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Transwomen and transmen from Islamic family law perspective

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Abstract: This article attempts to explain why the issue of sex change is still an important discussion topic in Islam. The phenomenon of transwomen and transmen is judged unilaterally on the basis of religious, cultural, and socio-religious doctrines. This study aims to be able to look further at the research gap from the previous studies by looking at the reception of transwomen and transmen in the view of Islamic family law as well as to discover the factors that have caused gender reassignment among transwomen and transmen. This paper has discovered that transwomen and transmen have suffered a stigma from religion and in society, and this stigma has been influenced by various economic, political, and religious, doctrinal interests. However, at the same time, there are cases that show religious legitimacy allows someone to change their gender. This research has been conducted using the literature study approach to investigate the reception of transwomen and transmen from the perspective of Islamic family law.
Keywords: Transwomen, Transmen, Transgender, Islamic family law.

Abstrak: *Artikel ini berupaya untuk melihat isu ganti kelamin masih menjadi bahasan penting dalam Islam, fenomena transpuan dan transpria dihakimi sepihak atas dasar doktrin agama, budaya dan sosial keagamaan. Penelitian ini bertujuan untuk dapat melihat lebih jauh bagaimana gap research dari penelitian sebelumnya dengan melihat bagaimana resepsi transpuan dan transpria dalam pandangan hukum keluarga Islam, serta untuk mengetahui faktor penyebab terjadinya pergantian kelamin yang dilakukan oleh kelompok transpuan dan transpria. Tulisan ini menemukan transpuan dan transpria telah mendapatkan stigma buruk dalam agama dan masyarakat tentunya dengan berbagai kepentingan ekonomi, politik, dan doktrin agama. Akan tetapi, pada waktu yang bersamaan terdapat kasus yang menunjukkan legitimasi agama memperbolehkan seseorang untuk mengganti jenis kelamin, penelitian ini dilakukan dengan menggunakan pendekatan studi pustaka untuk melihat bagaimana resespsi transpuan dan transpria dalam perspektif hukum keluarga Islam.*
Kata kunci: *Transpuan Transpria, Transgender, Hukum keluarga Islam.*

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1. Introduction

Dysphoria over identity often places humans on a dilemma. Apart from being a cause of sexual problems, it also influences gender identity according to state and religious law. The phenomenon of transwomen and transmen is part of gender dysphoria, which is widely experienced and occurs throughout the world (Popp & Stalla, 2021; Thahara & Hadiwono, 2022). Identity status is always seen from social and biological aspects, which traditionally recognize men (*masculine*) and women (*feminine*). This is identified by the shape of their genital organs. Kathleen et al. (2022) stated that there are several groups of people who are not fixated on genitals in determining a person's gender, such as the identity of Bissu, Hijra and Muxe in the culture of the Bugis, Indian, Pakistani and Mexican people (Hariyono & Nurhadi, 2020; Hossain, 2017; Semenyna et al., 2021). In addition, Sa'dan stated that gender issues cannot be separated from religion, which is often seen as the beginning of discrimination on gender identity (Sa'dan, 2021). Therefore, the dysphoria over identity, in addition to giving rise to a new gender identity, also created transphobia in religion and religiophobia among transwomen and transmen.

Studies related to gender identity and religion has so far placed religion as the part that creates discrimination against transmen and transwomen groups as well as other gender identities such as Lesbian, Gay, Bisexual, and Transgender (LGBT) (Bränström et al., 2022; Sari, 2021). Religion is sometimes seen as not being objective in looking at issues of gender identity. Therefore, transwomen and transmen struggle to seek a haven and try to get out of the norms of religious belief (Chendra & Candraningrum, 2021; Manik et al., 2021). On the other hand, religion is firmly a source of strength to face the challenge of phobias against transwomen, transmen and LGBT and makes religion the main motivation for every action taken by transwomen (Hasbiyulloh & Rahim, 2021). In addition, studies related to gender are often associated with customs and culture in various groups of people, as well as how social reality sees gender identity apart from what is known, like how the United Kingdom builds the concept of transformative accommodation between religion, sexuality and gender as a productive form of solidarity (Doyle, 2022; White Hughto et al., 2015). Therefore, this paper focuses more on identity dysphoria in the phenomenon of transwomen and transmen in the view of Islamic Family Law.

