

# The Application of Maqasid-Oriented Approach in Islamic Bioethics: A Case Study on Fatwa Related to Cosmetic, Plastic and Reconstructive Surgery

Naqib Hamdan M<sup>a\*</sup>, Mohd Anuar R<sup>b</sup>, Aminudin H<sup>c</sup>, Nur Najwa Hanani AR<sup>a</sup>, Muhammad Faiz MS<sup>d</sup>, Syamsul Azizul M<sup>e</sup>

<sup>a</sup> Academy of Islamic Civilization, Faculty of Social Sciences and Humanities. Universiti Teknologi Malaysia, Johor.

<sup>b</sup> Academy of Islamic Studies, Universiti Malaya, Kuala Lumpur.

<sup>c</sup> Centre of Research for Fiqh Science and Technology, Universiti Teknologi Malaysia, Johor

<sup>e</sup> Centre for the Promotion of Knowledge and Language Learning, Universiti Malaysia Sabah

<sup>d</sup> School of Biomedical Engineering and Health Sciences, Universiti Teknologi Malaysia.

## ABSTRACT

**INTRODUCTION:** Cosmetic surgery, which is a type of elective surgery designed to alter the physical features of the human body, is currently in high demand due to a combination of several main factors; namely low self-esteem, the desire to achieve beauty standards set by society, and the ubiquity of mass media and social media influencers. As a Muslim, cosmetic surgery must be evaluated from a jurisprudential lens to determine the level of necessity of the procedure, whether it reached the stage of essential (*darurah*), or necessity (*hajah*), or complimentary (*tahsinah*), along with close inspection of the *maslahah* dan *mafsadah* involved with the aspect of *maslahah* dan *mafsadah* in need of further clarification. A close inspection of medical fatwas relating to cosmetic surgery reveals that procedures that are intended solely for physical beautification with no medical justification whatsoever are forbidden.

**MATERIALS AND METHODS:** This study collect data from fatwas issued by seven fatwa institutions worldwide, will look into the application of *maqasid al-shari'a* in determining the legal status of cosmetic surgery in Islam. The data was analysed thematically. **RESULT:** The findings from this study suggest that all fatwas pertaining to cosmetic surgery were decided based on the considerations of *maqasid al-shari'a*, which will greatly aid doctors and patients in evaluating the need, or the lack thereof, to proceed with cosmetic surgery. **CONCLUSION:** The discussion of Islamic law or fatwa related to medicine requires synergy between sharia experts and medical doctors.

**KEYWORDS:** *maqasid al-shari'a*, medical fatwas, cosmetic surgery, fatwa institutions, Islamic bioethics

## INTRODUCTION

Plastic surgery is one of the branches of medicine that has gained substantial popularity all over the world in the last few decades. It is part of a surgical specialty that focuses on multiple purposes including reconstruction and modification of the human body. The history of plastic surgery began in the era of 3000 – 2500 BC

where a plastic repair of a broken nose was reported in the Edwin Smith Papyrus, one of the oldest surgical manuscripts.<sup>1</sup> Islam welcomes plastic surgery as long if it is done in an attempt to reduce people's suffering from an illness and not for luxury purposes.<sup>2</sup> The aim of reconstructive surgery is mainly about restoring the function of the human body after an accident or illness such as trauma, body defects due to birth disorder, burns, and disease.<sup>3</sup> Within the field of plastic surgery, there is another branch known as cosmetic surgery which is a unique discipline that focused on the enhancement of people's appearance without an existing medical condition through medical and surgical

### Corresponding Author:

Dr. Mohammad Naqib Hamdan  
Academy of Islamic Civilization,  
Faculty of Social Sciences and Humanities,  
Universiti Teknologi Malaysia,  
81310 Skudai, Johor  
Tel No: +6011-2807 2356  
Email: mohammadnaqib@utm.my

techniques. Cosmetic surgery is usually done as an elective procedure which isn't considered to be essential but could help to improve patient's self-esteem and sense of satisfaction with their refined physical appearances.<sup>4</sup>

The field of medicine today has experienced rapid growth and managed to discover new types of microbes, while also unveiling new treatment procedures and healing devices, which are decidedly safer and more complex than those used in previous centuries. However, the profusion of these same groundbreaking discoveries also meant that several procedures and operations available today are known to lead towards the willful alteration of God's creation, such as plastic and cosmetic surgery. Plastic and cosmetic surgery inevitably leads toward the willful alteration of God's creation (known in Islamic jurisprudence as *taghyir khalqillah*), which is an important fact since this act of willful alteration has been strictly and clearly prohibited by Allah Most High and Exalted be He, as attested by the Quran, surah al-Nisā', verse 119. At the same time, this verse, in particular, is general and left a lot of room for multiple interpretations,<sup>5</sup> which is why scholarly exegesis should be obtained by the way of fatwas deliberated by authoritative, internationally-or nationally-acknowledged fatwa institutions through the method of collective *ijtihad*.

