores whether the eunuchs movement can form mutually beneficial alliances with these other movements and use similar legal strategies.

**Keywords:** Eunuch, Anatomy, Legislation, Medicine

### Methodology of Research

This research will be descriptive research based on books and articles related to the eunuchs and their family life both primary and secondary sources of Islamic law will be utilized in the research the data relevant will be collected from different libraries.

### Introduction

Human species overwhelmingly subsume two opposing dichotomous sexes, namely male and female. By and large, masculinity and femininity are biological and resultantly, each one of the sexes are

\* International Islamic University Islamabad Email: [rizwanagul@awkum.edu.pk](mailto:rizwanagul@awkum.edu.pk)

\*\* International Islamic University Islamabad Email: [nadiazafar@gmail.com](mailto:nadiazafar@gmail.com)

\*\*\* International Islamic University Islamabad Email: [shaista@awkum.edu.pk](mailto:shaista@awkum.edu.pk)

culturally, in most societies, expected to possess certain personal traits and assigned certain roles.<sup>1</sup> However, the order of biological engineering sometimes coupled with social orientation always create people of ambiguous sexual identity mainly of two sub-varieties: inter-sexed (hermaphrodites- those with some biological or physiological abnormality) or those anatomically males or females but exhibiting behaviors appropriate for the opposite gender.<sup>2</sup> The latter are variously referred, such as “the third sex, psycho-sexual, effeminate, mixed sex etc.”<sup>3</sup> This group in terms of gender is regarded as people with “identity crisis.”<sup>4</sup> Therefore, to the social scientists, it seems that the solution is that today’s society must accept them as they are and treat them in the same way as people of pre-modernity accommodated eunuchs (castrated war captives) in their midst. For instance, Byzantine employed them to look after the women as chamberlains and some Muslim rulers like Mamluks made them to guard the harem (the inner sanctum of the ruler’s household where their women folk resided).<sup>5</sup>

One may not agree with the above analogy as transsexuals of today can hardly be equated with sexually de-capacitated castrated war captives of pre-modernity. Because transsexuals do not consist of castrated male captives but are a genre of males or females who “feel trapped in the body of the opposite sex” and thus either had already gone through sex-reassignment processes,<sup>6</sup> or are inclined to do so at present, known as mukhannath in Islamic tradition. Now the question is: Can their seemingly de facto declaration of changed gender per force entitle them to different kind of treatment at the legal and cultural plane? Eunuchs are at a predicament in Pakistan. They are not accepted by their families in first place and by the society latter. They earn their living by dancing in parties, begging, committing road crimes and by prostitution. They are completely ignored segment by the society and such ignorance towards them is an alarming situation where they are turning to be more rebellious to their selves and to the society. Many grieved issues are arising due to the complete ignorance of eunuchs. Many questions arise in our minds which need to be properly addressed for the betterment of the society and eunuchs too. If eunuchs are not getting proper education how would they be getting proper jobs for their livings? An alarming number of eunuchs are involved in the prostitution, how can we stop them? What steps should be taken by an Islamic state for the uplift of eunuchs? What should be the proper treatment of an ordinary man towards eunuch? Many men are converting themselves to eunuchs due to unemployment, what necessary measurements should be taken to stop this? The answer is polemical as far as Islamic jurisprudence is concerned. Accordingly, in the pages that follow, first, we, present an eye-bird view of the juristic notion on the problematic of inter-sex and transsexual with specific focus on the latter; lastly, we critically examine the underlying reasons over the issue with the purpose of making some preliminary concluding remarks.

### Who is a Eunuch

In the Islamic paradigm “dimorphic gender classification” subsumes, as a general rule, males and females<sup>7</sup>. The reason for this is that in the Islamic view religious rules of conduct whether moral or legal are gender-oriented. Hence, the supreme value is that Muslims must be content with what God has created in them and should not tamper with their primary natural created characteristics. The Qur’an succinctly declares: “God creates what he wills: He gives to whom He wills females, and gives to whom He wills male or He couples them, both males and females: and He makes whom He wills barren.”<sup>8</sup> Man-made changes to one’s nature is described as following the plan of Satan as it wowed to God, saying “I will assuredly ...lead them astray, and fill them with fancies... and I will command them and they will alter God’s creation.”<sup>9</sup>

However, The Qur’an acknowledges the existence of transsexuals and the Sunnah somewhat characterizes this category and the intersex. While delineating women’s code of ethics for social encounter with the opposite sex, the Qur’an ordains them to guard their chastity from all males except those within the lawful family circle and “male attendants free of sexual desires,”<sup>10</sup> termed as *ghayr*

<sup>1</sup> Noraini Mohd Nor et al, *Sexual Identity-Effeminacy Among University Students*(Kuala Lumpur:IIUM Research Centre ,2005)

<sup>2</sup> Mufti Allie Haroun Sheik , *Sexual Issues in Modern Era* (Delhi: Adam Publishers & Distributers,2008), 260.