This paper is expected to be a way to understand how Islam sees the phenomenon of transwomen and transmen as a part of the gender identity that is known in society, namely men and women. Furthermore, this paper aims to look at the impact and position of transwomen and transmen both socially, nationally and religiously. For this reason, there are at least three main questions that can be asked in this paper, comprising (a) how the phenomenon of transwomen and transmen has existed in Indonesia, (b) what factors causing the phenomenon of transwomen and transmen, and (c) what implications of transwomen and transmen from Islamic family law. These three questions will become the tools for the attempt to explain the phenomenon of transwomen and transmen that has developed in Indonesian society from the perspective of Islamic family law. Therefore, transwomen and transmen issues are seen not only from their existence but also from the factors and implications that can occur resulting from the phenomenon.

This paper is based on an argument concerning gender certainty in relationship to the transwomen and transmen phenomenon in society. Self-identity disclosure is done based on various perspectives, which include sexual organs, sexual orientations, biological hormones, and culture. Therefore, one can disclose or identify their gender identity honestly and without being forced by discrimination perpetrated not only by society but also

by religion as Islam recognizes a number of genders comprising male, female, *mukhannats, khannats, khasi,* and *khunsa* (Kholis, 2015; Nongbri, 2000). The existence of transwomen and transmen must also be seen as a phenomenon that is closely related to cultural traditions, the assumption that being transpeople is result of social interaction deviations and considered an infectious disease, and how religion perceives this, in this case Islamic family law. Therefore, this paper is hoped to be able to provide an explanation that the phenomenon of transwomen and transmen is as an inseparable part of human life socially, legally, culturally, and religiously.

2. Literature review

2.1. Global The phenomenon of transwomen and transmen

Self-identity is a gender orientation that is perceived and considered by any given person. Transwomen and transmen are entities that are familiar in society. They have existed for a long time, even before transgender issues rose to the surface in the 20th century. These two communities have different gender identities and sexual orientations. Nevertheless, the presence of transwomen in society is considered taboo. Therefore, this group is marginalized from the social environment (Hanif et al., 2022). The birth of transwomen and transmen behavior is inseparable from physical motivation but is contradictory to their psychological state (Muhamad Alnoza & Dian Sulistyowati, 2021; Thahara & Hadiwono, 2022). The existence of this community can be seen in various social, economic, and cultural activities in society. The terms to refer to transwomen vary, including *wadam, kedi, kawe-kawe, wandu*, and *calabai* (Debineva & Pelupessy, 2019). This shows that the emergence of these terms is in line with transgender discourse in Indonesia.

The problem of transwomen is not only considered an anomaly in society, but there are also normative social problems that eliminate the third gender identity, namely the sex between male and female (Embun Balqis, 2021). This transwoman identity gave rise to discrimination and human rights violations. Therefore, this group consciously separates itself from society and forms a new community by accepting each other's identities (Purwodihardjo & Evi, 2021). In Indonesia, discrimination and violence against minority groups is a common phenomenon, including against the gender communities, namely transwomen and transmen communities (Rahmawati, 2021; Yansyah & Rahayu, 2018). Transwomen and transmen are considered different from the other types of genders (male and female). Society is aware of the existence of these groups, but they are not legally recognized, this is in contrast to the other two genders.

2.2. Transgender People

Transgender people are said to consist of a number of categories, *first* of which are men with female characteristics (transwomen) and women with style like a man (a transman). The *second* consists of men who like to wear women's clothing and vice versa (cross-dresser). The *third* category comprises men who wear clothes and make-up to imitate and follow women's habits for the purpose of entertainment (drag queen). The *fourth* category consist of other genders that use labels such as bigender (double gender) and genderqueer (Vlot et al., 2019). Changes in gender status are an inseparable part of the transgender phenomenon, and this can occur due to significant psychological pressure, both clinically and socially, work, and other matters related to different genders at birth (Popp & Stalla, 2021). Therefore, affirmation of gender can be socially inherent in a conceptual dimension.

