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### THE IMPACT OF SEX CHANGE ON COUPLES RELATIONS

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#### ABSTRACT

One of the new jurisprudence and legal issues is sex change. The sex change is increased based on its considerable demand and great medical progresses compared to the past. Thus, many jurisprudence and legal issues are raised in this regard. After raising the main question of giving permission or non-permission of the operation, some questions are raised regarding the impact of this operation on an individual rights namely in family. For example, the rights of an individual after sex change in some affairs including cancellation or validation of marital relation, marriage portion, custody of the children to the parents changing their sex and relevant obligations. It is attempted to determine and answer the mentioned questions after identification of the topic.

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### INTRODUCTION

The increasing medical science progresses provided the sex change facilities more than before. Due to the much demand for sex change from men and women in all over the world, this issue is turned into one of the important and challenging issues and it is necessary to investigated in this regard. This operation is with specific complications. For example, those who change the sex will have no child after surgery. If they try to establish family, they should discuss it with their future spouse to reduce the probable behavioral problems. The first sex change in Iran was performed in 1930 by a Dr. Khalatbari who turned a 18-years old boy to a girl. This was a challenging issue on that time. This sex change was about a transsexual man but he considered himself mentally as a woman and insisted to be a woman. He stated that if surgery is not performed, I will kill myself. Changing the sex of a completely healthy person was a rare phenomenon on that time. The first sex change in England was occurred during 1942 to 1948 as a girl called Lora Deilon changed her sex and chose a boy name MailekDeilon. The sex change in US dates back to 1952 as a medical case and the first sex change in Egypt was occurred in 1982 as a 19-year old person changed his sex to Abdollah and chose the name of year for himself (available at [www.pezeshk.us](http://www.pezeshk.us)). Among people with sexual disorder, two groups are more inclined to sex change, Hermaphrodites and transsexuals. Each of them is explained in details and the relevant features are also discussed.

#### Different types of sex change

It seems, the term "sex modification" is better than the term "sex change". As some physicians believe there is no sex change regarding the perfect man or woman without any defect and It is also impossible. In surgery of Hermaphrodites, one sexual organ is omitted to make

another one stronger (Momen, 1993, 107) and this called sex modification not sex change as this person was man or woman and after undergoing surgery, he/she has one identity. Those changing their sex are one of these groups:

#### Hermaphrodite

They have both male and female reproductive organs and they have sex identity disorder or sex ambiguity, they are called "Two sex", "intersex" or "Hermaphrodites". In sex-reassignment surgery, one of the weak reproductive organs is omitted and another organ is improved and replaced. Thus, this patient is turned into one of dominant female or male sexes and sometimes the function of both organs is the same and none is superior and it is called "problematic hermaphrodite" in jurisprudence (Diani, 2001, 11). These types of sex changes have been observed from the past and there is no disagreement in this regard as their disease is proved. Even Sunni law makers and Christian church who disagree with sex change are agree about their sex-reassignment and this sex change is considered as the solution for these people to be released of sex ambiguity.

#### Transsexuals

The patients with mental disease without any sex disorder are called transsexuals but they don't accept their current sex and they are inclined to their opposite sex. These mentally ill patients are the men considering themselves as woman or the women considering themselves as men. This illness is observed all over the world and it is not specific for an area. Indeed, the people with "sex identity disorder" or "transsexuals" are not satisfied of their sex without having any physical problem. Some researchers believe that although there is no clear medical reason for this disorder, it seems there are some changes in the brain of these patients compared to normal people and they try to be like their opposite sex. The investigations and

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examinations show they have no physical disorder from various aspects but wide researches of Dutch researchers in 1996 to achieve the reasons of sex dissatisfaction among these patients stated that a part of hypothalamus gland includes sex features similar to opposite sex.

Sex change among transsexuals is a challenging issue among the theorists. Almost, all Sunni jurists and Christian church are disagreeing about this surgery. They believe that it is changing the creation of God but many Shia jurists agree with this and they believe that these patients can change their sex. They believe that by this operation, the soul and body will be equal and this is changing the attributes of a person (Mosavi Bojnurdi, 2007, p.3). According to Shia jurists, there should be two conditions for sex change:

First condition, transsexual disease should be real, thus, those their disease is doubtful cannot change sex. Second condition, sex change should be complete, a man is changed into woman after sex change, or the woman is turned into man after sex change.