<sup>3</sup> Noraini, *Sexual Identity-Effeminacy Among University Students*

<sup>4</sup> Ibid

<sup>5</sup> Ibid, 2-4.

<sup>6</sup> ibid, 4.

<sup>7</sup> Abdulaziz Sachedina, *Islamic Biomedical Ethics*( New York: Oxford University Press, 2009),p.191.

<sup>8</sup> The Qur’an, 42: 49-50

<sup>9</sup> The Qur’an, 4: 119.

<sup>10</sup> The Qur’an, 24: 31

*uli al-irbah*. *Ghayr uli al- irbah*, according to some erudite exegetes were those effeminate men with no feelings of desire towards women.<sup>11</sup> Intersex, on the other hand, was given recognition in the Sunnah where the Prophet in an answer to a question as to determination of the sex of a child born with two opposite sex organs pointed that the deciding factor in such a case is by looking at the organ from which it urinates.<sup>12</sup> Accordingly, the traditional Islamic jurisprudence detailed the law and ethics for these abnormal genders by classifying the first type as *mukhannath* (effeminate men) and the second as *khuntha* (hermaphrodite).

*Mukhannath* literally means a man whose voice tone resembles woman's voice.<sup>13</sup> Technically, however, the jurists defined *mukhannath* variously. To Hanafis and Hanbalis *mukhannath* are two types: one with tender effeminate voice and having no desire towards women and displaying no anti-social behavior. If this be the case they will be free to enter the women's quarter. The other ones, though physically the same are morally corrupts (*fasiq*), and thus, should be barred from interaction with women.<sup>14</sup> The Shafi'is and Malikis, essentially characterized *mukhannath* as a man whose voice resembles woman's voice and exhibits several other effeminate features in talking, looking, thinking and judgment. Thus, so long as he does not have sexual feelings towards women can be regarded as *mukhannath* of acceptable type for the purpose of social encounter with women.<sup>15</sup>

However, the jurists formulated a set of different laws for the *mukhannath* of the erotic type based on a Prophetic tradition, "God cursed the males who appear like females and the females who appear like males."<sup>16</sup> Accordingly, unlike popular belief, Islamic tradition does not condemn *mukhannath* all and sundry as it is flexible in dealing with transsexuals of biological type, in terms of voice or bodily features. Stressing this, Ibn Hajar maintained that the Prophetic condemnation is confined to those who deliberately deviate from the norm of their set genders with which they are born. It does not extend to those who innately suffer from some kind of behavioral abnormality. Instead they need to be supported to re-adjust themselves to their assigned gender roles.<sup>17</sup>

However, erotic *mukhannath* was subjected to several legal restrictions including : he was prohibited from committing homosexuality, such as sodomy;<sup>18</sup> he was not allowed to lead Muslim prayers as he/ lacked moral rectitude except under dire conditions according to some Malikis and Hanbalis;<sup>19</sup> he was not allowed to mingle with women;<sup>20</sup> he was not allowed to marry a woman if he indulged in homosexuality since God forbids the marriage of a chaste woman to a sexually promiscuous person;<sup>21</sup> he was not encouraged to accept employment in slaughter houses or cooking jobs according to some Malikis;<sup>22</sup> he was not regarded as a credible witness for the purpose of testifying before the court;<sup>23</sup> if he committed homosexuality, would be subjected to Islamic punishments.<sup>24</sup>

Overall, in the Islamic tradition, erotic effeminacy is morally so abhorrent a behavior that if a person calls a normal Muslim a *mukhannath*, he will be charged for libel punishable by flogging

<sup>11</sup> Muhammad ibn Ahmad al-Qurtubi, *al-Jami` li Ahkam al-Qur`an* (Beirut : Ihya al-Turath al-Arabi, n.d), 12, 234; Muhammad ibn Jarir al-Tabari, *Jami` al-Bayan fi Tafsir al-Qur`an* (Beirut: Dar al-Fikr al-Ma`rifah, n.d), 19, 163; Isma`il Abi Fida Ibn Kathir , *Tafsir al-Qur`an al-Azim* (Riyad: Maktabat al-Riyad al-Hadithah, n.d), 6, 48.

<sup>12</sup> Abu Dawud, vol.4, 228.

