

# Islamic Texts: A Source for Acceptance of Queer Individuals into Mainstream Muslim Society

Muhsin Hendricks<sup>1</sup>

## 1. Introduction

Queer<sup>2</sup> Muslims face a multitude of challenges, of which one is rejection. This is anchored by the belief that homosexuality is a major sin in Islam and punishable by death under Shariah law.<sup>3</sup> The Inner Circle<sup>4</sup> has documented through engaging with the local Muslim community of Cape Town that most people who react harshly towards queer Muslims do so from a position of fear and ignorance of the challenges facing queer Muslims.

There have been attempts in the past to raise the topic of homosexuality within Islam and to highlight homoeroticism within Muslim communities.<sup>5</sup> Yet there is a lack of literature on the issue from a theological perspective. This perspective is necessary as most clients who approach the Inner Circle for help seek a theological answer for their inability to reconcile their faith with their sexuality.

Scott Siraj al-Haqq Kugle<sup>6</sup> examines this need in his book "Homosexuality in Islam"<sup>7</sup> and braves the waters of addressing the issue from a theological point of view. However, the book is an academic piece of work and it does not provide uncomplicated answers to the ordinary Muslim. This article therefore attempts to meet this need.

Islam, its sacred texts and their authenticity have been under more scrutiny in the West since 11 September 2001. This, coupled with

the international queer sector's demand for human rights, has placed pressure on orthodox Muslim clergy to defend its religious texts and to publicly authenticate their position on non-hetero normative sexualities. These events provided an opportunity for progressive Muslim thought to re-emerge. Hence, we observe progressive Muslim individuals and organisations re-opening the discourse on Islam, gender and sexual diversity in the last decade. Scholastic work such as that of Scott Siraj al-Haqq Kugle and Kecia Ali<sup>8</sup> was possible due to the re-emergence of progressive Muslim thought around homosexuality and sexual ethics in Islam.

"And say: Truth has now arrived, and falsehood perished: for falsehood by its nature is bound to perish."<sup>9</sup>

It is an Islamic belief that the trajectory towards unravelling matters is a universal process through which truth authenticates itself over falsehood. Those who perceive themselves to be the custodians of the truth would attempt to justify and defend their position as if it were the only truth, until such a time when new information is presented to them, compelling them to change their stance.

Orthodox Muslims who justify their condemnation of homosexuals often use verses

from the Quran<sup>10</sup> and *hadith*<sup>11</sup> to support their position. While Islam, through the very meaning of the word, promotes peace in all spheres of life, many queer Muslims struggle to find peace with a representation of Islam that does not include them. This often instils feelings of alienation from their communities and rejection by God, friends and families. Research undertaken by the Inner Circle reveals that for many queer Muslims, casual sex, alcohol and substance abuse, attempted suicide and apostasy have become outlets for negotiating the dilemma between Islam and their sexuality.<sup>12</sup>

This article attempts to reveal that Islam, at its very core, does not condemn non-heterosexual sexual intimacy. Instead, it is embraced as part of a divine plan. Islam, in its true meaning of peace and justice, accommodates the individual's sexual orientation as an intrinsic part of their biological and psychological makeup. Kecia Ali alludes to the fact that the prohibition on same-sex marriages in Islam do not stem from the Quran, but from the legal construction of marriage and that sexual relationships are both gendered and hierarchical.<sup>13</sup> However, her study does not focus on the Quranic texts that can be interpreted to support non-heterosexual marriages. This article highlights some of these verses and presents their positive interpretations.

The Quran through its poetical form of expression is itself open to numerous interpretations and meanings that are divinely intended to accommodate scientific discovery, human development and diversity within humanity. Muslims who limit themselves to one interpretation, or oppose different interpretations of the Quran inhibit the potential of the Quran to promote social and spiritual growth.

Quran 39:55 makes it clear that Muslims are instructed to extract, out of the many possible interpretations, the interpretation that achieves the greatest good. If divine guidance is ignored and interpretations are personally motivated and unconsciously made, it can lead to both individual and social distress.

“We have indeed sent our messengers with the evidence and we sent down with them the Book and the Balance so that humankind can continue to exist in equity.”<sup>14</sup>

This article explores alternative interpretations of divine texts and develops their potential to reinforce the Quran's inclusive nature which promotes equality and freedom of choice. All Muslims agree that no other laws, extrapolated from secondary sources, may contradict the Quran. Consequently, this article also zooms in on some of the contradictions in secondary sources such as *hadith* that contradict the Quran on the issue of homosexuality and the punishment for public sexual offenses. It challenges the Shariah law which criminalises homosexuality and demonstrates that such law is inconsistent with the Quran.