Affirmation of gender can be seen by opening up space for dialogue related to health and social matters. So far, transgender people have been identified with LGBT, which is an acronym for lesbian, gay, bisexual, and transgender. Lesbians are women who are attracted to other women (Kamila & Casmini, 2020; Murtagh, 2011). Meanwhile, gays are men who are attracted to other men (Hall & LaFrance, 2012; Jaspal & Papaloukas, 2021). However, bisexuals are individuals who have who are attracted to men and women (Hamirul, 2019; Vitasandy & Zulkaida, 2019), while transgender people are divided into two types, namely transwomen for the transition from male to female, and transmen for the identity transition from female to male (Djohan, 2019; Sa'dan, 2016). In Indonesia, transwomen and transmen are not categorized as the third type of gender. They are considered to have souls and traits that are not in accordance with their true identities. When viewed from the context of their sex, people belonging to these groups have changed their genitals. The general understanding of transwomen and transmen is more about changing their gender through genital surgery to change their identity.

2.3. Islamic Family Law

Family is a home and strength for individuals when they are in a difficult life situations. Complex problems sometimes seem simple due to support from family. As is the case with the challenges faced by transgender groups, namely the social environment of society (Chendra & Candraningrum, 2021). The negative stigma regarding LGBT is deeply embedded in the social environment of society, even in the smallest social unit, namely a family. Family acceptance of their transwomen or transmen family members is sometimes in a position of accepting or even denying this fact (Kristyanto et al., 2023). The rejection of transwomen and transmen identities was due to the fact that this is seen as a disgrace to the family. Therefore, their existence is hidden from other family members or society. However, a transwoman and transman who are accepted into their family will be protected from discrimination and from all the pressures they face (Imtihanah, 2020). With the support of their family, they will feel more confident to carry out all social activities in the community. This is also the provision to obtain a decent life.

Islam advised families, especially both parents, to look after their offspring properly. Parents have obligations and responsibilities for the growth and development of their children (Hasbiyulloh & Rahim, 2021). Therefore, when a child is born into the world with whatever gender they are, parents must be ready to accept and be responsible for all of their children's livelihood, such as religion, education, shelter, clothing, food and even a good environment (Hidayatullah, 2017; Kholis, 2015). When a child is born with a different identity, as a parent, you should be able to accept it and continue to provide a proper life that is acceptable to the social environment.

3. Method

This research uses a qualitative descriptive approach. Researchers have conducted analyses by describing the phenomenon of transwomen and transmen. Furthermore, the Islamic family law approach is the method used in collecting the primary data. Legal sources as secondary data have been obtained from books, journals, articles, and other scholarly works that are relevant to issues regarding the transwomen and transmen phenomenon exist in society. In addition, data collection has been carried out through library research and through the Internet. The data analysis carried in this study is aimed at addressing the formulation of the problem, comprising (a) how the phenomenon of transwomen and transmen is viewed in Islamic family law, (b) what factors that have

caused the transwomen and transmen phenomenon to emerge, and (c) the implications of transwomen and transmen from the perspective of Islamic family law.

4. Result

The phenomenon of transwomen and transmen in Indonesia is not a new thing. In fact, this minority group is often the target of discrimination by society and even the state. Furthermore, sometimes, these groups also experience violence. Therefore, it is important to examine the phenomenon of transwomen and transmen from the perspective of Islamic family law because the birth of this group is inseparable from family factors and to minimize the increase in individuals who are considered anomalies by society, strengthening family law is an important step that must be studied.