<sup>13</sup> Muhammad ibn Mukrim Ibn Manzur, *Lisan al-Arab* ( Beirut: Dar Sadir, n.d), 2, 145

<sup>14</sup> Muhammad ibn Abi Ashal al-Sarakhsi, *al-Mabsut* ( Beirut: Dar al-Ma`rifah, 1986), 12, 382; Abd Allah ibn Ahmad ibn Qudamah, *al-Mughni* (Riyad: al-Maktabah al-Riyad al-Hadithah, n.d), 7, 462.

<sup>15</sup> Muhammad al-Khatib al-Shirbini, *Mughni al-Muhtaj* (Beirut: Dar al-Fikr, n.d), 4, 430; Muhammad ibn Abd Allah al-Khurashi, *al-Khrashi`ala Mukhtasar Khalil* (Beirut: Dar al-Fikr), 2, 273.

<sup>16</sup> Fazlul Karim, *Mishkat al-Masabih* (Delhi: Islamic Book Service, 1994), 1, 613.

<sup>17</sup> Ahmad ibn Ali Ibn Hajar, *Fath al-Bari* (Beirut : Ihya al-Turath al-Arabi, 1985), 10, 332. The jurists discussed various rehabilitative measures which the state can initiate if such *mukhannath* people do not want to conform, such as exile, imprisonment etc. see al-Sarakhsi, *al-Mabsut*, 27:205; al-Shirbini, *al-Mughni al-Muhtaj*, 4: 192; al-Bahuti, *Kashshaf al-Qina`*, 6:128.

<sup>18</sup> Ahmad ibn Sharaf al-Nawawi, *al-Majmu`* (Madinah : Maktabah al-Salafiyyah, n.d), 12: 317.

<sup>19</sup> Ibid, 4: 287; al-Sarakhsi, *al-Mabsut*, 1:111; al-Dasuqi, *Hashiyat al-Dasuqi*, 1:307; Ali Ibn Muhammad ibn Hazm, *al-Mahalla* (Beirut: Dar al-Fikr, n.d), 4: 212; Ali ibn Sulayman al-Mardawi, *al-Insaff* (Beirut: Dar Ihya al-Turath al-Arabi, 1957), 2: 252.

<sup>20</sup> Al-Shirbini, *al-Mughni al-Muhtaj*, 3:128; al-Sarakhsi, *al-Mabsut*, 12: 382; Ibn Qudamah , *al-Mughni*, 7:462.

<sup>21</sup> This is held by Ibn Taymiyyah who even doubted the permissibility of greeting them . See Ahmad ibn Abd al-Halim , *Mujmu`at al-Fatawa* (Beirut: Dar al-Kutub al-`Ilmiyyah, n.d) , 15: 321.

<sup>22</sup> Al-Hattab, *Mawahib al-Jalil*, 3: 342. But this is not upheld by the majority . See Ibn Qudamah, *al-Mughni*, 11:36.

<sup>23</sup> Al-Nawawi, *al-Majmu*, 20:227 ; *Ibn Qudamah, ibid*, 12: 40; al-Dasuqi, *Hashiyat al-Dasuqi*, 4:166.

<sup>24</sup> For details see, al-Sarakhsi, *al-Mabsut*, 11: 78; Ibn Qudamah , *al-Mughni*, 10:175.

amounting to twenty lashes at the discretion of the judge.<sup>25</sup> *Khuntha* on the other hand, juridically refers to an intersex or an individual with gender ambiguity upon birth. For instance, Ibn Qudamah defined a *khuntha* as, "a person with both male and female organs or with an opening in place of a sexual organ from which he urinates."<sup>26</sup> To integrate *khuntha* into the social system and law, classical jurists divided them into two sub-categories: non-problematic hermaphrodite (*khuntha ghayr mushkil*) and problematic hermaphrodite (*khuntha mushkil*).

Non-problematic hermaphrodite was a person with both male and female genitals capable of being assigned a sex type based on the dominant function of one of the two. For instance, he would be regarded as a male if he shows male signs such as urinates from the penis, ejaculates semen, grows facial hairs, etc. On the contrary, if such a person developed female bio-physical characters would be classified as a woman.<sup>27</sup> Problematic hermaphrodite, on the contrary, was a person who would not transform to one of the sexes, for instance he continues to urinate from both the penis and vagina.<sup>28</sup> With the progress of modern technology in medicine, the problem of the second type would be solved. Because medical criteria for sex determination goes beyond the physiological function of genitals, by looking instead to the composition of sex chromosomes, sex gonad, supernal gland, womb and fallopian tube, tester ones etc. That is why to al-Bar and Kazimi today medical doctors are better equipped to distinguish between a real female hermaphrodite with the appearance of a man (female pseudo hermaphrodite) and a real male hermaphrodite with the external signs of a woman (male pseudo hermaphrodite)<sup>29</sup>

### Reports of Mukhannathun from the Qur'an, Hadith and Sunnah

There are many references to these people both direct and indirect in the Qur'an, Hadith and Sunnah.