*Hadith* were collected in the second half of the second century of Islam's existence. Their late development as a source of Islamic law is due to the Prophet Muhammad's (pbuh)<sup>15</sup> prohibition of their collection. Numerous *hadith* collections report on these prohibitions.<sup>16</sup> The companions and followers of the Prophet (pbuh), such as the first four Chaliphs<sup>17</sup> Abu Bakr, Umar, Uthmaan and Ali, as well as the Prophet's personal scribe, Zaid bin Thaabit, refused to record sayings of the Prophet (pbuh) in compliance with the Prophet's order. In the second century AH,<sup>18</sup> the Chaliph Umar Ibn Abdul-Aziz issued an order to permit the writing of *ha-*

*dith* believing that it would put an end to the widespread lies about the Prophet Muhammad (pbuh). Although this might have been a noble exercise at that time, *hadith* collection has been and remains a challenging science for most progressive Muslims and progressive Islamic thought today.

*Hadith* contain many inconsistencies, contradictions and distortions of facts. As definitive and reliable sources of Islamic law they are deeply problematic. It is no surprise that hate crimes against homosexuals, including the justification for their execution, stems largely from the *hadith*. Nonetheless, it does present an interesting window into the history of Islam, the mindset of early Muslims and the kind of early leadership that shaped the face of Islam. Therefore, I would not discard this source in its entirety and many progressive Muslim scholars would agree that *hadith* which do not contradict the Quran present a useful elaboration on Quranic verses.

The Inner Circle has noted that there is a residing belief amongst Muslim clergy that homosexuality is a phenomenon which is non-existent in the Islamic world both past and present. In places where it does exist, it is either an idea imported by the West, or practiced by ignorant or uneducated Muslims:

“Homosexuality is a moral disorder. It is a moral disease, a sin and corruption... No person is born homosexual, just like no one is born a thief, a liar or a murderer. People acquire these evil habits due to a lack of proper guidance and education.”<sup>19</sup>

This article demonstrates the implausibility of this belief by showing that the act of men having sex with men existed during the time of the Prophet Muhammad (pbuh) and during the golden period (first two centuries of

the existence of Islam). It also corroborates that the current interpretation of the story of Sodom and Gomorrah is a flawed result of the influence of patriarchal perceptions of masculinity.

Apart from the Hanafi<sup>20</sup> school of thought in Sunni Islam, there is unanimity among mainstream Sunni and Shi’a scholars that homosexuality is an adulterous act for which *Hadd*<sup>21</sup> punishment applies. There is also a consensus that this sin is punishable by death. Scholars only differ in the style of execution. This author argues that stoning to death is not a Quranic concept and that instead the Quran adopts a pro-life stance.

It should be pointed out that Islam is not a homogeneous faith. Although the fundamentals of Islam extrapolated from the Quran remain unchanged, diverse cultures and geography influenced different manifestations and perceptions of Islam. Popular Muslim belief holds that the Quran remains the only book in history that has not undergone changes in the last 1400 years. Unlike the *hadith*, which has a more complicated and sometimes questionable history of compilation, the Quran is believed by most Muslims to be the direct word of God to Muhammad (pbuh).

## 2. “The Best of What Was Revealed”

“And follow the best of what was revealed to you from the One who has authority over you, before distress takes you by surprise and while you are in a state of unconsciousness.”<sup>22</sup>

Let’s make no apology that there are verses in the Quran that left even the Prophet Muhammad (pbuh) uncomfortable. While the Quran gives a husband polarised options for

dealing with his wife's disobedience, from effectively communicating with her to beating her, the Prophet (pbuh) never adopted the latter option. Even though such verses may appear to critics of the Quran as being problematic, there is wisdom in its revelation.

Muslims approach the Quran as individuals of diverse temperaments and worldviews who are shaped by our own experiences. In spite of the multiple interpretations revealed in a particular Quranic verse, Muslims often accept those observable through their personal experiences. Consider that one of the reasons for the revelation of the Quran is to make communities workable. Exercising extreme measures for social problems does not contribute to creating workable communities; instead it more naturally leads to social distress. In order for humanity to be successful, polarised extremes are presented in the Quran as a criterion by which individuals are reminded to assess, evaluate and keep things in the balance. However, these extremes are not divine licences to exercise wanton desires.

"And from everything we created in contrasting duo so that perhaps you would be reminded."<sup>23</sup>

It is through contrast that we come to appreciate the positive things in life. We can only appreciate light when we have experienced darkness. Similarly we appreciate love and justice with the knowledge of what rejection and injustice feels like.

As the following verses make clear the Quran places great emphasis on equality, justice and the saving of life.