Discussions of medical issues are relatively new phenomenon in Islamic jurisprudential discourse and were never specifically explored by the *salaf* (early) generations of Islamic scholars, although the foundational aspects of such discussion can still be referred to them using the technique of *takyif fiqhi* after proper and exhaustive explanation by experts in the medical field. For the uninitiated, *takyif fiqhi* is a process of unearthing similarities between current issues and previous issues already discussed by classical scholars, as described by scholars of *usul fiqh* (Islamic jurisprudence): "A legal ruling is decided based on the depiction projected upon a specific issue".<sup>6</sup> In addition, medical practice is a field where *maqasid al-shari'a* is heavily applied, especially in examining a legal opinion to choose between the two evils and picking one out of two benefits, among others.<sup>7-9</sup>

## MATERIALS AND METHODS

This is a qualitative research that applies the document analysis method as it's the main instrument. The document that served as the main reference is a medical fatwa decree decided by several international and national fatwa bodies. It was collected using purposive sampling. 23 medical fatwa decrees related to cosmetic and plastic surgery were collected. The analysis began with the translation of this medical fatwa and deliberated with the application of *maqasid al-shari'a*, either by weighing between the *maslahah* and *mafsadah*, or determining the degree of necessity of a particular procedure, whether at the level of *darurah*, *hajah* or *tahsinah*.

## RESULT

Four resolutions and fatwas with relation to cosmetic surgery have been issued, specifically concerning; (i) cosmetic and plastic surgeries (Table 1), (ii) dental beautification (Table 2), (iii) vaginal reconstruction (Table 3), and (iv) shaving one's eyebrows for surgical purposes (Table 3). These resolutions and fatwas have been gathered from two international-level bodies (International Fiqh Academy in Jeddah or MFID, and the European Council for Fatwa and Research or MUIB) as well as six national-level fatwa institutions from four separate Muslim-majority countries, namely Egypt (DIM), Saudi Arabia (HKU and LDF), Palestine (HAF), Kuwait (DIF) and one from India (MFIH).

## DISCUSSION

Cosmetic treatment is one of the subsections of the rapidly developing field of medical studies available today. There are two stated purposes for this kind of treatment; namely to either treat disfigurement or to spruce up existing features. Two terminologies that keep cropping up in the field of modern medicine regarding the concept of beauty are aesthetic dan cosmetic, the former comes from the Greek word *aisthētikós* which means "taste",<sup>10</sup> while the latter originated from the Greek word *kosmetikē tekhnē* that carries the meaning "the art of beautification".<sup>11</sup> Aesthetic medicine is a branch of clinical practice that emphasize looks

**Table 1:** Resolutions and Fatwas Concerning Cosmetic and Plastic Surgery

Issues discussed	International Bodies		National Bodies				
	MUIB	DIM	HKU LDF	HAF	DIF	MFIH	
Cosmetic and Plastic Surgery	2007	2014		(675) 1984	(112-2) 2013	78 (3/18) 2009	
Septoplasty and Rhinoplasty		(3132) 2016	(5408)	(4287) 1997	(81-1) 2010		
Reconstructive Plastic Surgery			(6908)		(23-2) 1998		
Cosmetic Surgery to Improve the Breasts, Abdomen and Facial Features			(9204)	(1709) 1988	(5856) 2002		
Lip Augmentation Surgery for Women				(6249) 2003	(6875) 2005		

alongside functions to achieve harmony between physical countenance and psychological expression through procedures that transform generally normal (non-diseased) skin to achieve the goal(s) set by the patient.<sup>12</sup> It is based on several disciplines, chief among them are dermatological studies and plastic surgery.

**Table 2:** Resolutions and Fatwas Concerning Dental Beautification

Issues discussed	International-level institutions		National-level institutions (Muslim-majority countries)				
	MFID	MUIB	DIM	HKU LDF	HAF	DIF	MFIH
Wearing Dental Braces			(627) 2004				
Dental Gold Crowning				(15375)			
Teeth Realignment				(20888)	(4287) 1997		
Denture restoration				(21104)			

The procedures involved in aesthetic medicine can be classified into invasive operations, quasi-invasive, and non-invasive procedures, respectively. Invasive procedures encompassed deep tissue-incision, hair transplant, vascular (blood vessel) laser surgery, and cosmetic surgeries such as breast enlargement, rhinoplasty, and liposuction, while quasi- or moderately-invasive procedures involve incisions of the skin not exceeding the fascia superficialis, such as Botox injections and skin pigmentation laser treatment. Non-invasive procedures do not require incisions to the skin and include chemical peel treatment as well as intense pulsed light treatment to remove pimples, among others.<sup>12</sup>

**Table 3:** Resolutions and Fatwas Concerning Vaginal Reconstruction

Issues discussed	International-level institutions		National-level institutions (Muslim-majority countries)				
	MFID	MUIB	DIM	HKU LDF	HAF	DIF	MFIH
Vaginal Reconstruction					(5855) 2002		
Shaving the Eyebrows for Surgical Purposes						(83-3) 2010	

Cosmetic surgery is defined as any kind of procedure requested by a client to reshape the structure of a normal body to augment one's physical charms and self-esteem, whether through surgical operations or otherwise.<sup>13,14</sup> Multiple factors can bring about the desire for cosmetic surgery; namely, low self-esteem, low self-satisfaction, poor evaluation of one's beauty and the influence of mass media.<sup>15,16</sup> The main issue that arose out of the practice of cosmetic surgery is the question of willful alteration (*taghyir*) of God's creations into another form, either similar to the original version or a completely new iteration; either of which is inevitable results of cosmetic surgery. A prohibition by Allah to this effect is present in the Surah Al-Nisa', verse 116-119, and Prophet's *hadith*, stating that he forbids *al-washm* (tattooing of one's body), *taflij al-asnan* (creating artificial gaps between one's teeth), and *al-wasl* (wearing wigs), as these acts are similar to be construed as willful alteration of Allah's natural creation.<sup>17</sup>

### Cosmetic and Plastic Surgery

Based on Table I, several resolutions and fatwas regarding cosmetic and plastic surgery have been released by seven fatwa institutions the world over, namely MFID,<sup>18</sup> MUIB,<sup>19</sup> DIM,<sup>20</sup> LDF,<sup>21</sup> HAF,<sup>22</sup> DIF,<sup>23,24</sup> and MFIH,<sup>25</sup> spanning a total of sixteen fatwas and resolutions that covered five main topics; (i) cosmetic and plastic surgery in general, (ii) septoplasty and rhinoplasty, (iii) reconstructive plastic surgery, (iv) cosmetic surgery to improve the breasts, abdomen and facial features, and (v) lip augmentation surgery for women. HAF was the most prolific fatwa institution with six fatwas issued, followed by the LDF and DIF with three fatwas each while the rest of fatwa-issuing bodies trailed behind with one resolution or fatwa each, respectively.