In the Quran; And say to the believing women that they cast down their looks and guard their private parts and do not display their ornaments except what appears thereof, and let them wear their head-coverings over their bosoms, and not display their ornaments except to their husbands or their fathers, or the fathers of their husbands, or their sons, or the sons of their husbands, or their brothers, or their brothers' sons, or their sisters' sons, or their women, or those whom their right hands possess, or the male servants not having need (of women), or the children who have not attained knowledge of what is hidden of women; and let them not strike their feet so that what they hide of their ornaments may be known; and turn to Allah all of you, O believers! so that you may be successful.<sup>30</sup>

In Sunan Abu-Dawud, narrated by Abu Hurayrah (RA): A mukhannath who had dyed his hands and feet with henna was brought to the Prophet (Sallallahu Alaihi Wasallam). He asked: What is the matter with this man? He was told: Apostle of Allah! he affects women's get-up. So he ordered regarding him and he was banished to an-Naqi'. The people said: Apostle of Allah! should we not kill him? He said: I have been prohibited from killing people who pray. Abu Usamah said: Naqi' is a region near Medina and not a Baqi (in other words not referring to Jannat al-Baqi cemetery. Indicating they were not punished.)<sup>31</sup>

In Sunan Abu-Dawud Hazrat Aisha narrated :A mukhannath (eunuch) used to enter upon the wives of Prophet (Sallallahu Alaihi Wasallam). They (the people) counted him among those who were free of physical needs. One day the Prophet (Sallallahu Alaihi Wasallam) entered upon us when he was with one of his wives, and was describing the qualities of a woman, saying: When she comes forward, she comes forward with four (folds in her stomach), and when she goes backward, she goes

<sup>25</sup>This held to be a ruling base on a Prophetic tradition. See Muhammad ibn `Isa al-Tirmidhi, Sunan al-Tirmidhi (Beirut: al-Maktab al-Islami, 1988), 4:62. See also Ibn Qudamah, *ibid*, 10:202; al-Shibini, al-Mughni al-Muhtaj, 3:369; Sahnun Ibn Sa`id, al-Mudawwanah al-Kubra (Beirut: Dar Sadir, n.d.), 16: 216.

<sup>26</sup> Ibn Qudamah, al-Mughni, vol.6, 221; see also Muhammad Arafah ibn Abd al-Baqi al-Dasuqi, *Hashiyat al-Dasuqi `ala Shark Kabir* (Egypt: Ihya al-Kutub al-Arabi, n.d.), vol.4, 489.

<sup>27</sup> For details see, al-Sarakhsi, *al-Mabsut*, 30, 130; Muhammad ibn Muhammad al-Hattab, *Mawahib al-Jalil* (Beirut: Dar al-Fikr, 1978), 6, 430; Mansur ibn Yunus al-Bahuti, *Kahshshaf al-Qina`* (Beirut: Dar al-Fikr, 1982), 2, 594; al-Shirbini, *Mughni al-Muhtaj*, 3, 29.

<sup>28</sup> *Ibid*

<sup>29</sup> Muhammad Ali al-Bar, "Mushkilat al-Khuntha bayn al-Tibb wa al-Fiqh", *Majallat al-Majama` al-Fiqhi al-Islami*, 2007, 6, 354; Muhammad Kazim al-Khaqani, *al-Khuntha bayn al-Tibb wa al-Fiqh*, 2006, Paula Sanders, "Gendering the Ungendered Body: Hermaphrodites in Medieval Islamic Law," in Nikki R. Keddie and Beth Baron, eds., *Women in Middle Eastern History* (New Haven and London: Yale University Press, 1991), 74-

<sup>30</sup> The Qur'an:24:31

<sup>31</sup> *Sunan Abu-Dawud*, Book 41, Number 4910

backward with eight (folds in her stomach). The Prophet (Sallallahu Alaihi Wasallam) said: Do I not see that this (man) knows what here lies. Then they (the wives) observed veil from him.<sup>32</sup>