"In the Law of Equality there is the saving of life to you, o you men of understanding; that you may restrain yourselves."<sup>24</sup>

"O ye who believe! stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well-acquainted with all that ye do."<sup>25</sup>

"And why should ye not fight in the cause of Allah and of those who, being weak, are ill-treated and oppressed? – Men, women and children, whose cry is: "Our Lord! Rescue us from this town, whose people are oppressors; and raise for us from Thee one who will protect; and raise for us from Thee one who will help!"<sup>26</sup>

Traditional, patriarchal views on gender and masculinity are one prominent historical reason why women and effeminate men have been marginalised and rejected in different societies. Through its commitment to the principles of equity and justice the Quran makes it clear that it offers no justification for male authority over ostensibly weaker actors in society. Islamic history is filled with examples of the emancipation of peoples from slavery, the social advancement of women and the care for the most vulnerable, including orphans. It is consistent with the teachings of the Prophet Muhammad (pbuh), that the vulnerable and discriminated against should be protected. It seems evident that, had homosexuality, as a sexual orientation and identity, been a pressing social issue during the time of the Prophet Muhammad (pbuh), he would have spoken for the rights of homosexuals.

The Quran was revealed in a patriarchal, male chauvinistic seventh century AD Arabian society. Thus, its principal addressees are the aristocratic males of a society that contributed to the appalling status of women and innately effeminate men. In a span of twenty three years, the Prophet Muhammad (pbuh)

managed to raise the status of women and lay the foundations for improving gender equality. A common mistake that most Muslims make is to consider that the process started by the Prophet (pbuh) was conclusive. This has stifled the equity initiative begun by the Prophet (pbuh) which aimed to elevate and maintain the status of women and sexual minorities as we evolve over time.

Most Islamic historians agree that *Ijtihad*,<sup>27</sup> once a prized possession of Muslims and a key process in achieving a workable society, has been lost to religious control and political agenda. *Ijtihad* was still in practice until the tenth century AD. By the twelfth century, believing that *Ijtihad* led to human error and excess, most Sunni authorities declared that the doors of *Ijtihad* have been closed. Minority views continued to discuss and support *Ijtihad*, but with little effect. *Taqleed*<sup>28</sup> replaced *Ijtihad* as a means of controlling religious liberalism. Progressive Muslim scholars today suggest that Islam is unable to adequately respond to many contemporary social problems because the doors of *Ijtihad* have been declared closed. The independent reasoning promoted by the principle of *Ijtihad* which permits a clearer examination of the relationship between Islam and homosexuality has been used extensively to arrive to some of this article's conclusions.

### 3. Freedom of Choice and Expression

Verse 2: 208 and verse 2:256 of the Quran state:

“O you who have attained to faith! Enter into Islam whole-heartedly; and follow not the footsteps of the evil one; for he is to you an avowed enemy.”<sup>29</sup>

“There is no compulsion in religion: Truth stands out clear from error. Whosoever

rejects evil and has faith in God has indeed grasped the most trustworthy hand-hold that never breaks. And God hears and knows all things.”<sup>30</sup>

Although these two verses generally encourage people to adopt faith and reject disbelief, they clearly set out that the system of Islam cannot be forced upon anyone. At the same time neither should an individual pursue Islam half-heartedly. Islam, therefore, provides humankind the freedom to choose how they wish to live their lives, yet this freedom is not unfettered.

“And if they accuse you of falsehood, say: “My work to me and yours to you! You are free from responsibility for what I do and I for what you do!”<sup>31</sup>

Assuming responsibility for one's actions precedes the freedom of choice and expression Muslims are afforded in the Quran. It places responsibility on Muslims and gives those with different beliefs the freedom to responsibly express their difference. In effect this Quranic injunction promotes a healthier, more tolerant understanding and appreciation of others.

Verses 109: 1-6 of the Quran also acknowledge freedom of belief:

“Say: O you who have denied faith! I do not worship that which you worship and neither do you worship that which I worship and I will not worship that which you worship and neither will you ever worship that which I worship. So therefore, unto you your way and unto me mine!”<sup>32</sup>

The Prophet Muhammad (pbuh) was persecuted by the Quraishi<sup>33</sup> regime at the beginning of his mission through denying his freedom of speech and belief. It was the Quran

that gave him freedom to spread his own beliefs and to employ the measures through which his vision can be realised. Those who followed his beliefs did so out of their own free will and in spite of the persecution they suffered. It would be insincere for any Muslim to ignore the fact that Islam came into existence through similar struggles for freedom of expression. Indeed, to deny the rights and freedoms to others which enabled the Prophet (pbuh) to undertake his mission would be inconsistent with his teachings.