Table of Transwomen and Transmen

Initials	Factor	Motive	Source
DS	Innate (hormones or genes)	Since he was born, his posture was like a woman's. Therefore, when he grew up he wanted to live like a woman, but DS did not forget his nature as a man. When he died, DS wanted to be buried like a man.	https://medan.tribunnews.com/2022/04/30/fakta-dinda-syarief-sosok-transgender-berprestasi-dapat-restu-orangtua-ubah-tampilan-jadi-perempuan?page=2
JS Becoming a Teacher in East Flores	Innate (hormones or genes)	JS' mother already knew that JS was different from other children. JS helped the family's economy by opening a salon to meet the basic needs of his family.	https://www.indozone.id/life/jzspBQN/berkenalan-dengan-jessica-aurelia-guru-transpuan-di-maumere-yang-menolak-dipanggil-pak/read-all
AS trans woman	Psychological	After AS's father died, AS just stayed home and learned how to sew. AS was only willing to go to junior high school on the condition that he wears a skirt, but his uncle does not allow him to. Even so, the family still supports whatever choice AS makes.	https://www.vice.com/id/article/dyp39m/profil-amanda-sandova-transpuan-asal-luwu-utara-sulsel-menjadi-juara-miss-trans-asia-pasifik-2021
AW trans woman	Hormone	Since childhood, AW has loved flowers in the garden and thinks this is his identity. AW's mental condition worsened when testosterone was injected into his body. During college, AW's dream was to become a doctor who wanted to help many people, because AW was often bullied and sexually abused since childhood. AW has decided to transition to become a transwoman after meeting with the lecturer, who asked the students not to bully	https://www.bbc.com/indonesia/majalah-59937590

		someone with their gender identity.	
AA transman	Hormone	From Veil to Sarong, The title is appropriate for AA's case. A Kyai's (religious leader) daughter, who owns an Islamic boarding school, finally tells her mother that she is not a girl but a boy. She hates being forced to be a girl.	https://www.bbc.com/indonesia/indonesia-58866954
EP transman	Work environment	EP is one of those film stars who feels pressured when her feminine photos are paired with her fashion in suits. EP is depressed with her feminine fashion, and EP prefers her masculine fashion. This causes her to change into a transman.	https://m.fimela.com/fashion/read/4423861/ellen-page-jadi-elliot-page-lihat-transformasi-fashion-nya-sampai-jadi-transpria

Based on the table above, all phenomena that occur in transwomen and transmen groups were mostly due to hormonal factors or gender identities that are different or innate (Manik et al., 2021; Sari, 2021). In fact, when someone is born with the male gender, they are supposed to have masculine traits, strong and muscular, and manly posture. And vice versa, when someone is born with the female gender, they usually have a gentle nature, a feminine character, and a charming and melancholic style. This does not happen to individuals who feel they have a different identity from the rest of society (Rahmawati, 2021). It can be seen from the table above that the innate traits from birth, even though the family has tried to shape their children with the character of nature it should be, it turns out that the feeling of comfort that occurs in the individual actually makes them feel depressed and it affects their psychological condition, which in the end cause them to rebel and transition into what their heart desires.

However, not all transwomen and transmen forget their true nature based on their proper gender identity. Like DS, even though she is a transwoman, she never forgets her nature as a man and loudly conveys to the media that when she dies, she wants to be buried like a man. The same thing happened with AA, the daughter of a well-known *kyai* (a religious figure/leader) who owns a big Islamic boarding school, finally taking off her headscarf because she felt uncomfortable with it. Even though she is actually a woman, her comfort with the nature and character of men made her transition from wearing a headscarf to changing to a sarong. This is one of those individuals transitioning to being a man or a transman.

The work environment is also one of the factors that can cause a person to change their previous identity. EP is an example of this; he is a transman who works in the fashion world. He has been accustomed to using all kinds of fashion, both men's and women's clothing, it makes her feel comfortable in dressing. Even when someone compares several photos of her wearing a neat suit and feminine clothes, she does not like it and even feels pressured by these comparisons. This is also what makes her change herself to become a transman. Many more phenomena of the birth of transmen and transwomen have occurred in Indonesia.