According to the Scholar and hadith collector An-Nawawi (RA): A mukhannath is the one ("male") who carries in his movements, in his appearance and in his language the characteristics of a woman. There are two types; the first is the one in whom these characteristics are innate, he did not put them on by himself, and therein is no guilt, no blame and no shame, as long as he does not perform any (illicit) act or exploit it for money (prostitution etc.). The second type acts like a woman out of immoral purposes and he is the sinner and blameworthy.<sup>33</sup>

**Furthermore there is the observation of Ibn Abd Al-Barr who was a contemporary of An-Nawawi:**

The mukhannath is not only the one who is known to be promiscuous. The mukhannath is the one who looks so much like a woman physically that he resembles women in his softness, speech, appearance, accent and thinking. If he is like this, he would have no desire for women and he would not notice anything about them. This is one of those who have no interest in women who were permitted to enter upon women."

The Mukhannathun were given a high status in the times of the Prophet (Sallallahu Alaihi Wasallam) as being "guardians of sacred boundaries" even gave them the privilege to guard not only the "harem" of women, but also the most sacred "harem" in Makkah and the one in Madinah. From the 12th century on it is reported that they were the dignified guardians of the grave of the noble Prophet Muhammad (Sallallahu Alaihi Wasallam), a custom that held on until the end of the Ottoman rule over the two sacred cities.<sup>34</sup>

Sadly the high place given to the mukhannathun in Muslim society did not survive the colonial times. It was the beloved Prophet Muhammad (Sallallahu Alaihi Wasallam) who first gave such a high position of authority to the Mukhannathun but when Ottoman rule ended then that is when Islam's rule ended.

When the kuffaar regimes moved in the high position of the Mukhannathun was over. So it is Islam which gave the Mukhannathun such a high position. Afterwards ignorance spread and unfortunately we are in a state of ignorance today about many issues and matters.

### **Portrayal of Eunuchs Identity**

Gender is pivotal in determining our identity and once people decided what we are they interpret everything we do accordingly in that perspective. While, sex is the biological factor, gender is the psychological and social unit.<sup>35</sup> Yet, there are certain circumstances in which the biological aspects are in contradiction with the social and psychological aspects of gender. These situations dominate the biology in determining gender identity and influencing gender role. Thus people may swerve from any of the normal pattern about sex/ gender is considered to be abnormal. A person who is labeled as such starts finding outlets for expressing abnormal behavior, desires or inclinations as family, friends and society try to find the ways to forcibly stop it. This may lead in forming small organized support groups where they find acceptance and appreciation for their behaviors or identities. Such groups exist all over the world under different titles<sup>36</sup>.

The Qur'an recognizes that some men are "without the defining skill of males"<sup>37</sup>

And a eunuch is categorized into three types by Muslim Scholars:<sup>38</sup>

1. Biologically and the physical appearance of one who is closer to the males than to the females; such an eunuch will be considered a male.
2. Biologically and bodily appearance of one who is closer to the females than to the males; such a eunuch will be considered a female.

<sup>32</sup> *Sunan Abu-Dawud*, Book 32, Number 4095

<sup>33</sup> *Al-Nawawi* (3 Vols.), by Jamaal Al-Din M. Zarabozo, Al-Basheer (1999)

<sup>34</sup> *Eunuchs and sacred boundaries in Islamic society*, by Shaun Marmoon, (1995), ch;5

<sup>35</sup> *Kessler and McKenna*, 1978, p.6

<sup>36</sup> *Ibid*

<sup>37</sup> The Qur'an; 24:31

<sup>38</sup> Muhammad Ali al-Bar, "Mushkilat al-Khuntha bayn al-Tibb wa al-Fiqh", *Majallat al-Majama` al-Fiqhi al-Islami*, 2007, 6, 354; Muhammad Kazim al-Khaqani, *al-Khuntha bayn al-Tibb wa al-Fiqh*, 2006. See also, Paula Sanders, "Gendering the Ungendered Body: Hermaphrodites in Medieval Islamic Law," in Nikki R. Keddie and Beth Baron, eds., *Women in Middle Eastern History* (New Haven and London: Yale University Press, 1991)

3. One whose gender is difficult to ascertain and they are termed as 'Khunsa Mushkil' in Islamic Jurisprudence.

### **Religious Perspective**

Islam treats the Eunuchs as equal members of society, and considers them a Sign from our Lord and Creator. The people who are born eunuchs are not to be blamed or shunned by society, as it is Allah who has created them the way they are, as a Sign and also as a test for the rest of mankind! Similarly, Allah creates the mentally retarded, the physically challenged, the blind, the deaf and dumb, etc. These are created the way they are by Allah as a Sign and a test unto mankind, so that people may realize His Bounty and His Grace and His Mercy that He could have created any one of us like them, and there is nothing we could have done to change that! Thus it is imperative that we must be grateful to Allah, if He has created us in balanced form with all our senses in perfect order.