### Sex change according to jurists

The first Shia jurist presenting some issues regarding sex change is our great leader Imam Khomeini who discussed this issue in 1964 in the book "Tahrirolvasile". Imam Khomeini was banished by Iran Shah to Turkey in 1964 and lived for one year in Bursay of Turkey and wrote the book Tahrirolvasile book in this duration in which jurisprudence, legal issues of sex change are defined (Hashemi, 2011, 5). Thus, Imam Khomeini view in this regard was the most important jurisprudence source to determine the legal position of sex change in Iran law after revolution. Imam Khomeini said: "Sex change of man to woman or sex change of woman to man and sex change of hermaphrodite of man or woman is not forbidden (Khomeini, 1986, 558). After Islamic Revolution of Iran and in 1985, A man named Fereidoon Malekara (who changed his name after sex change to Maryam Khatun Malekara) with serious transsexual disease went to Imam Khomeini and received legal permission for sex change. Imam Khomeini referred to this disease in his verdict: "Sex change with prescription of trusting physician has no legitimate ban (ibid). After his verdict, sex-reassignment surgeries were done by legal permissions and since 1985, 10 sex change surgeries have been performed with the permission of justice court and forensic medicine in Iran and people received new ID after sex change and they also had legal and legitimate supports.

Ayatollahkhuyi based on acquittal principle (accepting the lack of obligation and lack of commitment of people in case of doubt in obligation)(JafariLangerudi, 2003, 107) and referred to sex change (Khuyi, 1993, 102). According to AllameFazlollah, sex change is permitted and his document is based on two items, first the lack of reason regarding the prohibition of act and another one the principle of initial banning of affairs or freedom principle of people will (it means that human being can possess the existing objects outside of rights unless in case the law bans explicitly)(JafariLangerudi, 20003, p. 608) according to verse 286 of Al-Baghare, verse 15 of Asra, verse 79 of Yusuf, verse 42 of Anfal verse (Hashemi, 2011, p. 10).

According to other contemporary jurists as Khamenei, sex change is permitted for physically and mentally ill patients (Khamenei, 1996, 90). Ayatollah Sistani in Iraq referred to insolvency rule as no order regarding insolvency is considered in Islam and based on verse 78 of Haj verse and verse 6 of Al-Maede verse and verses 185, 285 of Al-Baghare, any order requiring hardship is cancelled. Sex change for mentally ill patients is allowed for mentally ill patients on condition that it doesn't require forbidden act. Based on this issue and views of Emamie jurists, there is a legal procedure that besides physically ill people (hermaphrodites) and mentally ill patients (transsexuals) can change their sex under the supervision of physicians and have legal supports but sex change of transsexual patients is unpermitted from the view of Christian church and Sunni jurists. There is not therapy against sex change for transsexual patients with serious mental problems. One of the examples of human rights and the right of determining destiny is the right of sex change for transsexual patients. Imam Khomeini and most of Shia jurists recognized sex change right for these patients. As it was said later, all emphasized that this sex change should be done based on careful attention and with intense care and considering 2 important conditions as the disease is realistic and absolute and sex change is done completely that only specific patients without any therapy way can change gender as illegal sex change should be avoided. Some jurists and Islamic Quran researchers believed in sex change prohibition and this group of jurists in Islamic thoughts mostly depends upon religions attitude of Sunni people.

According to physicians, hermaphrodites are infertile and hardly have they had child. A rare example of hermaphrodites is referred in Sheikh Sadugh book "بحضره الفقيه" by correct document of AsemIbn Ha mid and from Mohammad IbnGheis from Imam Sadigh (pbuh) as: Shoraih judge was sitting, sudden a woman entered and said: O! judge, judge between me and my enemy. Sharih said: Who is your enemy? The woman said: You are my enemy! Sharih said, let her in. She came and judge told her: What is your complaining? She said, I have the reproductive organ of men and women. Sharih said: Imam Ali judges in this regard based on urine duct. She said, I use both of them. Sharih said: I take oath on God, I didn't hear something more surprising than this, woman said: there is also an interesting issue, Sharih said: What is it? She said, I have a child with my husband and I also have a child with my maid! Sharih was also surprised, put her hand on each other. Then, Imam Ali came and Sharih said: O, Imam Ali! I hear a surprising issue, then the story of that woman was narrated. Then Amialmomenan asked the woman in this regard, she said: It is true. Amirmomenina told him, who is your husband? said, that man, Imam sent a person to him and said: DO you know him? Said, yes, he is my wife. Then, he asked about what the woman told. He said, it is true. Amirmomenan said to him: You are braver than the one on lion, as you come to me in this regard". Then, Amiremomenan said: Qanbar! Take this woman to another woman into a house and count her ribs. The husband of the woman said: O! Amiremomenan! I don't know any man or woman trusting. Amir said: Bring Dinar Khaje (one of the good men of Kufe), Amirmomenan said, O! Dinar go with this woman to a house and ask her to