5. Discussion

5.1. Transgender Phenomenon

Transgenderism is one of the important studies in the Islamic transgender group because being a transgender person is considered a grave sin, and it is *haram* or forbidden (al-Jizani, 2006). In the 80s, transgender people gained some space after Ayatullah Khomeini and Syiekh al-Thantawi issued a *fatwa* (official statement) allowing someone to change sex as a last resort of treatment. This opens up a space for dialogue for transwomen and transmen in showing a move of Islamic tolerance that was born through their *ijtihad*. Whereas in Islam itself, there are five types of genders comprising *khasi, hijrah, mukhannath, mamsuh,* and *khunsa. Khasi* is a male eunuch who has been castrated and works as a concubines' servant and treasurer for the king in the Middle East and China. Therefore, the existence of *a khasi* is mentioned as not to be a woman but is categorized with any gender (Kugle, 2010, Marmon, 1995). As for *Hijrah,* they were born as men and then identified themselves as women. They could be identified from their clothing, behavior, and activities; this was the case in South Asian countries such as Bangladesh and Pakistan, which placed them as the third gender because they are neither men nor women (O'brien, 2008, nanda, 1999).

Mukhannath is categorized as men who resembles women, but there is no detailed description about their genitals, sexual behavior, and sexual orientation. Lexicographers even associate *mukhannath* with same-sex attraction and hermaphrodites (Rowson, 1991). Meanwhile, *mamsuh* are those with no gender at all, neither male nor female. Therefore, it is very difficult to assert their gender identity (Kariminia, 2010). The final type of gender is *khunsa,* who are those who were born with both male and female sexes. All of these types experience their own challenges in the reality of life, especially in patriarchal Islamic societies. In recent years, minority groups, especially transwomen and transmen, have struggled to obtain their rights as human beings, especially the right to live in freedom, because they have always been marginalized and discriminated against by the religious stigma and social environment. (Najmabadi, 2014).

The phenomenon of transwomen and transmen is often considered an anomaly by society, but transpeople do exist in society. Some of them are struggling to help provide for their families. This unfortunate situation has forced them to become transpeople as if it was just a profession in the field of public entertainment. Some have chosen to become buskers, and they are wearing wigs, make-up, and women's clothing. Some others have chosen to engage in a tradition of a culture that requires men to look like women. In fact, many people have posted their videos on their YouTube channels or vlogs; through these videos, they parade various professions, and unknowingly they lose their original identities, presenting new identities accepted by their viewers in the entertainment world (Adelia & Pratiwi, 2021; Kimberly et al., 2021). This phenomenon explains that many people consciously commit acts that, in principle, have changed their gender identities, although it is merely for entertainment. However, they can feel comfortable with their new identities. Therefore, unconsciously their actions can lead to violations of cultural and legal norms and social rejections.

The transwomen and transmen phenomenon has existed in social environments. People become transpeople to entertain others and meet economic needs, or due to family environment, a psychological factor (the feeling of living the wrong body), association with “the wrong crowd”, relationship trauma, and so on (Ermayani, 2017; Muthmainnah, 2018). This will lead to a different perspective from normal conditions in general. Feeling

comfortable with the new character being played or happy by deciding the personality transition from male to female and vice versa is one of the effects that will be perceived by gender actors both consciously and unconsciously. Apart from that, this phenomenon is an action that can affect many people, especially actors among artists with their many fans, or broadcasts that present transgender guest stars (transwomen and transmen), or even LGBT, unconsciously introduce and influence the minds of ordinary people, especially indoctrinated with every statement made in the broadcast (Havifi & Lani, 2017; Putra & Nasionalita, 2018). There is even the possibility of making some people understand the irregularities that have occurred. Therefore, in the name of human rights, it is as if these actions were legitimized by religious norms, customs, and positive legal norms in Indonesia.

5.2. Causative Factors of Transwomen and Transmen

The occurrence of the phenomenon of transwomen and transmen has caused many to start to have the courage to bring up new identities into the public sphere. This courage exists because society has begun to understand the existence of transwomen and transmen groups, although understanding does not mean admitting their existence. This is due to the increasing prevalence of transwomen and transmen groups occupying many types of professions in various places or fields, such as salons, fashion shows, the entertainment world, and the political stage. The existence of these groups has been facilitated by three factors. The f*irst* is the biological or innate factor, which is influenced by sex hormones and genetic hormones. The influence of hormones, which is somewhat similar to that of personalities, among transpeople since their childhood is different from other people in general. A male person generally has masculine characteristics: firm, physically strong, and manly. However, a transwoman appears to have female traits: melancholic, loving flowers, having female body posture, and having feminine vocal cords. DS feels that he has a female body, and AW has been abused by his friends at school. Discrimination and bullying are often experienced by DS and AW because they are considered to be different from the others. All of these have caused both DS and AW to transition to become transwomen.