Islam does not look down upon the eunuchs in society, as their creation and state has nothing to do with their doings. But instead, Islam demands that we be extra polite and tolerant to these physically and mentally challenged slaves of Allah, and are always grateful and thankful to Allah for our own creation.

For the eunuchs there are separate laws in Islam. There are some amongst the eunuchs who are closer to men than women in form and nature, and then the Islamic laws of men will be applicable to them. If the eunuch is closer to women in form and nature, then the Islamic laws of women will be applicable to them. But there are some amongst the eunuchs for whom it becomes difficult to determine whether they are closer to men or women; for these the Islamic laws allow a mid-way point. For example, in the inheritance distribution, the eunuch who cannot be determined to be closer to a man or a woman will get 1.5 times the distribution rather than 1.0 for the woman, and 2.0 for the man.

Allah says in the Holy Quran: O mankind, we created you from one man and one woman, and then divided you into nations and tribes so that you may recognize one another. Indeed, the most honorable amongst you in the sight of Allah is he who is most pious (God Fearing) of you. Surely Allah is All-Knowing, All-Wise.<sup>39</sup>

Thus, in Islam, Allah has given the criteria for greatness and honorability. It has nothing to do with the gender of the person, but rather the one who is most Pious, is the one who is most honorable in the sight of Allah. These eunuchs are not mentally challenged, and thus they are equally at par as far as their senses and thinking goes. If a eunuch is pious and God-Fearing, then he will be honored by Allah, and there will be no differentiation or discrimination thereof.

That is the position of the eunuchs in Islamic society and law. This only applies to the ones who are born eunuchs and not the ones who have changed their physique and appearances to get closer to the sex other than that in which they were created. The Messenger of Allah (saws) specifically cursed the man who acts, talks, walks or dresses like a woman, and similarly he cursed the woman who acts, talks, walks and dresses like a man. The Messenger of God, peace be upon him, cursed female-impersonators who are males, and male-impersonators who are women.<sup>40</sup>

### **Eunuch in Pakistan**

Eunuchs are a unique form of gender role in Pakistan where men behaves like women. This term is often attributed as an abuse to a man who is whimsical effeminate ineffective or impotent.

In Pakistan they can be categorized as under:<sup>41</sup>

#### **Hermaphrodite or Intersexes.**

These are those individuals who are born with sexual deformity.

#### **Cross Dresser and Transgender**

Cross dresser and trans gender also falls in this category called zanany and those castrated are called Narban Persian word meaning sacrificing men who are also equal to eunuchs they claim that they possess female soul inside them since their birth which prompts them to behave like a woman.

#### **Homosexual and bi Sexual**

They falls under the category of eunuchs they for their sexual desires take cover and join the community they are normal men but for the fulfillment of their sexual desires they take refuge and disguised in the eunuch community.

---

<sup>39</sup> The Qur'an; 49:13

<sup>40</sup> Bukhari, Book LXXII (Dress), Chapter 61: (773)

<sup>41</sup> Encyclopedia Americana, 2000, p 661

Eunuchs are more respectable class than zanany with in community, zanany may leave the community when they feel they being in community has no gratifying experience many few zanany go for castration eunuchs mostly earnings is based on alms and dancing, zanany perform in functions theaters or are indulge in sex business.

Eunuchs do not disclose their identity. Their identity is shrouded in myths and false portrayal. Although they portray women hood but still many of the eunuchs are not ready to mention female sex in their identity documents. Pakistan has a patriarchal society where male domination is evident where many of them prefer to identify themselves as a male in their identity documents one of the main reason they identified was the performance of hajj therefore they mostly prefer the male sex to be written in their identity documents for the ease of performance of hajj. After performance of hajj eunuchs identify them with the group of mukhnath a group in Makkah and Madina employed as keeping men and women apart while offering prayers a status of piety and holiness. People believe that due to this grave handicap, Allah has granted them effective blessings and special.

### **Cultural Perspective of Eunuchs**

Our eunuchs draw their cultural heritage from khwaja sara of Mughal era. Khwajasara were eunuchs who were employed by Mughal rulers as a care takers of their harems.<sup>42</sup> Khwaja sara played potent roles in the courts, held effective sway in the affairs of the state and also acted as confidants of their masters with no more princely rulers their condition and status deteriorated that broke them financially turning in to beggars.