cover her lower part and count her ribs, she had 17 ribs, 9 on the right and 8 on the left. Thus, Amiremomenan asked her to put on a male hat and shoes and considered him as a man. The husband said, she is my cousin, I have a child with her but you consider her a man?! Imam said, I issued God order in this regard as God created "Eve" of the left rib of "Adam" and the ribs of men are incomplete but the ribs of women are complete (Sheikh Sadugh, 1988, p. 327, Sheikh Horemeli, 2004, 576).

AllameMajlesi in the tradition said: This tradition is observed among Sunni scientists and their books. Sheikh Mofid and IbnAdris of Shia clergymen don't react to the same news equally, they acted in accordance to this tradition as recognized as unite news. Allame considered the tradition document correct and said: Those who consider this tradition weak don't consider its document (AllameMajlesi, 1989, 364). Sheikh Tusi narrated this tradition in the book "Tahzib" with some differences in terms (Sheikhtusi, 2010, 354). Also, Sheikh Mofid stated this tradition in the book "Ershad in judgments of Imam Ali (pbuh)(Sheikmofid, 1991, 213). Thus, it can be said this tradition indicates sex change in Islamic jurisprudence and relevant texts. One of the contemporary jurists interpreted this tradition as: This tradition indicated that this person can play both the role of man and woman but Amiremomenan considered him as man and based on this tradition, a person can have both male and female reproductive organ. I discussed about this tradition with some doctors, They said that there is no such thing in medical history as sex change or sex-reassignment surgery is done about a person with both reproductive organs and by this surgery, the unsuitable organ is omitted and another organ is improved in order that the patient is changed into a man or woman to do his duties. This issue is regarding transsexual patients and as it was said, reproductive organ of transsexuals has no defect but they can perform sex-reassignment surgery (Momen, 11993, 107).

### **The impact of sex change on family relations**

To achieve some goals including mental comfort and continuance of human generation, couple creation of human being and family institution can be created and specific obligations can be considered for each of them (Motahari, 1990, 47). If a member of family changes his sex, how is his legal condition in family in relation to others? To respond this question, three assumptions of the effect of gender change on marriage contract and marriage portion of woman and custody of children can be investigated.

### ***The impact of sex change on marriage contract***

Two assumptions can be considered in sex change of couples and its effect on marriage relation as couples both change sex after marriage contract and each of the assumptions are determined separately:

First assumption) sex change of one of the couples: In this case, marriage is void as marriage is not continued and marriage of man to a man or a woman to a woman is forbidden in Shia jurisprudence and civil law. Civil law of Iran refers in various cases implicitly to the sex change in marriage and we can refer to articles 1035, 1059, 1067,

1069, 1122 and 1124 of civil law. An example of this assumption is as a hermaphrodite whose masculine or feminine aspect is dominant marries to another person of opposite sex but gradually based on the changes of his physical condition, the effects of sex change can be revealed and by a surgery, sex change is fulfilled and sex difference in marriage contract is eliminated. As the difference of sex is the condition of marriage in contract and during marriage, sex change is the condition as initially and accidentally and both in continuance. Thus, marriage is void by sex change. This court should prove sex change based on the view of experts and nullify marriage from the date of fulfilling sex change (Safayi and Emami, 1995, 145). Islamic jurisprudence beliefs in marriage cancellation as there is no legal permission for survival of the previous marriage and marriage is void from the sex change of each of couples and in Islam, the marriage of two sexes of permanently forbidden. Imam Khomeini said in this regard:" If a man marries to a woman and then her sex is changed to a man, from the sex change, marriage is void and if a man marries to a man and then the man changes his sex, marriage is void by sex change (Imam Khomeini, 1986, 558). Ayatollah Khamenei responded to the question that if a man or woman changes his/her sex after marriage, how is the order of previous marriage said:" Marriage is void since the change (Khamenei, 1996, 91).