God instructed the Prophet Muhammad (pbuh) not to use force as a measure in his mission:

“We know best what they say; and you are not to subdue them by force, but through reminders in the Quran and to such who fears My warning.”<sup>34</sup>

In addition, Muslims believe that they are the people God chose to bring guidance to the modern world:

“You are the best of people evolved for mankind. You enjoin what is right and you forbid what is wrong and you believe in God. If only the people of the book believed (in this message) it would have been better for them; amongst them are believers, but most of them are iniquitous.”<sup>35</sup>

Consequently, Muslims face the challenge of demonstrating to humanity that Islam is a good model for overcoming current social problems without using force. There is also a need to explore and consider the following sub-challenges: (i) How can Islam be instrumental in a technologically advanced information era, while there is resistance to transformation on the part of its leadership? (ii) What answers will Islam present to

the questions of gender, sexual diversity and choice of religion without diverting from its constitution? (iii) Are Muslims re-enacting the past fears and mistakes of their early Quraishi adversaries when they were confronted with change?

#### 4. The Quran and Diversity

“And among His signs is the creation of the heavens and the earth, and the variations in your languages and your colours: Verily in that are signs for those who possess knowledge.”<sup>36</sup>

“O mankind! Verily We have created you male and female, and have made you into nations and tribes that you may come to know. Truly, the noblest of you, in the sight of God, is the most God-conscious amongst you. Verily God is the Knower, the All-Aware.”<sup>37</sup>

The Quran illustrates the diverse nature of human beings in order to contrast it with the uniqueness of God. Language, culture, race and ethnicity were the obvious elements of diversity by which seventh century Arabs were challenged. However, modern global diversity is evidently more extensive. Diversity is therefore a divinely intended phenomenon that challenges humanity to pursue a unifying trajectory.

“Glory be to God who have created all the different pairs/partners from what the earth produces and from themselves (humankind) and from that of which they possess no knowledge.”<sup>38</sup>

Scientists and psychologists broadly concur that homosexuality has existed since time immemorial and occurs naturally in the animal and plant world.<sup>39</sup> The argument made by some orthodox Muslims is that, unlike

animals and plants, human beings have the capacity to make choices. To lust after one's own sex is a choice that can and should be disconnected from one's identity:

“Homosexuality as a predisposition can be disconnected from one's identity when one makes the choice to abandon that predisposition.”<sup>40</sup>

Although there might be psychological help available for compulsive social behaviour today, most psychologists believe that homosexuality is not pathological and cannot be cured. A research study conducted by the National Association for Research and Therapy of Homosexuality (NARTH) failed to prove that their reparative therapy for homosexuality was successful. The study showed that only 34.3% of the 882 men in the study showed some change in sexual preference after therapy. Yet, the study's findings remain questionable and it failed to examine the long term effects of such treatment.<sup>41</sup>

Most scientists would also agree that homosexuality is harmless and poses no threat to humanity. Indeed techniques employed to combat homosexuality, such as reparative or aversion therapy, cause serious harm to the individual.<sup>42</sup> It can thus be inferred that as homosexuality poses no harm or threat to humanity it is a natural and divinely intended diversifying factor which challenges humanity's fear of others.

Other orthodox Muslims take a different stance on homosexuality, advocating that one must hate the *sin* and not the *sinner*. This perspective views homosexuality not in terms of sexual orientation, but rather as a sexual act which involves anal penetration. Therefore, some orthodox Muslim clergy would preach that it is acceptable for someone to have an

attraction to a person of the same sex, but it is sinful to act upon that attraction.

All civilisations and cultures throughout history have discriminated on the grounds of gender and sexual orientation. Patriarchal religion, often operating through the link between the church and the state, has had a great influence in justifying and supporting this discrimination through conservative interpretations of ambiguous scriptural verses. I would like to present a few examples of how Quranic verses pertaining to sex and sexual behaviour have been used to justify the condemnation of homosexuality.

## 5. The Homosexuality That Is Not in the Quran

Terms such as homosexuality, bisexuality and heterosexuality, by which modern society classifies human sexuality, are not used in the Quran. Nonetheless, a theme of sexuality, sexual permissibility and sexual prohibition pervades the Quran. It addresses a heterosexual audience, and is largely silent about non-heterosexual sex. It is important to recognise that this does not automatically imply condemnation of the latter.

Traditionalists often justify the blanket condemnation for homosexuality through reference to the parable of Prophet Lot (pbuh) contained in the Bible and the Quran and drawing parallels between the sexual perversities of his people and homosexuality.

In order to appreciate and do justice to this beautiful Quranic parable, one has to take in consideration the milieu against which this parable is recounted.