**Table 4:** The Application of *Maqasid Al-Shari'a* in Determining the Legal Status for Each Issue

Issue discussed	International-level institution		National-level institution				Legal status in Islam	Number of Ruling(s)	
	MFID	MUIB	DIM	HKU LDF	HAF	DIF			MFIIH
Cosmetic and Plastic Surgery	2007	2014			(675) 1984	(112-2) 2013	78(3/18) 2009	Permissible if reached the degree of either <i>darurab</i> or <i>hajab</i>	5
Rhinoplasty and Septoplasty			(3132) 2016	(5408)	(4287) 1997	(81-1) 2010			4
Reconstructive Plastic Surgery				(6908)		(23-2) 1998			2
Cosmetic Surgery to Improve the Breasts, Abdomen, and Facial Features				(9204)	(1709) 1988	(5856) 2002			3
Lip Augmentation Surgery for Women					(6249) 2003	(6875) 2005			2
Wearing Dental Braces			(627) 2004					Permissible at the stage of <i>hajab</i>	1
Dental Gold Crowning				(15375)					1
Teeth Realignment				(20888)	(4287) 1997				2
Denture Restoration				(21104)					1
Vaginal Reconstruction/ Rejuvenation					(5855) 2002			Permissible	1
Shaving the Eyebrows for Surgical Purposes						(83-3) 2010			1

	<i>Maslahah and ma'fadah</i>
	<i>Darurab</i>
	<i>Hajab</i>
	<i>Tabsinab</i>

Based on the text of these resolutions and fatwas stated above, the researcher has concluded that these fatwa institutions have considered the principles of maqasid al-shari'a while issuing these fatwa, as well as a few other reasons. Contemporary scholars have classified cosmetic and plastic surgery into three stages, essential (*darurab*), necessity (*hajab*) and complimentary (*tabsinab*) operations. Procedures categorized as *darurab* and *hajab* are surgeries performed with the stated purpose of either saving a patient's life, or treating a patient, or restoring the normal functions (or appearance) of a defective body part. Hence, these two types of surgery aim to expunge any kind of injury that afflicted the patient, whether physical types such as burn injuries and post-cancer breast reconstruction, or emotionally debilitating abnormalities like the oversized nose or even breasts larger than normal, inducing shame and loss of self-confidence to interact with the wider society.

In view of these arguments, all of the stated fatwa-issuing bodies have permitted cosmetic surgeries that

reached *darurab* and *hajab* level. There are, however, several conditions that must be met, such as; (i) fully-qualified surgeon leading the operation, (ii) reasonably high chance of success, (iii) permission from the patient in question, (iv) proper observation of the limits of contact between male and female during the surgery.

*Tabsinab* types of surgeries, on the other hand, are procedures performed solely for physical beautification with no medical justification whatsoever. For example, the surgical procedure for removing wrinkles on one's face or other areas of the body that resulted from the aging process is proscribed by Islamic law. The majority of fatwa institutions forbid surgeries that do not go beyond *tabsinab* and have no other purpose save for mere physical beautification; however, the MUIB has slightly diverged from this consensus by further dividing the *tabsinab* classification into two smaller categories, i.e (i) permissible *tabsinab*-category operations, and (ii) prohibited *tabsinab*-level procedures. According to MUIB, Islamically-permissible *tabsinab* surgeries involve

the restoration of the normal functions of a defective part of the human body, in which the abnormality will negatively affect the emotional well-being of the patient, while a surgery performed to remove physically-debilitating anomalies is classified as *hajah*; conversely, Islamic teachings forbid *tahsinah* types of surgeries that are intended solely for beautification. The truth of the matter is that the MUIB's opinion differs only in their classification of the levels of necessity (*awlawiyyat*), as it led to the same conclusion as others, in permitting cosmetic surgery for patients with abysmal self-confidence due to abnormally-shaped limbs or other body parts.

Although these fatwa bodies are almost unanimous in allowing plastic and cosmetic surgery for patients with low levels of self-confidence, the researcher opines that this permissibility must be accompanied by strict conditions. It is greatly feared that this reasoning will be abused by opportunistic individuals, even though the abnormality is rather trivial, and the need for counseling and improving one's faith in God is more pressing than outright surgery. This principle is aligned with an Islamic jurisprudence maxim that states: "When a matter becomes too narrow, then it must be widened, and if something has become too wide, it must be narrowed back again".<sup>26</sup>

Hence, the researcher opines that every patient who claims a lack of self-esteem as an excuse must undergo counseling with a psychiatrist to evaluate his actual need for the surgery. In this way, the only patients who can undergo the surgery are those who genuinely lack self-esteem or self-confidence due to physical abnormalities.