### ***Second assumption): Simultaneous sex change of couples:***

If both couples change their sex, there are two probabilities regarding the fact the previous marriage is void or not: First probability: The ex-marriage is continued as the reality of marriage is the marriage of each one to another not more. Thus, only the state and its method before and after surgery are changed. Thus, present husband was wife before and the present wife was husband before and in this new condition, marriage reality, the marriage relation of each one to another one is continued and both of them are wife and husband and their marriage means the spouse nature of each of them to each other and their marriage survival can be obtained (Jurisprudence principle as accepting survival and previous determination that is doubt regarding its survival) (JafariLangerudi, 2003, 36). Although their duties are different than before, Imam Khomeini said in this regard:" It is obligatory the marriage contract is renewed" (Imam Khomeini, 1986, 559). Regarding the question if both couples change sex at the same time, how is their marriage order and said: The survival of marriage and it is better to renew marriage contract (Ayatollah Khamenii, 1996, 93).

***Second probability:*** The previous marriage is not continued and is void in current condition. In the reality of marriage, besides the marriage relation between two parties, another thing is required and this man is a spouse for the woman as his wife and this woman is wife for a man who is husband. In two sides of marriage relation, there is a husband and wife as marriage is a combination two parties are not similar to each other as being father and son and despite the combination two parties are similar to each other, like being brother, marriage is a concept of two non-similar parties and this relation is void after sex change of couples and marriage is not survived.

Thus, the previous marriage contract is void and two parties need another new marriage contract to continue life (Momen, 1993, 110).

In Tahrirolvasile, Imam Khomeini accepted the second probability as obligatory but the first probability is preferred and said: It is better to renew marriage contract and the present woman being a man before doesn't marry another man unless is divorced from the ex-spouse by divorce. Indeed, the previous marriage is continuing and they are wife and husband after sex change (Imam Khomeini, 1986, 559). As it was said, some of contemporary jurists accepted the second probability and consider the previous marriage as void (Momen, 1993, 110).

#### *The impact of sex change on wife marriage portion*

"Marriage portion" is the definite property that woman possesses it after marriage and the man should pay it (JafariAngerudi, 2003, 702). Marriage portion in Iran law is based on Islamic jurisprudence and tradition and its similar example cannot be found in western law. Even if in marriage contract, no marriage portion is determined among the couples, according to articles 1078, 1093 civil law, woman should have equivalent marriage portion (the marriage portion that is not determined after marriage consummation and in contract, no marriage portion is determined and it is belonging based on the conditions of the wife (ibid).

If the woman changes sex, she should have marriage portion or by dissolution of previous marriage, the marriage portion is cancelled and he man should not pay it and it is discussed in three factors.

**First assumption:** Paying marriage portion in woman sex change assumption, it is not required whether marriage consummation is occurred or not as marriage reality is as "marriage portion" is paid as the money or price to the woman and sex change cancels this trading and each of them is replaced and the whole marriage portion belongs to husband and if the husband pays the portion already, the marriage portion or the equivalent should be given to him. It should be considered that based on article 1087 of civil law, if marriage contract is considered without definite marriage portion, the marriage contract is not void and it is referred to equivalent marriage portion. If marriage portion is considered as marriage principle, the lack of marriage portion makes the contract void but jurists and law makers consider such marriage true. If the woman dies, her marriage portion is not cancelled and it belongs to her heirs. If the marriage contract is considered with marriage portion but the man avoids giving marriage portion, marriage contract is not void but the man is sinner and the woman can make the husband obliged to pay the marriage portion legally. Based on article 1082 of civil law, by contract, the woman can get marriage portion. The reality of marriage is as the man is the husband of woman and woman is the wife of man and this fulfills a credit by acceptance among them and principles of marriage contract as other types of contracts are accepting and validity conditions of contract and marriage portion is a gift given to the wife and it is obligatory in Islam to pay by the husband. Although, marriage without marriage portion is valid, reality of marriage is not exchanging with

marriage portion that by cancelling marriage portion, it is obligatory the marriage portion is given to the owner.

**second assumption:** Paying the total marriage portion in woman sex change, it is required that whether consummation is occurred or not, the reason of this group is as the marriage portion reality is a credit issue based on principle of marriage and the wife is the owner of total marriage portion and she can use it as she wants and based on obtaining principle, marriage portion is in ownership of woman even after contract cancellation due to woman sex change. Accepting this theory based on the underlying procedure of Iran law and the view of most of jurists as in case of the lack of non-consummation consider the woman entitled to half of marriage portion is not considered. The followers of this assumption referred to Imam Khomeini view in a part of Tahrirolvasile : If a woman marries to a man and after marriage, the sex of woman is changed, the marriage is void and the man should pay marriage portion in case of consummation and in case of the lack of consummation, again paying marriage portion is necessary (Imam Khomeini, 1986, p. 559).