The s*econd* factor relates to psychological or psychiatric factors. Basically, transgender people affected by such factors do not have genetic or hormonal disorders. However, their desire to appear outside of their original identity is only following their psychological urges and desires. Transwomen and transmen groups are minorities in Indonesia. The exact number of this community is not even known, and this group is also often referred to as LGBT (Lesbian, Gay, Bisexual, and Transgender) (Hartanto, 2016; Lestari & Sefitri, 2016; Lindqvist et al., 2021). There are a variety of TV shows that can be watched by the public, such as entertainment programs hosted by celebrities who are biologically male, and some of them are married, but their hormonal traits are more inclined towards women. Some of them even consciously mimic female behavior, and there are a large number of such shows on social media. This psychological factor also cannot be separated from the process of human creation because some transwomen and transmen argue that the reality they experience is inseparable from the destiny that God has determined, not individual will (Chendra & Candraningrum, 2021).

Third, environmental factors, directly or indirectly. The environment becomes a major influence in building and shaping a person's personality from something that is considered taboo to become something common for certain communities. One of the things that is demanded in society is following the rules or norms that apply and being able to adapt to individuals and the environment (Hegarty, 2022). Inappropriate parenting from the

socio-cultural community or being in the wrong social environment has an unusual effect on individuals. One of them is the educational environment which can lead to the birth of this group. Parents are often in the wrong position by allowing the growth and development of children to behave inconsistently with their gender identity (Pramananta et al., 2022; Thahara & Hadiwono, 2022). Being in a friendship where friends around them tend to act feminine, or having a hard life on the streets that requires them to look tomboyish, and so on, caused the boys to grow up with more feminine behavior and vice versa when their puberty starts. These children will start to realize in which direction their comfort and desire for the individual and environment are more dominant. Some people have experienced disappointment from having a relationship with the opposite sex. Others idolize someone or a celebrity of the opposite sex to the point that they follow whatever the idol does and mimic their appearance, voice, body shape, and so on.

5.3. Transwomen/Transmen and Islamic Law

Transwomen and transmen have always experienced various threats, especially in terms of religion, where apart from being known for its theological teachings, Islam also has a patriarchal culture. These threats also come from society and state laws. Transwomen and transmen groups experience psychological pressure that comes from family and society (Tait, 2005). On the other hand, transwomen and transmen groups continue to fight for their rights to avoid discrimination and oppression born of patriarchal culture as well as conservative religious dogmas. In the study of Islamic law, transgender issues have actually been studied by Sheikh al-Thantawi and Ayatullah al-Khomaeini, who issued a *fatwa* that allows a person to change gender identity as a way of treatment and not because of personal desire (Alipour, 2017). Even al-Tabari mentioned that Rasulullah SAW did not forbid this hermaphrodite to interact with his wives (Thabari, 1998). For this reason, al-Qastallani and al-Asqalani, in their chapter on resembling women, have the perspective that the symptoms of femininity in a person must be removed (Al-Asqalani, 1959). The two *fatwas* are progressive and tolerant among the classical ijtihad methods that exist in Islam related to transwomen and transmen groups, although this has generated controversy in society.

The debate over changing the genitals in Islam opens up a space for dialogue among scholars to be able to present an *ijtihad* as a form of Islamic adaptation to contemporary realities. This is also a way to remove the dimension of power that has been held by men in fundamentalist Islam with a patriarchal culture (Nurmila, 2015; Sidiq & Erihadiana, 2022). Islam condemns the practice of same-sex anal sex in the presence of 4 witnesses and does not explain the type of gender in question because, in some areas, transgender is acceptable to Muslim society (Abubakar & Maulana, 2018; Kisworo, 2020). At the same time, Islam is experiencing a dilemma between supporting transwomen and transmen as human beings or judging in the name of religious doctrines (Dhamayanti, 2022). Discrimination and violence against transgender groups can originate from religion. Therefore, freedom of religion becomes ambiguous where religion is used as an excuse to limit the rights of transwomen and transmen, and this is indirectly narrowed the meaning of Islam as *rahmatan lil alamin* (a set of principles that promote universal values of love and compassion among mankind as well as all God's creatures).