“Do you approach the men and cut off the highway and commit atrocities in



your councils (circles)? But his people gave no answer but this: they said: "Bring us the wrath of God if you are telling the truth."<sup>43</sup>

"And he warned them of Our power, but they disputed about the warning and attempted to seduce his guests: whereupon We obliterated their sight. So taste then My retribution after the warning."<sup>44</sup>

Sodom was undoubtedly the wealthiest city on the biblical Vale of Siddim in Babylon. According to Verse 15:16 of the Quran, the city was situated directly on the trade highway known today as the Arava highway. Archaeological findings and historical usage of the highway confirm that merchants often traded with Sodom and passed from opposite sides through this highway. Sodom, known for its amenities and location on the highway, was a necessary resting point for travellers.

Prophet Abraham (pbuh), the uncle of Prophet Lot (pbuh), enunciated the divine law of honouring visitors and showing hospitality to guests and foreigners and thus Sodomites were compelled to give rest to travellers. Because of the selfish nature on the part of the aristocratic male rulers of Sodom and Gomorrah, they refused to share resources and common space with foreigners. They carved for themselves luscious hidden gardens for personal enjoyment and enjoyed the best of what Sodom had to offer, while common people and foreigners were subjected to harsh social and economic treatment.

Flavius Josephus, a Jewish historian, has written:

"Now, about this time the Sodomites, overwhelmingly proud of their numbers and the extent of their wealth, showed themselves insolent to men and impious to the Divinity,

insomuch that they no more remembered the benefits that they had received from Him, hated foreigners and avoided any contact with others. Indignant at this conduct, God accordingly resolved to chastise them for their arrogance, and not only to uproot their city, but to blast their land so completely that it should yield neither plant nor fruit whatsoever from that time forward."<sup>45</sup>

It would not be correct to single out male-to-male sex as the sole purpose for destruction of Sodom. Sexual practices in historical Babylon should also not be seen in isolation from idolatrous beliefs and patriarchal pursuits for power and dominance. Sex under repressive conditions and in exploitive societies has often been used to assert dominance by patriarchal chauvinistic men. Non-consensual sex which is tantamount to rape has much more to do with an associated need to dominate rather than sexual gratification. In the case of Sodom the victims were not only virgin girls but also young men coerced into having sex with temple priests as part of their idolatrous rituals. According to the Quran, Sodom stands to be the first nation ever to commit the crime of subjecting vulnerable men to coercive sex with the aristocrats.

Temple prostitution was seen as an offering to the Gods. Every father in Babylon was compelled to offer his virgin daughter to the Temple of Ishtar. The virgins were then compelled to have sex with strangers as an offering to the God Ishtar so that the virgins may be purified and made ready for marriage. Prophet Lot (pbuh) defied this custom by repeatedly deferring the ritual when he was approached by the rulers to offer his daughters to the temple. As a last resort, and in compromise and utter hopelessness, he offered his daughters to the aristocrats to protect his guests who were God's angels sent to



warn him of the coming destruction of the cities. He responded, with a frail heart, that perhaps in this hopeless situation his daughters would be purer for their rituals than the rape of the angels of God.<sup>46</sup>

To quote the Greek historian Herodotus:

"The worst Babylonian custom is that which compels every woman of the land once in her life to sit in the temple of love and have ... intercourse with some stranger ... the men pass and make their choice. It matters not what be the sum of money; the woman will never refuse, for that were a sin, the money being by this act made sacred."<sup>47</sup>

Ishtar was the primary goddess of love and war. Ritual prostitution was performed in her name. In Cyprus where Ishtar was known by the name Aphrodite, it was the custom that unmarried women should prostitute themselves at the goddess' sanctuary and give the profit to the goddess. In Ishtar's temple in Babylon, all women, without regard to their class, acted as a prostitute at least once.<sup>48</sup>

This indicates that the questionable sexual interactions amongst the people of Sodom and Gomorrah, as the two leading cities in ancient Mesopotamia, were not just among men. Hence, it would be incorrect to draw the conclusion that the cities were destroyed primarily due to same-sex conduct or orientation. In the entire Quranic parable, which spans over seventy verses, there is no allusion to sexual orientation or that the aristocratic men in question were having consensual sex with one another. Strong Quranic terminologies however suggest that the acts were deeply rooted in coercion and sexual primacy as opposed to consensual heterosexual or homosexual sex.

In fact, considering the parable in its entirety, it may be deduced that the justification for the destruction of Sodom and Gomorrah related to other factors, including:

1. The people of Sodom were not monotheists and their idolatrous beliefs dictated sexual proclivity and social and economic injustice.
2. Their inhospitality to foreigners and guests confirms social discrimination and xenophobia.
3. The robberies on the trade highway are indicative of voracity and disregard for foreigners.
4. The people of Sodom exercised coercive power through sexual gratification.
5. The unjust laws and practices in their councils were constituted to serve the patriarchal elite.