Regarding marriage portion in the book, he stated that following the dominant view, in case of non-consummation, the woman is entitled to the half of marriage portion.

It seems that in the mentioned vie, he rejected the first assumption that woman doesn't receive any marriage portion in case of sex change and stated that in sex change, even in non-summation, marriage portion is given to woman and by priority comparison (a type of priority that is explained by this example and according to verse 23 of Asra, the child shouldn't insult his parents, a little cold behavior to them. Thus, based on comparison and by priority example in Islam religion, a small disrespect to parents in Islam is forbidden (MohagheghDamad, 2003, 169).

In case of consummation, after woman sex change, marriage portion is given to her, although they don't refer to the marriage portion in the above view as belonging the half of marriage portion to woman in case of non-consummation is one of the axiomatic issues and is approved by jurists and law makers. It seems that this saying of Imam Khomeini regarding false perception of some of theorists regarding accepting belonging total marriage portion to woman in is considered in woman sex change as consummation is occurred or not and is not agreed with the dominant view of society.

**Third assumption:** in case of marriage consummation, paying total marriage portion , otherwise, half of marriage portion is paid. The reason of this group is valid news, verdicts of Islam jurists and Iran civil law and in all these cases; total marriage portion depends upon marriage consummation. AbdollahIbnSanan narrated Imam Sadigh (pbuh) as he asked about the man marrying the woman and marriage consummation is occurred, how is his condition?.He said: If marriage consummation is occurred, "Qosl", "Marriage portion" and "Idda" are obligatory (Sheikh HorAmeli, 2004, 565). Imam Khomeini said in this regard: By marriage contract, the woman can own marriage portion and by marriage consummation, all marriage portion ownership can be established. As the

man divorces before marriage consummation and if the woman receives the whole marriage portion, the woman should pay the half of marriage portion (Imam Khomeini, 1986, 269). Khamenei, our leader said: If sex change is after marriage consummation, all marriage portion is proved and if it is before it, half of marriage portion is revealed (Khamenei, 1996, 92). Civil law in article 1092 said: If the husband divorces woman before marriage consummation, the woman deserves half of marriage portion and if the husband gives more than half of marriage portion, he is entitled to return extra of half or gives the price". It seems that if marriage consummation is not occurred by sex change, there is a divorce between wife and husband and paying the whole marriage portion is not required but half of marriage portion belongs to woman and if marriage portion is considered by sex change, there is a divorce between the wife and husband and paying the whole marriage portion is required.

### ***The impact of sex change on child custody***

Before discussing about this issue, it seems necessary there is difference between custody on children in Iran law, custody is materialistic and spiritual guardianship of minor child by his parents (JafariLangerudi, 2003, 216).

By virtue of article 1169 of civil law for guardianship of minor child to 7 years old belongs to the mother and then to the father but natural custody in articles 1180, 1194 of civil law is the obligation belonging to the father and paternal grandfather to manage the affairs of minor child (JafariLangerudi, 2003, 756) as natural guardianship is in jurisprudence by which in all affairs of minor law and property, is the natural guardianship of his legal agent. Thus, it can be said, the mother is responsible for guardianship and keeping the child. Thus, the father besides guardianship duty has the obligation of natural custody of minor affairs. Thus, after recognizing the issue, it can be said sex change of parents is regarding guardianship issue as in custody, both parents have this right and in case of the lack of inability of each of them in child guardianship, the child can have the custody of child by court vote and child custody cannot be taken from the parents unless by legal reason or court vote and in sex change, there is no legal reason for this case. As it can be said, the paternal and maternal title is remained after sex change and custody is remained but in natural title of guardianship on children, this important question is raised as the father or mother change the sex, how is the children guardianship? In response to this question, two assumptions come to mine:

***First assumption***): Mother sex change, in this case the mother has no custody on the minor child as the title for which guardianship is proved, is the title of father by his sperm, the child is created. As it was said, parents titles are specific titles and they remain by sex change. Thus, the mother by sex change is not turned into a father and the title mother is also considered for her and it is proved in custom law. As it was said, even by sex change, the mother doesn't have the custody of minor child. Imam Khomeini said in this regard: If the mother changes here sex to a man, she cannot have the custody of children and children custody is for paternal grandfather and if there was no paternal grandfather, the court should issue the

vote (Imam Khomeini, 1986, 559). This issue is referred implicitly as in article 1181 of civil code, Either the father or the paternal grandfather has the right of guardianship over his children. According to 1182 of civil code, the child has both father and paternal grandfather and one of them becomes himself incapacitated or is prevented by some reason or other from administering the estate of his ward, his legal guardianship will cease. According to article 1185 of civil code, if the natural guardian of the child becomes incapacitated, the Public Prosecutor is obliged to appoint a guardian for the child according to the regulations governing the nomination of guardians.