Changes in gender status in Islam are not an individual will. This is because Islam upholds the benefit principles that cover religion, mind, soul, property, and heredity. Therefore, Islam guarantees everyone can obtain their rights as human beings, including transwomen and transmen groups, in their social life in society (Bakri, 1996). Likewise,

from the economic point of view, transwomen and transmen groups should receive the same opportunity to find occupations to gain their rights and fulfill their basic needs. The start of the debate regarding transwomen and transmen, aside from the religious basis, is also accompanied by political interests, which have an impact on the financial side (Haris, 2019; Mubarok, 2022). This argument then becomes a doctrine in a society which then views these groups as anomalous in society and ignores their rights to education, health, reproduction, sexual, psychological, legal, and so on. Even in the SOC-8 standard, there are 18 chapters developed to look at the health of transwomen and transmen (Coleman et al., 2022). Therefore, Islam can be the middle way to solve problems that occur in transwomen and transmen groups.

6. Conclusion

The phenomenon of transwomen and transmen has become an issue that has a negative impact on society. This is due to society's perception that genders so far only consist of men and women. This paper has discovered that transwomen and transmen become an anomaly in a society that places this practice in discriminated social conditions. In addition, this phenomenon is also part of the birth of a new identity in gender even though its legal legitimacy is not recognized. However, transwomen and transmen practices occur due to several factors comprising psychological, environmental, and family factors. Therefore, the phenomenon of transwomen and transmen becomes an important study in law, especially in Islamic law as a rule in religion, households, and society. In line with that, the phenomenon of transwomen and transmen cannot be separated from several influences which imply that this practice occurs continuously. The study of Islamic family law is also known as the study of *khasi, hijra, mukhannath, mamsuh,* and *khunsa*, but there are different understandings and interpretations regarding these five genders. However, more importantly, all of these genders are related to human rights. Therefore, Islamic family law examines how this phenomenon occurs and develops as social realities. The objective of this paper is to explain to the government and society the phenomenon of transwomen and transmen in relationship to the social life of the country.

This research is a study of Islamic family law, which perceives the phenomenon of transwomen and transmen not only limited to the social life of society but also in the public or government sphere. The analysis in this study has been based more on the Islamic family law and state laws in Indonesia. This study emphasizes the importance of legal institutions to address phenomena that emerge in family environment. The legitimacy of Islamic family law regarding the transwomen and transmen phenomenon is not in recognizing the new identities that supersede the actual gender identities. This phenomenon has been viewed from the Islamic family law system by utilizing not only Islamic law but also positive laws and social laws of the society. Therefore, this research is expected to provide support for the three law-based analyses, especially in the study of family law, which is closely related to the formation of individual characters in relationship to occurring social phenomena.

This research has discovered that the transpeople phenomenon, which has been commonplace in Indonesia, has been closely related to familial, psychological, and environmental factors. Therefore, this research has been able to reveal the patterns and behavior of different individuals, and their identities are easily recognized in society. According to the authors, to obtain a comprehensive interpretation, it is necessary to conduct comprehensive studies on the gender phenomenon as the Indonesian society generally does not recognize the third identity. For this reason, further research should

present more representative cases in relationship to the Islamic family law. In this manner, it is hoped that the study on this phenomenon would not only depend on scientific analysis but also the examination of the relationship between the socio-cultural practices of society and the phenomenon of transwomen and transmen. In the future, such studies can complement other studies on transgender people.

Author Contribution Statement

Contributions of the authors in this article: Muhammad Abdillah contribute as concepts an analyzer. Fenti Febriani contribute as a drafters and interpreters. Sri Asmita contribute to collecting data. Lusiana contribute as critically revising the article. All authors agree to take responsibility for all aspects of this work.

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We have no conflict of interest to declare

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