### Dental Beautification

Table II shows the fatwa concerning dental beautification covers four related issues; (i) wearing dental braces, (ii) dental gold crowning, (iii) teeth realignment, and (iv) denture restoration, as decided by three fatwa institutions – the DIM,<sup>27</sup> the LDF,<sup>21</sup> and the HAF.<sup>22</sup> All four of these procedures have been stated as permissible by the triad of fatwa bodies according to the *hadith* which encouraged Muslims to seek treatment if afflicted by a disease. The DIM commented that this permissibility is based on the Islamic jurisprudential maxim of "Any harm must be removed",<sup>28</sup> and that the

procedure of installing the dental braces must be performed by a qualified dentist.

According to the LDF dan HAF, teeth realignment and dental gold crowning are both permissible as they have reached the *hajah* level of necessity, with the following quoted from the HAF fatwa:

"[HAF]: The installation of dental braces ... if intended to cure either congenital or possible deformity, that can result in unappealing physical features, or cause physical or emotional distress, or precipitate a malformed bodily figure, then it is allowed based on the consideration of the overarching (*maqasid* concerns) of *maslahah hajiyah*. If there are other purposes (such as mere beautification), the operation is not allowed to proceed as it will inevitably lead to *taghyir khalqillah* (alteration of God's creation) and dishonesty.

[LDF]: Men are allowed to wear dental braces made of gold if their conditions necessitate it.

In conclusion, dental beautification for medical treatment or removing sources of physical and emotional distress is permissible, elevating it to the *hajiyah* level of necessity. On the other hand, procedures performed with the sole intention of mere superficial beautification are forbidden as they are included in the definition of *taghyir khalqillah*, which is strictly prohibited by Islamic jurisprudence.

### Vaginal Reconstructive Surgery and Shaving the Eyebrows for Surgical Purposes

According to Table III, HAF has been the sole fatwa institution that has issued a fatwa on vaginal reconstructive surgery, promulgated in the year 2002.<sup>22</sup> The fatwa was produced in response to a question posed to the HAF, which was as follows:

"Repeated childbirths can result in the slackening/loosening of the vagina, which is why a considerable number of women

underwent vaginoplasty without a reasonable medical justification. During the surgery, the patient is going to receive a high dosage of anesthesia, while bleeding and failure are ever-present risks in these types of surgeries. What is the ruling on vaginal reconstructive surgery? Are the doctors and patients involved with this kind of surgery sinful?”

The HAF prohibits the surgery if faced with a significant risk of failure. However, if there is no foreseeable hazard on the life of the patient, she is cleared to undergo vaginal reconstructive surgery to restore the pre-labor vaginal condition. This permissibility is given to guarantee patient's *maslahab* without specifying the *maslahab* itself. One of the forms of *maslahab* that ought to be considered to proceed with vaginal reconstructive surgery is building up the wife's confidence to cater to her spouse's needs, as well as the husband's sexual satisfaction. In other words, it must be included in the definition of a treatment process.

The act of removing the eyebrows itself is explicitly forbidden by Prophet's *hadith*, although a fatwa by the DIF in the year 2010<sup>29</sup> permitted women to shave their eyebrows for treatment purposes, based on the jurisprudential maxims of; (i) The existence of harm necessitate the loosening of restrictions and (ii) Removing harm.

Besides, the DIF attached two obligatory conditions, which are, (i) the lack of any alternatives aside from shaving one's eyebrows, and (ii) the absence of consequent harm arising out of the shaving of the eyebrows.

## RESULT

Based on Table 4, every fatwa related to cosmetic surgery was deliberated with the application of *maqasid al-shari'a*, either by comparing between the *maslahab* and *mafsadah*, or determining the level of necessity of a particular procedure, whether at the level of *darurah*, *hajah* or *tahsinah*. In general, the fatwas in question agreed on the permissibility of surgeries that reached the status of *darurah* and *hajah*, but if the procedure is conducted solely for superficial beautification, then it

fell under the category of *tahsinah* and therefore prohibited. Hence, this study has exhibited the indubitable link between *maqasid al-shari'a* with the field of medical studies, which made the involvement of expert medical practitioners all the more important in determining the degree of necessity for a cosmetic surgical procedure, whether at the level of *darurah*, *hajah* or *tahsinah*. After all, this sort of consideration cannot be left for the Islamic scholars to deliberate on their own personal capacity.<sup>30,31</sup>

## CONCLUSION

As a conclusion, this study suggests several terms of reference for prospects dealing with cosmetic surgery at the stage of complimentary (*tahsinijyah*): **Firstly**, the acts identified are not explicitly mentioned in the Quran or prophetic hadiths. For example, the indicants (*dalil*) that prohibit *al-wasl*, *al-washm*, *al-washr*, *al-nams* and *al-tafalluj*. The same goes to the prophet's prohibition to cut the hair in the style known as *qaz'u*, that is shaving some parts of the head whilst leaving other parts with hair. **Secondly**, the acts that are not contradictory to general Islamic principles such as:

### **Not assimilating (*tashabbuh*) with transgressors.**

Based on a hadith of the prophet: *Whoever imitates a people is one of them.*<sup>32</sup> According to al-Munawi and al-'Alqami, the target people of the hadith are people who wear similar clothes (of the people they want to assimilate), live the same life-style either in similar dress codes or imitating their actions.<sup>33</sup> Whereas, Al-Qari said: "Those are the people who imitate infidels in their style of clothing and others, or the venial sinner (*fasiq*), bad people, sufists or God-fearing men, hence, they will be granted sins or rewards based on people they follow".<sup>33</sup>