***Second assumption***): father sex change, two views are considered, first view: if the male changes sex to opposite sex, his guardianship on children is cancelled (Imamkhomeini, 1986, 560) and two reasons are considered for the above view: First, guardianship is for the title "father" and the term "father" is not given to this man after sex change. Second, guardianship is proved for the father that is masculine and by sex change, this attribute is eliminated and he remains as the guardian of children and this question is raised that in case of cancelation of father guardianship, the guardianship on minor child belongs to whom? In case of the lack of father, paternal grandfather is the guardian otherwise the court decides as by jurisprudence and civil law, the mother cannot be the guardian of minor child, second view, if the man changes his sex, this person has the guardianship to his children as first, the term "father" is true about this man turning into opposite sex and his child can say his person is my father and he is turned into opposite sex and he is turned into opposite sex. In other words, the term fatherhood is true about the person the child is created of his sperm. For example, if a man has an affair with his wife and he is disappeared for ever and a child is created, the man will be the father of child but he has no role except forming child in the womb of mother and this is adequate for the term father, even his sex is changed. Second based on Sharia and jurisprudence resources, guardianship belongs to father and this is not associated to his masculinity attribute, by whom, the child is created is guardian as father and after sex change of father to a woman, the guardianship remains by ownership principle and we cannot say the issue is changed. This is the one his guardianship on minor child is proved for him and by changing to a woman, his guardianship is proved by ownership principle and he has guardianship on his minor child.

### **CONCLUSION**

Sex change or sex-reassignment of hermaphrodites is considered as a physical disease for Shia and Sunni jurists and Christians and Shia jurists based on two conditions regarding the fact that transsexual disease is real and sex change is done completely. The permission for sex change is given to the transsexuals by specialist physicians and the Sunni and Christian jurists disagree with it but in addition to banning principle, freedom of will of people and acquittal principle and negation of insolvency and the lack of the reason for prohibition in Quran verses and tradition of infallibles as the main reasons of sex change of transsexuals operation is in Emamie jurisprudence and

observing the initial rights of people as it leads to the determination of people destiny, causes that the permission to this operation is given and we shouldn't prevent a person to accept his own sex forever and expect different obligations with his mental condition. Unfortunately, Iranian community is far from the views of religious leaders and jurists of other countries and families of these patients have no good behavior with transsexual or hermaphrodite patients.

Although sex change is a new issue without any organized law, jurists and theorists namely Imam Khomeini and Khameni attempted to express the relevant rules of this sensitive order with their valid verdicts but like any other legal jurisprudence issue, it is a challenging issue for jurists. Regarding their views about those changing their sex in family, it can be said that by sex change of each of couples, the jurists believe the marriage contract is void as according to Islam, marriage of two equal sexes is prohibited permanently. Regarding the sex change of both couples, most jurists believe in validation of marriage contract as the reality of marriage is the marriage relation and the duties of each of them are changed. The jurists believe that it is obligatory to repeat marriage contract again and in case of woman sex change and, the jurists have different views regarding paying or not paying marriage portion. Their views were expressed in three groups and it seems the best view is the view of majority of jurists as the verdict of civil law. In case of woman sex change, if marriage consummation is occurred, total marriage portion is paid; otherwise half of marriage portion is paid. According to jurisprudence and law, total marriage portion can be paid depending upon marriage consummation. As it was said regarding parents sex change in child guardianship, sex change is not raised in custody and the main issue is regarding the presence or lack of natural guardianship of father on child in his sex change. Father guardianship doesn't depend upon his masculinity and father is the one the child is created of him and he is the guardian of his minor child and guardianship issue is not change by father sex change. Thus, by ownership principle, father guardianship is proved on child and this is mostly evident form legal, jurisprudence, intellectual and custom law.

However, we should encounter sex change issue and we can improve the condition of transsexual patients via the following methods: Culture establishment in society by media and public information tools and creating scientific and human view to sex change among people in society, training to young families to prevent sex change among the future infants, the investigation and eliminating the relevant factors of this disease, considering rules and law for these patients and providing therapy costs of these

patients in the form of social security system and these measurements, attempted to have the best conduct regarding people sex change demand and the following impacts and avoid the increase of this disease in society.

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