It can thus be concluded that the parable of Lot in the Quran cannot be used as a blanket condemnation of homosexuality. To do so would contradict the many verses in the Quran which promote the idea of unity within human diversity. Moreover, a spiritual path towards the Creator requires a complete acceptance of diversity and difference without judgment. This is not to say that same-sex conduct or orientation should operate in a social or moral vacuum. It merely disproves the belief that the parable of Prophet Lot (pbuh) condemns homosexuality. Scott Siraj al-Haqq Kugle's recent analysis draws similar conclusions: that the parable of Prophet Lot (pbuh) in the Quran does not suggest that consensual same-sex conduct is a sin.<sup>49</sup>

In addition to the parable of Prophet Lot (pbuh), orthodox Muslim scholars have also quoted other verses from the Quran to support their contempt for homosexuality.

“If any of your women are guilty of lewdness, you must produce four reliable witnesses from amongst you against them; and if they testify, then they should be confined to houses until death does claim them, or God ordain for them some (other) way.”<sup>50</sup>

“If two men are guilty of lewdness, both of them should be reprimanded. If they repent and amend, leave them alone, for God is oft returning, Most Merciful.”<sup>51</sup>

The imprecision of these verses weaken any conclusion that they refer to sexual violations among homosexuals. In reality, it makes more sense to appropriate these verses to cover a wide range of possible public indecencies regardless of gender and sexual orientation. The word “faahishah” used in the above verses is loosely translated from Arabic as “lewdness” or “public indecency”. It is a term which can be used to describe many acts of a shameful and sexual nature for which four witnesses are required in order to prove guilt. The high standard of proof required to prosecute such conduct operates more as a deterrent to people from randomly or spuriously accusing individuals of such public indecency.

## 6. The Recognition of Non-heterosexuals in the Quran

“Say: Everyone acts according to his own disposition (nature): But your Lord knows well who is best guided on the way.”<sup>52</sup>

Verse 17:84 is a profound divine statement that recognises a deeper sense of diversity beyond religion, race and gender. Sexual ori-

entation operates within this deeper sense of diversity and such phenomena often cause us to fear these diverse characteristics of “other” people of whom we have little understanding. This verse speaks to our own natures calling us to be true to ourselves and to return to the very core of who we are as spiritual beings. It places judgment in the hands of the Creator and confirms the divine intention to permit freedom of choice.

“And tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils near to them, and not to reveal their adornment save to their own husbands or fathers or husbands’ fathers, or their sons or their husbands’ sons, or their brothers or their brothers’ sons or sisters’ sons, or their women, **or the followers (of Muhammad) amongst the men who have no desires for women**, or children who know naught of women’s nakedness. And let them not stamp their feet so as to reveal what they hide of their adornment. And turn unto God together, O believers, in order that ye may succeed.”<sup>53</sup>

Verse 24:31 of the Quran may be considered by many in the West as dictating the modesty of women and denying them the right to choose their own modesty. Yet, it has been extremely liberating for women at the advent of Islam when they were perceived as mere chattels of desire. By lowering their gaze and donning an extra piece of garment in public, women were demonstrating their desire to be appreciated for more than just their physicality. This demonstration would be unnecessary in front of the category of men “who have no desires for women” and poses no threat to them. One such category of men would be the men who have no natural inclination towards women as they would clearly

not pose a threat to their womanhood. In this way the Quran makes it clear that such a category of men do exist in society.

“As for women who sit inactive and have no hope for marriage, it is no sin for them if they discard their (outer) clothing in such a way as not to show adornment. But to refrain is better for them. God is Hearer, Knower.”<sup>54</sup>

There are different categories of women who do not actively seek to marry. Undoubtedly these categories of women include those who have no sexual attraction towards men. Rabi’a Al-Adawiyyah, a venerated Sufi saint, refused to marry her entire life. Although this choice might not have been related to her sexual orientation, she still defied a social norm which she struggled to relate to – even though marriage by orthodox Muslims has been proclaimed as a prophetic command. Her refusal to marry could also have been attributed to her earlier experience with men. At a tender age, Rabi’a was kidnapped and sold to a rich slave master. Part of her services to this master was to offer sexual favours against her will. This, as can be observed in many cases of women coerced into sex today, may have had a significant psychological impact on her relations with men.

Although the Quran largely, and rightfully so, addresses heterosexuals, it is not completely unmindful of the diversity on the continuum of sexuality. Had there been a case of homosexuality that necessitated a legal response from the Prophet (pbuh), the Quran would have mentioned it. However, the Prophet (pbuh) rarely engaged with *mukhannathun* (effeminate men) in the hetero-normative society of Medina. Often his reprove for some individuals amongst them, as can be observed in some *hadith* narrations, was

attributed to their behaviour as opposed to their sexual orientation.