### **Not assimilating (*tashabbuh*) with non-Muslims.**

The prophet said: "He's not from amongst us who imitates other than us, do not imitate the Jews or the Christians."<sup>34</sup> According to Suhail Hassan, there are several terms in permitting assimilation with non-Muslims in worldly deeds: (1) The act does not reflect one's religious faith or representation of the faith, (2) No indicants in their religion or scriptures specifically

mention the act is obliged upon them, (3) No indicants in their religion or scriptures expressly prohibit such action from being carried out and (4) The act does not contradict fundamental principles in Islam.<sup>35</sup>

Some scholars are in the opinion that despite assimilation (*tashabbuh*) is not to be taken lightly according to the prophet's hadith. However, its implication on cosmetic surgery is challenging to be determined as every race and country has both Muslims and non-Muslims, good people, and *fasiq* living side by side. Determining any act as representing a specific religion or culture is challenging indeed. One act may represent a symbol of non-Muslim in Country A but not in Country B; another act may represent a symbol for a prostitute in Country A but not in Country B.<sup>36</sup> Thus, determining an act as assimilation is arduous unless there is input from the local community. The *fiqhi* method states: Customs can be a method in defining a ruling.<sup>28,37</sup> This research believes that assimilation is not limited to religion; it can be further expanded to assimilating with animals. This is because some people alter their bodies to assimilate animals, among them are Tom Leppard who wanted to become a leopard, and Dennis Avner who wanted to become a cat. Both of them went through a procedure to alter their physical appearances, especially in their faces and teeth.<sup>38</sup>

### **Does not lead to gender confusion (men resemble women and vice versa).**

Based on a hadith narrated by 'Ikrimah RA: *Allah's Apostle curses men who resemble women and women who resemble men.*<sup>39</sup> According to al-Tabari: This prohibition includes dress codes and embellishments, which are specific to men and or women. Al-Asqalani added that this prohibition also includes restrictions on how to talk and walk. While the concept of dress codes varies according to the custom of each country, it is possible that a country does not distinguish the dress codes between men and women, but the basic principle is that women must cover their heads and bodies. The injunction in resembling the way to talk and walk, it is only for those who intentionally imitates it. If he were born that way, then he would have to abandon the act in stages. It is only sinful to deliberately leave the situation as to be without any effort to change the way one speaks and walks that resemble the other gender.<sup>40</sup>

Hence, men are prohibited from altering themselves to look like women or become women such as in procedures of penis and testis removals, breast implants, taking estrogen and progesterone hormones to alter their physical appearance and emotional state. These hormones will affect changes such as breast growth, thinner skin, hair growth, and muscle decrease. Sexual desires will also change after this hormone intake. Women also are prohibited from altering themselves to appear like men or become men such as in penis reconstructions or transplant procedures and testosterone intake to change their physical appearance and emotion. These hormones will cause the skin to become rougher physically, slower hair growth, and little facial changes on the eyebrows, cheeks, nose, and jaw.

### **No element of fraud.**

Most classical fiqh books consider fraud as the ratio legis in prohibiting altering God's creation (*taghyir khalqillah*) by using examples of wives who alter her body to appear younger in ascertaining more *nafkah* or older adults who undergo body alteration to marry younger counterparts. This research believes that this ratio legis still applies, but its application may change. For example, for a marriage to take place without the knowledge of the bride's and groom's age is few to none. All information such as name and date of birth should be provided to authorities who manage the marriage records. The element of domestic fraud also seems to be a misnomer because Islam encourages wives to appear beautiful before their husbands. It is reported that the Prophet (may peace be upon him) once rebuked a female companion (*sahabiyyah*) who did not apply henna on her hand.<sup>32</sup> 'Aishah herself reprimanded *sahabiyyah* who did not care for their appearances.<sup>41</sup>

According to al-Jubair, the prohibition of fraud has to do with concealing the truth. An act is considered deceptive and prohibited if it involves the rights of others, but if it does not involve the rights of others, there is no prohibition on such acts but rather a personal affair.<sup>36</sup> This is in line with the views of some scholars who require the use of a wig if it does not lead to fraud as the people around know that it is not real hair. Therefore, the same applies to medical surgery or

procedure that leads to fraud, and infringement of the rights of others is prohibited. For example, criminals who perform surgical procedures on their faces or thumbs to escape from authorities, or prostitutes who perform hymenoplasty (surgical repair of the hymen) to conceal their sins.

### **Adhere to the concept of embellishment in Islam.**

Many indicants show that Islam is a religion that cares about beauty. The value of beauty recommended in Islam is modest and moderate beauty. When it comes to the question of if a Muslim is born with facial defects such as a gap between teeth, large moles, or attached earlobes, is he prohibited from resorting to cosmetic surgery? Or a Muslim is born perfect but still feels ugly and less confident, can that be a reason for cosmetic surgery? In addition to keeping the human body from being sick, Islam also celebrates humanistic feelings as leaving feelings unchecked can harm the emotions. ‘Abd al-Karim Zaidan commented on al-Tabari’s ban from cutting off additional fingers:

“The prohibition by al-Tabari in removing additional fingers may be because the removal is painful. However, I am in the opinion that the scope of pain must be expanded to physical and also emotional (*al-Darar al-Ma’navi*). Therefore, women are permitted to pull out their teeth or remove teeth with abnormal growth to eliminate the defect. This is because it can be dreadful to the emotion, although the fact that teeth removal is because of beauty”.<sup>42</sup>

