844 - Ruling on operations to repair the hymen

the question

For some reason a woman tore her hymen. Is it permissible for her to have it repaired surgically?

Detailed answer

Praise be to Allah.

This matter is one of the issues that have been raised in the modern age, so we should look at each of the two scholarly opinions on the matter and indicate which one we believe to be more correct.

The first opinion is that it is not permissible to repair the hymen at all.

The second opinion is more detailed:

1.If the rupture of the hymen was caused by an accident or by an action that is not considered in sharee'ah to be a sin, and was not caused by intercourse within the bounds of legal marriage, then we look at the following issue:

If it is deemed most likely that the girl will suffer hardship and unfair accusations because of the customs and traditions of her society, then doing this operation is obligatory. If that is not the case, then it is still better to do the operation.

2.If the rupture was caused by intercourse within the bounds of legal marriage, as in the case of woman who has been divorced, or by zinaa (illicit sexual activity i.e., outside the bounds of marriage) in a case that is well known among the people, then it is haraam to do this operation.

3.If the rupture was caused by zinaa in a case that is not well known among the people, then the doctor has the choice of either repairing it or not repairing it, although it is better to repair it.

The points on which the scholars differ

The differences between these two opinions are confined to the first and third cases outlined above. With regard to the second case, they are agreed that this operation in haraam in such situations.

Evidence (daleel)

The evidence for the first view (that it is completely haraam).

Firstly: repairing the hymen could lead to mixing of lineages, as a woman could become pregnant from a previous liaison, then she gets marriaed after having her hymen repaired, which then leads to the pregnancy being attributed to her husband, thus mixing halaal with haraam.

Secondly: repairing the hymen involves looking at that part of the ‘awrah which is to hidden most.

Thirdly: repairing the hymen makes iteasy for young women to commit the sin of zinaa, because they know that they can have the hymen repaired afterwards.

Fourthly: there is the matter of good and bad consequences, or pros and cons. If it is possible to achieve the good consequences whilst warding off the bad consequences, then we should do that. If the bad consequences outweigh the good consequences, we should ward off the bad consequences and not worry about the good consequences, as the fuqahaa’ of Islam have stated.

If we apply this principle and look at the evil consequences that result from repairing the hymen, we will understand that it is not permissible to do this operation because of the enormity of the evil consequences that result from it.

Fifthly: one of the principles of Islamic sharee’ah is that something harmful cannot be removed by something else that is also harmful. One of the implications of this principle is that “it is not permissible for a man to prevent his land from being flooded by diverting the flood waters onto someone else’s land.” By the same token, it is not permissible for a girl and her mother to remove harm from themselves by having the hymen repaired and thus causing harm to the husband.

Sixthly: the basic idea of repairing the hymen is not permissible according to sharee'ah because it is a kind of deceit, and deceit is forbidden in Islam.

Seventhly: repairing the hymen pavest he way for girls and their families to tell lies about the real reason why the hymen was ruptured, and lying is also forbidden in Islam.

Eighthly: repairing the hymen paves the way for doctors to resort to performing abortions for the purposes of concealing sin.

Evidence for the second opinion:

Firstly: the texts indicate that it is permissible and is encouraged to conceal sins, and repairing the hymen helps to achieve that in cases where this operation is permissible.

Secondly: if a woman who is innocent of any immoral action is allowed to have this operation so as to leave no room for suspicion, this will ward off unjustice for her and will achieve the aim prescribed by sharee'ah of thinking well of believing men and women.

Thirdly: repairing the hymen has to ward off harm . If a woman was left without having this operation done, and her husband were to notice that, it would cause trouble for her and her family, and if the matter became well known among people, the family may never be able to find marriage partners for their daughters. So they are permitted to ward off harm because they are innocent in this case.

Fourthly: the fact that a Muslim doctor may perform this operation in order to conceal the illusionary evidence of has a general educational impact on society, especially where the psychology of young women is concerned.

Fifthly: the objection of deception does not exist in cases where we have determined that it is permissible to repair the hymen.

Which view is more correct?

The view which is more correct- and Allaah knows best – is that which states that it is not

permissible to repair the hymen at all. This is for the following reasons:

Fisrtly: because the reports quoted as evidence by those who have this view are saheeh.

Secondly: with regard to the evidence quoted by those who favour the second view, they may be dealt with as follows:

The response to the first :

The concealing that is required in Islam is that described in the texts as a concealing of sin, but this aim is not achieved by repairing the hymen. Basically it is haraam because it involves uncovering the ‘awrah and opens the door to evil.

The response to the second :

Preventing the husband from thinking badly of the woman may be achieved by informing him of the situation before marriage. If he accepts it, this is fine, otherwise Allaah will compensate her with someone better.

The response to the third :

The evil consequence mentioned cannot be avoided entirely by doing this operation, because there is the possibility that the husband may find out about it, even if that happens by way of someone else telling him. He should be told about it, and if he accepts then the evil consequence is not longer an issue, as is also the case if he decides not to go ahead with the marriage.

The response to the fourth :

Even though there are some positive aspects to this concealment, there are also negative consequences, such as making it easy for women to commit zinaa. Warding off evil consequences takes priority over gaining benefits.

The response to the fifth :

We do not accept that there is no deception involved, because this hymen is renewed, it is not the original hymen. If we accept that there is no deception of the husband involved in cases where the hymen was broken as a result of jumping and so on, we cannot be sure that there is no deception in cases where it was broken as a result of an attack on the woman.

Secondly: blocking the routes that could lead to harm, as mentioned by those who favour the first opinion, is a very important matter, especially in cases that have to do with the violation of the sanctity of private parts and the evil that can undoubtedly result from permitting the repair of hymens.

Thirdly: the basic principle in Islam is that it is haraam to uncover, touch or look at that which is ‘awrah. The excuses mentioned by those who favour the second opinion are not strong enough to let operations to repair the hymen be exempted from this general rule. So we have to adhere to this ruling, and say that it is haraam to do operations to repair the hymen.

Fifthly [sic]: the evil consequence of false accusations being made can be dealt with by obtaining a medical certificate after the event to prove the woman’s innocence. This is the best way, and by doing this there is no longer any need to do an operation to repair the hymen.

For all of these reasons, it is not permissible for a doctor or a woman to do this kind of surgery, and Allaah knows best.

(See Ahkaam al-Jaraahah al-Tibbiyyah wa’l-Athaar al-Mutarattibah ‘alayhaa by Dr. Muhammad ibn Muhammad al-Mukhtaar al-Shanqeeti, p. 403)

Some contemporary scholars have issued fatwas stating that surgery to repair the hymen is permissible in the case of rape victims and those who have repented (from zinaa), but it not permissible in the case of women who have not repented, because this is helping her to continue committing that sin. By the same token, a woman who has previously had intercourse is not permitted to do this operation because this is helping her to deceive and cheat a future husband, since he will think that she is a virgin when this is not the case. And Allaah knows best