

The Jurisprudential and Legal Effects of *Tadlīs al-Māshiḡa* (Cosmetic Deception) through Modern Cosmetic Surgery in Marriage Contracts

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Abstract

Cosmetic surgery is a modern and increasingly widespread phenomenon that has significantly influenced various dimensions of individual and social life. Because multiple actors participate in this process, it inevitably gives rise to numerous legal and jurisprudential challenges. In recent years, scholars of Imāmī jurisprudence as well as contemporary jurists have examined the legal status of cosmetic procedures, presenting arguments and enforceable legal consequences based on principles such as the *lā ḡarar* rule (no-harm principle), the rule of *taslīt* (authority over property), *diyāh* (financial compensation), and general rules of liability. In the specific issue of *tadlīs al-māshiḡa*—a form of deceptive beautification—the jurists hold diverging views: some argue for the permissibility of cosmetic surgery, while others deem such procedures impermissible. In Iranian law, the legislator’s explicit reference in paragraph 2 of Article 59 of the Islamic Penal Code—which invokes “religious necessity” as a legal standard—illustrates the importance of jurisprudential considerations in legitimizing certain beautification practices. This research, conducted through a descriptive-analytical method and relying on library sources, analyzes the jurisprudential and legal implications of modern cosmetic surgery when it constitutes deception in the context of marriage contracts.

Keywords: *Tadlīs al-māshiḡa*, modern cosmetic surgery, marriage contract, deception in marriage.

Extended Abstract:

Cosmetic surgery has become a prominent and complex issue in modern society, impacting various aspects of individual and collective life. As a growing phenomenon, it has led to significant jurisprudential and legal challenges. The involvement of multiple parties, including the patients, doctors, and legal frameworks, necessitates an analysis of its implications within the context of Islamic jurisprudence, particularly regarding the institution of marriage. This paper examines the jurisprudential and legal effects of cosmetic surgeries, specifically when they lead to deceptive practices, or *tadlīs al-māshiḡa* (cosmetic deception), in marriage contracts.

In recent years, Islamic scholars and legal experts have addressed the legitimacy of cosmetic surgery through various principles such as the *lā ḡarar* (no harm) rule, the *taslīt* authority over property, *diyāh* (blood money), and the general principles of liability. Jurists have presented differing views on the permissibility of cosmetic surgery, some arguing for its acceptability under specific conditions, while others consider it impermissible, particularly when it involves deception in marriage contracts. Iranian law reflects this debate, with legal references to the necessity of such procedures under certain circumstances in line with religious requirements. Notably, the Iranian Penal Code recognizes "religious necessity" as a criterion for determining the permissibility of cosmetic procedures.

The paper explores the concept of *tadlīs al-māshiḡa*—a form of deception through cosmetic enhancement—by analyzing the role of cosmetic surgery in altering a person’s appearance to mislead a partner in the context of marriage. Islamic jurisprudence does not directly address modern cosmetic surgery, but by applying principles of *tadlīs* (deception) and utilizing analogy (*qiyās*), (the paper examines whether cosmetic deception in marriage can be considered unlawful under Islamic law. The research also discusses various legal implications, including the potential for breach of contract in cases of deception, the liabilities of medical practitioners, and the impact of such deceptions on marital relationships.

The study uses a descriptive-analytical methodology and relies on classical and contemporary Islamic legal sources. By addressing the legal ramifications of cosmetic surgery and its relation to deception in marriage, the research aims to clarify the jurisprudential stance on cosmetic practices and highlight their legal consequences, such as liability, *ḡiyāh*, and the validity of marriage contracts affected by deceit.

The research concludes that cosmetic surgery, when performed with the intent to deceive a marriage partner, can be considered unlawful under Islamic law. It highlights the importance of transparency and honesty in marital relationships, as deception undermines the ethical foundations of marriage. Additionally, the paper discusses the responsibilities of medical professionals in ensuring that cosmetic procedures do not contribute to deceptive practices and that they abide by the ethical standards set forth in Islamic jurisprudence. Furthermore, it stresses the necessity of establishing legal frameworks that protect individuals from harm and deception in cosmetic practices while ensuring that cosmetic surgery remains permissible under certain legitimate circumstances, such as for medical reasons or with the consent of both parties.

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