Nonetheless, emotional harm cannot be made an absolute excuse to allow cosmetic surgery, what needs to be done instead is referring to related experts in the field. It is possible that the feeling of physical beauty inferiority might be caused by the ungrateful attitude towards the present physical state or because of discontentment of the physique set by Allah SWT. Hence, the best cure is by planting the feeling of gratitude (*shukr*) at the same time, increase faith in Him. Another equally important condition Islam has set in embellishment is no element of *tabarruj*. *Tabarruj* is excess in embellishment where a woman showcases parts of the body that are better left covered from foreign men (*ajnabi*), as well as wearing clothes appealing to men’s eyes.<sup>43</sup>

### **It is not leading to graver harm.**

The fiqh method is the following: “In two harms, Muslim must avoid the graver harm by opting for the lesser harm”.<sup>37</sup> According to this method, al-Nawawi also prohibits the removal of bumps or growths in the body if the process can lead to more significant harm.<sup>44</sup> The application of this fiqh method often occurs in surgery because there is always a risk during the surgical procedure. Doctors shall only resort to surgery if the treatment process without surgery is ineffective or less effective. Therefore, the need for surgery or medical operation depends on the assessment of the two harms. The procedure is allowed if the harm that occurs after that is lighter than leaving the patient in such a state without any procedure.

### **Observe the ruling of awrah during the treatment process**

*Awrah* is parts of the Muslim body obligatory to be concealed and shall never be revealed except with *mahram* (unmarriageable kin). The permissibility of looking at *awrah* is only allowed in the state *darurah* or *hajah*. Therefore, the permissibility of any medical procedure at areas of *awrah* is only allowed for *daruriyyah* and *hajiyah* conditions. Ibn Qudamah said: Doctors are allowed to see their patients’ *awrah* based as per treatment needs.<sup>45</sup> According to al-‘Izz bin ‘Abd al-Salam: “Covering the *awrah* and reproductive organs are compulsory as they are the most precious parts of the body, especially for foreign women. However, they can be uncovered in *darurah* or *hajah* conditions. For example, the condition of *hajah* is between husband and wife, the owner to his woman slave, the witness to observe the accused during a trial and doctor during the process of treatment”.<sup>7</sup> However, the permissibility of looking at *awrah* is not allowed in absolute; it must be tied to another guiding method: The permissibility of *darurah* is evaluated based on the need for *darurah* itself.<sup>28,</sup>

<sup>37</sup>

**Thirdly**, the act adheres to treatment features allowable in Islam, such as:

### **A high success rate**

A process of a medical procedure or cosmetic surgery must have a high probability of success. Otherwise, it is



not allowed as it can be harmful to humans. Al-'Izz bin 'Abd al-Salam holds that: "To gain benefit (*maslahah*) in the world and hereafter and avoid harm (*mafsadah*) are dependent on intellectual consideration, which is inclined to the dominant likelihood (*ghalabah al-zann*). Many people drive their life according to their dominant likelihood. Traders take the risk of travel because they recognise their capability to gain profit, the same as patients who seek treatment because they believe they will be the cure of an illness".<sup>7</sup>

### Patient consent

Before performing any medical process, the attending physician must obtain the consent of the patient. This is based on the story of the Prophet (PBUH) who was angry with one of his companions who had given him medicine although was forbidden before that. 'Aisyah narrates: We put medicine in one side of his mouth, but he started waving us not to insert the medicine into his mouth. We said, "He dislikes the medicine as a patient usually does." But when he came to his senses he said, "Did I not forbid you to put medicine (by force) in the side of my mouth?" We said, "We thought it was just because a patient usually dislikes medicine." He said, "None of those who are in the house but will be forced to take medicine in the side of his mouth while I am watching, except Al-'Abbas, for he had not witnessed your deed".<sup>39,v</sup> This hadith indicates the need for a patient's consent and prohibition of the medical procedure unless the patient requests it (except in emergency condition). If the doctor does something contrary to the patient's wishes, the patient may demand *qisas* against the doctor's actions.

### The doctor performing the medical procedure has adequate qualities

The doctor's qualifications are essential before any medical procedure. For example, if the doctor who performs cosmetic surgery is unqualified and makes a mistake during the process, he or she must bear any errors and losses. Al-Khattabi said: "A person who deliberately treats without qualification and leads to disability, he has to bear the loss".<sup>32</sup> Ibn al-Qayyim added: "A person who performs treatment in a state of ignorance in medicine may cause death or harm".<sup>46</sup>

## ACKNOWLEDGEMENTS

This work was supported by the Universiti Teknologi Malaysia (UTM) Fundamental Research, entitle: "Kerangka dan Model Fiqh Perubatan dan Bio-Etika Islam" (Q.J130000.2553.21H32). We would like to thank Mr. Muzzammil bin Shamsudin and Abdul Muhaimin bin Misran for translating this article.