### **Legal Perspective**

Eunuchs are granted equal rights in the society. They have now right to vote and contest in elections. Aslam eunuch contested in the national assembly against a renowned political figure and got over seven thousand votes. There is no legal restriction on eunuchs in enjoying their rights as also fulfilling their normal obligations. Only hindrances are cultural, social and attitudinal barriers in the society towards this community.

Under Islamic jurisprudence and the Constitution sex is recognized as a male or female.<sup>43</sup> No separate category is laid down for the eunuchs. Hence no number is available regarding eunuchs in the country. In Pakistan no legal cover is provided to transgender who wants to change the identity, legal documents in the light of reassigned sex. The identity registration at the age of 18 is based on sex written on birth certificate and that cannot be changed. There are evidences against eunuchs who indulge in carrying out auto castration with the help of any other eunuch who go for castration voluntarily or sometimes forcibly indulging in causing grievous hurt which endanger the life of an individual is also punishable, under section 322 /335 PPC.<sup>44</sup>

There is no scope of same sex marriage in Pakistan it comes under the category of unnatural offences PPC section 377.<sup>45</sup>

### **Reasons for Becoming Eunuch**

My preliminary analysis of twenty five eunuch's survey revealed various reasons behind becoming eunuch and joining eunuch community. Many of them contented that their interest is dancing, make up like women and sexual interest in men roped them in. Their deviant interest was acceptable appreciated and groomed in community. Besides this poor and unemployed youth joined the community when seeing eunuchs earning easy money, apparently. It is leading towards increased incidence of AIDS.

Some thought that their inclination towards acting and dressing like woman brought them in. In some cases they got much encouragement in childhood and in some cases harsh treatment by their families prompted them to join eunuch community indeed for them a save heaven. Some contented that they suffered psychological problems. Sexual abuse in childhood also leads towards undo interest and curiosity in homosexual activates. The boys womanish in their attitude and girlish features get exaggerated attention of men in schools family or place of employment, ultimately leading towards sexual abuse or reinforcing their womanish inclinations. These attributes are welcomed in eunuch community.

---

<sup>42</sup> *Gwain, peter and goetz*,1990 , p 598

<sup>43</sup> *Major Acts* 1987

<sup>44</sup> Section, 322 /335 PPC.

<sup>45</sup> Section, 377, PPC.

Some individuals fell prey by watching eunuch activities too frequently. Eunuchs are considered to be mysterious and secretive generating curiosity among boys to get involved more willingly, seeking pleasure and falling in love with any eunuch thus encouraging them to join eunuch community. Few of them claimed that they were born eunuchs and their families handed them over to eunuch community out of shame and embracement in the society. Some of them claimed that their parents sold them off due to poverty. Some eunuchs reasoned out that monetary compulsions compel children to accrue required financial resources through ignoble means by indulging eunuch outlet.

### **General Attitude towards Eunuch Community**

Like other parts of the world the attitude towards eunuchs in Pakistan is also discriminatory and biased in general. Eunuchs are denied of any quota in employment on the basis of their disablement and also deprived of opportunities to take education because of people attitude towards them. More so they are also denied health and psychological assistance. Victims of gender identity problem carry out castrations without any medical aid they indulge in self remedy including hormone taking without any prescription, using silicone injections and at extreme auto castration no one is there to understand them and find solution to their problems.

People give away alms, it is only because of the fear to avoid their curse and get good wishes. Asexuality and also sudden behavioral patterns such as cracking vulgar jokes using obscene language and throwing vulgar gestures induce annoyance resulting in people harboring negative attitude towards them. By and large people do not like to interact with them.

Preliminary results of my research shows that fifty % of individual meet them once in a year twenty eight % meet them once in a month and twelve % meet them once in a week while six % related meeting every day and two % did not meet them in their life talking about them in the family is not a good stead. People detest the idea of having any eunuch in their family. Some even believe that children born with sexual deformity should be given to eunuch community

In bigger cities the number of eunuch is ever increasing, people are apprehensive and reluctant in interacting with eunuch people blame them for homosexuality and sex business especially men are well aware of eunuchs living in their locality

Attitude of people towards eunuchs on the basis of preliminary results of my research shows that people who believe that they are born eunuch have more positive attitude towards eunuch community then the people who believe that they are men behaving like women or both.