## 7. Homosexuality and the Prophetic Teachings (*hadith*)

There are numerous recordings of *hadith* in which the Prophet Muhammad (pbuh) forbade the collection of his traditions for fear that they might be (i) held in higher regard than the Quran and (ii) fabricated. It should also be noted that Islam today is significantly influenced by tradition as opposed to the Quran. As described above, the traditions collected during the Prophet Muhammad’s time were all discarded at his command and they only resurfaced in the latter part of the second century after his death. The fact that these traditions were collected through secondary sources and through an eliminatory process raises significant questions about not only their validity but also the science of the collection of *hadith*.

It is beyond the scope of this article to venture into the *hadith* discourse, but it is noteworthy that Imam Bukhari (265 AH), the major contributor to the collection of authentic *hadith*, stated that he only selected 7,300 out of 600,000 narrations for fear that the others may have been fabricated.<sup>55</sup> The mere fact that such a huge number of fabricated *hadith* may have existed puts the authenticity of the remaining *hadith* in doubt. Unlike the Quran, *hadith* has many contradictions with respect to sexual offences. One such contradiction is striking.

A narration by Abdullah ibn Abbas, states:

“The Prophet Muhammad (pbuh) said: If anyone has sexual intercourse with an animal, kill him and kill it along with him. I (Ikrimah) said: I asked him (Ibn Abbas):

What offence can be attributed to the animal? He replied: I think he (the Prophet) disapproved of its flesh being eaten when such a thing had been done to it."<sup>56</sup>

In a subsequent narration Abdullah ibn Abbas, states:

"There is no prescribed punishment for one who has sexual intercourse with an animal."<sup>57</sup>

The stark contrast in both narrations which were collected and narrated by the same person and recorded one after the other in the same book of collections illustrate the problematic nature of the *hadith*. One consolation is that there are no references to homosexuality in the more authentic *hadith* collections of Imam Bukhari and Imam Muslim (regarded by Muslims as the two most authentic collections out of the six famous compilations of *hadith*). Furthermore, no *hadith* report an actual incidence in which the Prophet Muhammad (pbuh) ordered the killing of homosexuals. The other four authentic compilations of *hadith* do record, in various forms, his condemnation of the "act of the people of Lot" usually in the form of a command to "kill both the active and passive partner." However, in light of the beautiful character of the Prophet Muhammad (pbuh) so portrayed in the Quran, it is unthinkable that he could have given such an unyielding order.<sup>58</sup>

## 8. Homosexuality in the Midst of Prophet Muhammad (pbuh)

Transvestites or effeminate men were recorded to be present in the city of Medina at the time the Prophet Muhammad (pbuh) came to make it the centre of Islam. These men were called *mukhannathun*<sup>59</sup> and had

similar characteristics with modern day transvestites and effeminate gay men, however not exclusively so. According to Everett Rowson, it should not be assumed that all these men were transgendered or castrated. They had influence in the arts of poetry and music and were socially identifiable through their attire. It is interesting to note the duality in the reports on how the Prophet Muhammad (pbuh) related to these men.<sup>60</sup>

"A'isha reported that a *mukhannath* used to come to the wives of God's Apostle (pbuh) and they did not find anything objectionable in his visit, considering him to be a male without any sexual desire. God's Apostle (pbuh) one day came as he was sitting with some of his wives and he (the *mukhannath*) was busy describing the bodily characteristics of a lady and saying: As she comes in front four folds<sup>61</sup> appear on her front side and as she turns her back eight folds appear on the back side. Thereupon God's Apostle (pbuh) said: I see that he knows these things; do not, therefore, allow him to enter. She (A'isha) said: Then they began to observe the veil in front of him."<sup>62</sup>

This *hadith* narration is commonly used by orthodox Muslim scholars to justify contempt for effeminate men and transsexuals and is used as proof that Muslims should not allow them in their houses. However, this narration makes it plain that the Prophet Muhammad (pbuh) did not find any objection in the *mukhannath* working for his wives while they were unveiled. His condemnation of one particular *mukhannath* is neither an indictment on all of the *mukhannathun* nor was it based on the *mukhannath's* sexual orientation. Rather the Prophet's condemnation was a response to his actions in this particular situation.