## REFERENCES

1. Shiffman MA. History of Cosmetic Surgery. In: Shiffman MA, Di Giuseppe A, eds. *Cosmetic Surgery: Art and Techniques*. 1st ed. Berlin, Heidelberg: Springer Berlin Heidelberg; 2013.
2. Ben-Ari S. The changing attitude of Islam toward cosmetic procedures and plastic surgery. *Acta Orient Acad Sci Hungaricae*. 2013 Jun; 66(2): 147–61.
3. Plastic and Reconstructive. The Royal College of Surgeons. 2019 [cited 2019 Nov 4]. Available from: <https://www.rcseng.ac.uk/news-and-events/media-centre/media-background-briefings-and-statistics/plastic-and-reconstructive/>
4. McCulley S. *Cosmetic Surgery and Plastic Surgery – What Is The Difference?*. Stephen McCulley. 2019 [cited 2019 Nov 4]. Available from: <https://www.stephenmcculley.co.uk/resource-centre/cosmetic-surgery-and-plastic-surgery-what-is-the-difference/>
5. Mohammad NH, Mohd AR. *Konsep Taghyir Khalqillah Menurut Mubaddithin: Analisis Terhadap Hadis Larangan Al-Wasl, Al-Washm, Al-Nams dan Al-Tafalluj*. In: Khadher A, Sedek A, Monika @ Munirah AR, eds. *Pengajian Al-Sunnah Al-Nabawiyah: Metode Dan Aliran*. 1st ed. Kuala Lumpur: APIUM; 2017; 75–92.
6. Husain MA. *Dawabit al-Ifta' fi al-Mustajiddat al-Tibbiyyah*. In: *Seminar al-Tajdid fi al-Fatwa bayn al-Nazariyyah wa al-Tatbiq*. Cairo, Egypt; 290–304.
7. Al-Salam I al-D 'Abd. *al-Qawa'id al-Kubra (Qawa'id al-Ahkam fi Islah al-Anam)*. 1st ed. Nazih Hammad, Uthman Dumairiyah, eds. Damascus: Dar al-Qalam; 2000.
8. Al-Kamali AY. *Ta'sil Fiqh al-Muwazanat*. 1st ed. Beirut: Dar Ibn Hazm; 2001.
9. Padela AI. Using the Maqasid al-Shari'ah to

- Furnish an Islamic Bioethics: Conceptual and Practical Issues. *J Bioeth Inq.* 2019; 16: 347–352.
10. Bleakley A, Marshall R, Brömer R. Toward an Aesthetic Medicine: Developing a Core Medical Humanities Undergraduate Curriculum. *J Med Humanit.* 2006; 27(4): 197–213.
  11. Online Etymology Dictionary. [cited 2019 Jul 28]. Available from: <https://www.etymonline.com/word/cosmetic>
  12. Ministry of Health Malaysia. Guidelines on Aesthetic Medical Practice. Malaysia; 2016. Available from: [http://www.moh.gov.my/moh/images/gallery/GarisPanduan/GUIDELINES\\_ON\\_AESTHETIC\\_MEDICAL\\_PRACTICE\\_FOR\\_REGISTERED\\_MEDICAL\\_PRACTITIONERS.pdf](http://www.moh.gov.my/moh/images/gallery/GarisPanduan/GUIDELINES_ON_AESTHETIC_MEDICAL_PRACTICE_FOR_REGISTERED_MEDICAL_PRACTITIONERS.pdf)
  13. Knapp van Bogaert D, Ogunbanjo G. Cosmetic Surgery and the Practice of Medicine. *South African Fam Pract.* 2008; 50(1): 50–2.
  14. Furnham A, Levitas J. Factors that motivate people to undergo cosmetic surgery. *Can J Plast Surg.* 2012; 20(4): 47–50.
  15. Park JS, Cho C-H. Factors explaining college students' intention to receive cosmetic surgery in the future: A structural equation modeling approach. *J Med Mark.* 2011; 11(2): 127–143.
  16. Voelker T, Pentina I. Cosmetic Surgery Intent Among Generation Y Consumers: A Social Network Perspective. *Health Mark Q.* 2011; 28(1): 38–56.
  17. Mohammad NH, Mohd AR. Pembedahan Plastik Dan Rekonstruksi Yang Melibatkan Pengubahan Ciptaan Allah SWT: Analisis Berdasarkan Parameter Maqasid al-Shari'ah. In: Sa'adan M, Mohd SAMN, Raihana AW, Nurulhuda AZ, eds. *Maqasid al-Shari'ah: Aplikasi Dalam Aspek Sains & Teknologi.* 1st ed. Kuala Lumpur: APIUM; 2016: 101–14.
  18. MFID. Resolution on Plastic Surgery. [cited 2019 Jul 23]. Available from: <http://www.iifa-aifi.org/2283.html>
  19. MUIB. Cosmetic Surgery . [cited 2019 Jul 23]. Available from: <https://www.e-cfr.org/العمليات-التجميلية-الجراحات-التجميل>
  20. DIM. Enhancement of Nose's Bone. [cited 2019 Jul 23]. Available from: <http://dar-alifta.org/AR/ViewFatwa.aspx?ID=11432&LangID=1&MuftiType=>
  21. Muhammad IA al-S, Abd al-AB, al-Lajnah al-Da'imah, Hai'ah Kibar al-'Ulama. *al-Fatawa al-Muta'alliqah li Abkam al-Tibb wa al-Marda* (Medical Fatwa Related to Medicine and Patient). 1st ed. Al-Fawzan SF 'Abdullah, ed. Riyadh: al-Ri'asah al-'Ammah li al-Buhuth wa al-Ifta; 2014.
  22. Ministry of Wakaf and Islamic Affairs. *Majmu'ah al-Fatawa al-Shar'iyyah* (Collection of Islamic Fatwa). 1st ed. Kuwait: Ministry of Waqf and Religious Affairs.
  23. Dar al-Fatwa wa al-Buhuth al-Islamiyyah. *Mukhtarat min Qararat Majlis al-Fatwa al-A'la* (Selected Fatwa Decree from Supreme Council). 1st ed. Palestine: al-Sultah al-Wataniyyah al-Filastiniyyah.
  24. DIF. *Izalah 'Arid* (Remove the Defect). [cited 2019 Jul 23]. Available from: <http://www.darifta.org/majles2014/showfile/show.php?id=47>
  25. MFID. *Qararat wa Tausiyyat li Majma' al-Fiqh al-Islami al-Hind: al-Nadawat 1-26, al-Qararat 1-114.* 1st ed. New Delhi: 2017.
  26. Al-Zuhaili M. *al-Qawa'id al-Fiqhiyyah.* 1st ed. Damascus: Dar al-Fikr; 2006.
  27. DIM. *Taqwim al-Asnan* (Wearing Braces). [cited 2019 Jul 23]. Available from: <http://dar-alifta.org/AR/ViewFatwa.aspx?ID=11432&LangID=1&MuftiType=0>
  28. Al-Suyuti A al-R bin AB. *al-Ashbah wa al-Naza'ir.* Beirut: Dar al-Kutub al-'Ilmiyyah; 1990.
  29. DIF. *al-Washm Makan al-Hajib li Fatah Tu'rad li Hadith 'inda al-Sighar* (Shaving Eyebrow for Medical Surgery). [cited 2019 Jul 23]. Available from: <http://www.darifta.org/majles2014/showfile/show.php?id=185>
  30. Mohd AR, Mohammad NH, Muhammad ISZ, Syed MJSJ. The Realization of Islamic Jurisprudence Transformation in the Classical and Contemporary Fiqh Issues. *Al-Qanatir Int J Islam Stud.* 2018; 12 (1): 10–21.
  31. Mohd AR, Tengku FATMH, Noor FMR. Autoriti Kerajaan Dalam Mewajibkan Vaksinasi Kanak-kanak: Kajian Menurut Perspektif Hukum Islam. *Umr Int J Islam Civilizational Stud.* 2019; 6(2): 21–35.
  32. Abu D, Sulaiman al-ASA. *Sunan Abi Dawud*, printed with al-Khattabi, *Ma'alim al-Sunan*, ed. 'Izzat Da'as and 'Adil al-S. Beirut: Dar Ibn Hazm; 1997.
  33. Abadi, Abu al-TMSHA. *'Awn al-Ma'bud*, printed with al-Jawziyyah, al-Hafiz SDIQ, *Ta'liqat Ibn Qayyim*, ed. 'Isam al-DS. Cairo: Dar al-Hadith; 2001.
  34. Al-Tirmidhi, Muhammad IS. *Sunan al-Tirmidhi*, ed. Muhammad NDA. Riyadh: Maktabah al-Ma'arif; 1996.