Findings also show that women have more positive attitude then men. Fifty eight % of eunuch believes that they are eunuchs by birth while forty two % believe otherwise

People who know about the cross dressers with in eunuch community refer to the Hadith that those who cross dress are cursed down upon, there for eunuch community us a cursed one a large number of eunuch community comes from a low socioeconomic class where there behavior can't be concealed. While in upper socioeconomic class they remain in their house hold and pursue their careers along their deviant behaviors as people in this class do not much bother such oddities. They can afford to have hormonal therapy and surgeries from abroad, but those who belong to low socioeconomic class rely on self-remedy and remain embedded in the quagmire for the rest of their life

### **Conclusion**

We hate some people but we don't know them and do not want to know them because we hate them this dictum stands valid towards eunuchs we are driven by certain myths related to eunuchs but very few know them. Eunuchs may be suffering from some psychological problem or genuine handicap, beyond their control we should understand them and abridge the prevailing state of doubt and mistrust. This indeed will help them in their sufferings and make their lives comfortable and productive for society at large.

### **Recommendations and Suggestions**

- Eunuchs are humans and should be treated equally
- The effected family should understand and have the knowledge and information regarding the physiological problem in their child behaving in a deviant way.
- If a child is showing some physiological problem he should be taken for the proper treatment.
- Parents should check company of their child
- Government and local administration should arrange stipend and monetary assistance to the poor to provide employment to the effected sections of people.



- Parents should take due cognizance of their child getting undue affections from other without any apparent reason
- If a child is show gender identity problem he should be taken to the doctor for necessary treatment
- Government should also develop programs to enhance and built up knowledge regarding AIDS to the masses and eunuchs as well
- Government should arrange medical assistance for affected individuals
- Government should enforce strict law on auto castration

### **Bibliography**

- Abu Dawud, vol.4, 228.
- Ahmad ibn Qudamah, al-Mughni (Riyad: al-Maktabah al-Riyad al-Hadithah, n.d), 7, 462.
- Ahmad ibn Sharaf al-Nawawi, al-Majmu` (Madinah : Maktabah al-Salafiyyah, n.d), 12: 317.
- Al-Shirbini, al-Mushni al-Muhtaj, 3:128; al-Sarakhsi, al-Mabsut, 12: 382; Ibn Qudamah , al-Mughni, 7:462.
- Allah al-Khurashi, al-Khrashi `ala Mukhtasar Khalil (Beirut: Dar al-Fikr), 2,273
- Al-Nawawi, al-Majmu, 20:227 ; Ibn Qudamah, ibid, 12: 40; al-Dasuqi, Hashiyat al-Dasuqi, 4:166.
- Al Qur'an, 42: 49-50, 4: 119, 24: 31
- Abdulaziz Sachedina, Islamic Biomedical Ethics (New York: Oxford University Press, 2009), p.191
- Bukhari, Book LXXII (Dress), Chapter 61: (773)
- Encyclopedia Americana, 2000, p 66
- Eunuchs and sacred boundaries in Islamic society, by Shaun Marmoon, (1995)
- Fazlul Karim, Mishkat al-Masabih (Delhi: Islamic Book Service, 1994), 1, 613.
- Gwain, peter and goetz, 1990, p 598
- Islamic jurisprudence in the modern world ,Anwar al Qadri, 1953, Pg;434,435
- Isma`il Abi Fida Ibn Kathir , Tafsir al-Qur`an al-Azim (Riyad: Maktabat al-Riyad al-Hadithah, n.d), 6, 48.
- Major Acts 1987
- Muhammad ibn Ahmad al-Qurtubi, al-Jami` li Ahkam al-Qur`an (Beirut : Ihya al-Turath al-Arabi, n.d), 12, 234;
- Muhammad ibn Jarir al-Tabari, Jami` al-Bayan fi Tafsir al-Qur`an (Beirut: Dar al-Fikr al-Ma`rifah, n.d), 19, 163;
- Muhammad ibn Mukrim Ibn Manzur, Lisan al-Arab ( Beirut: Dar Sadir, n.d), 2, 145
- Muhammad ibn Abi Ashal al-Sarakhsi, al-Mabsut ( Beirut: Dar al-Ma`rifah, 1986), 12, 382; Abd Allah ibn
- Muhammad al-Khatib al-Shirbini, Mughni al-Muhtaj (Beirut: Dar al-Fikr, n.d), 4, 430
- Mufti Allie Haroun Sheik, Sexual Issues in Modern Era (Delhi: Adam Publishers & Distributers, 2008), 260.
- Noraini Mohd Nor et al, Sexual Identity-Effeminacy Among University Students (Kuala Lumpur: IIUM Research Centre ,2005)
- Noraini, Sexual Identity-Effeminacy among University Students  
PPC Section, 322 /335  
PPC Section ,377
- Sunan Abu-Dawud, Book 41, Number 4910
- Sunan Abu-Dawud, Book 32, Number 4095