35. Suhail HAG. *al-Sunan wa al-Athar fi al-Nahy 'an al-Tashabbuh bi al-Kuffar*. Riyad: Dar al-Salaf; 1995.
36. Al-Jubair, Hani AM. *al-Dawabit al-Shar'iyah li al-'Amaliyyat al-Tajmiliyyah* in Proceeding Seminar al-'Amaliyyat al-Tajmiliyyah bayn al-Shar' wa al-Tibb; 1436H.
37. Ibn N, Zayn al-DIM. *al-Ashbah wa al-Naza'ir 'ala al-Madhhab Abi Hanifah al-Nu'man*, ed. Zakariyya U. Beirut: Dar al-Kutub al-'Ilmiyyah; 1999.
38. Frank S. The People with Animal Powers, from the official website of BBC. 2014 [cited 2020 July 12]. <http://www.bbc.com/future/story/20140407-the-people-with-animal-powers>.
39. Al-Bukhari, MI. *Al-Jami' al-Sahih al-Musnad min Hadith Rasulillah SAW wa Sunani-hi wa Ayyami-hi*, ed. Muhibb al-DK, Muhammad FAB and Qusay MDK. Cairo: Maktabah al-Salafiyyah; 1979.
40. Al-'Asqalani, Ahmad AH. *Fath al-Bari bi Sharh Sahih al-Imam Abi 'Abdillah Muhammad bin Isma'il al-Bukhari*, ed. 'Abd al-QSH. Riyad: Amir Sultan bin 'Abd al-'Aziz Ali Su'ud; 2001.
41. Al-Dhahabi, Muhammad AU. *Siyar A'lam al-Nubala'*. Beirut: Mu'assasah al-Risalah; 2001.
42. Zaidan, 'Abd al-K. *Al-Mufassal fi Ahkam al-Mar'ah wa al-Bayt al-Muslim fi al-Shari'ah al-Islamiyyah*. Beirut: Mu'assasah al-Risalah; 1993.
43. The Ministry of Waqaf of Kuwait. *Al-Mausu'ah al-Fiqhiyyah al-Kuwaitiyyah* (Kuwait Encyclopedia of Islamic Law). Kuwait: Dhat al-Salasil; 1987.
44. Al-Nawawi. *Rawdah al-Talibin*, printed with al-Suyuti, *al-Minhaj al-Sawi fi Tarjumah al-Imam al-Nawawi wa Muntaqa al-Yunbu' fi-ma Zada 'ala al-Rawdah min al-Furu'*, ed. 'Adil AAM and 'Ali MM. Riyad: Dar 'Alam al-Kutub; 2003.
45. Ibn Qudamah, Muwaffaq al-Din 'Abdullah bin Ahmad bin Muhammad al-Maqdisi. *Al-Mughni Sharh Mukhtasar al-Kharqi*, ed. 'Abdullah bin 'Abd al-Muhsin al-Turki dan 'Abd al-Fattah Muhammad al-Halw. Riyad: Dar 'Alam al-Kutub, 1997, 9:498.
46. Ibn Qayyim al-J. *Jami' al-Fiqh*, ed. Yusri SM. Mansurah: Dar al-Wafa'; 2000.