Abu Dawud's collection of *hadith* provides another interesting narration. It states that: "A *mukhannath*, who had dyed his hands and feet with henna, was brought to the Prophet Muhammad (pbuh). He asked, 'What is the matter with this one?' He was told, 'O Apostle of God, he imitates women.' He ordered him to be banished. They said, 'O Apostle of God, shall we not kill him?' He replied, 'I have been forbidden to kill those who pray.'"<sup>63</sup>

Again a number of interpretations can be read into this *hadith*. Nonetheless, it must be read in light of the Quran which teaches that life is sacred.<sup>64</sup> The Prophet Muhammad's final response in this narration indicates this commitment to the sacredness of life. A number of themes surface when we piece together the many such narrations that relate to the *Mukhannathun*. One theme is the Prophet Muhammad's prioritisation of social justice and public morality over the private or the sexual orientation of the individual.

Female homosexuality is not mentioned in the Quran and is only hinted to in some *hadith*. This is attributed to patriarchal perceptions of masculinity and femininity, with the latter being inferior to the former. Islamic law is almost exclusively patriarchal in influence and interpretation. Masculinity and its perception even before the advent of Islam have shaped how Muslim men perceive themselves and how they perceive femininity in society. More attention is given to the disgust in male homosexuality due to the fact that the sexual act between two men directly impacts on a man's masculinity. While homosexuality was socially accepted, it was only accepted to the extent that the masculinity of the man is not threatened. In other words, he becomes the penetrator and not the penetrated. Under these social circumstances it is understandable why female homosexual-

ity would be seen as less problematic. While females having sex with one another was deemed to be insignificant because there is no penetration involved, a man having sex with a group of females at the same time was considered to be prolific. It is therefore understandable why there is little said about female homosexuality in Islamic law.

Quranic verse 4:15 quoted above is used by some orthodox Muslim scholars to refer to female homosexuality. However, most progressive Muslim scholars would disagree, believing that the verse must be interpreted to include all forms of sexual indecencies that are publically staged and for which four witnesses can be produced. Ultimately, there is only one *hadith* narrated in Al-Tabarani's collection of *hadith*<sup>65</sup> which explicitly reports on lesbianism. It reports that the Prophet Muhammad (pbuh) apparently stated that lesbianism is adultery between women. Again, this *hadith*, as many others discussed above, which have elaborated Islam's condemnation of homosexuality, has questionable authenticity and the fact that it is mentioned so explicitly reinforces the impression that even the sexuality of women and the perception of that sexuality was controlled by men.

Themes in the Quran such as social justice, gender equity, inclusiveness of different faiths, diversity in humanity, the prophetic example and a forgiving and merciful God, make it difficult to dismiss people of different sexual orientation or gender identity who have played a significant role in many civilisations. Taking stock of the contribution that homosexuals and transgendered people have for centuries had to the growth of humanity, it is a mistake and contrary to the core principles of the Quran to perceive these classes of people as detrimental to social institutions such as marriage, the family and even soci-

ety as a whole. There are certainly many incidences in Islamic history that point to the social contributions which homosexuals and transgendered people have made, whether it is in the arts, entertainment or politics. Their presence was felt by many before the advent of Islam, during the Umayyad<sup>66</sup> and Abbasid<sup>67</sup> dynasties, and after the demise of the Prophet Muhammad (pbuh), and are felt, respected and sought after today.

### **9. Execution of Homosexuals Based on the Quran**

Homosexuality is criminalised in Shariah law under *Hadd* punishment. It therefore falls within the same category of offense as adultery. Under Shariah law the punishment for homosexuality is death, although there are some differences in opinion regarding the style of execution. This view is held by most Islamic schools of thought in the Sunni and Shi'a world.<sup>68</sup> Execution through stoning has been justified on the basis that God used brimstone to destroy the notorious cities of Sodom and Gomorrah. I would like here to examine the concept of stoning to death for adultery and in light of the Islamic principle that Shariah law may not contradict Quranic injunctions prove that the death penalty for any sexual offense is not a Quranic concept. By implication, the killing of homosexuals is therefore also un-Islamic.

Before we can do this, it would make sense to identify the Quran's position on the sacredness of life. Various Quranic statements considered collectively emphasise the Quran's pro-life stance.

"And for you, in the Law of Equality, there is saving of Life, O you with understanding; so that you may restrain yourselves."<sup>69</sup>

"And thus have We ordained for the Children of Israel that if any one killed a person, except in retaliation for murder or for spreading mischief in the land - it would be as if he had killed the whole of mankind: and if any one saved a life, it would be as if he saved the whole of mankind. Verily there came to them Our Messengers with clear signs, yet, even after that, many of them continued to commit excesses in the land."<sup>70</sup>

"Say: "Come, I will rehearse what God hath (really) prohibited you from": Join not anything as equal with Him; be good to your parents; kill not your children on a plea of want - We provide sustenance for you and for them; come not nigh to shameful deeds, whether open or secret; take not life, which God made sacred, except in justice: thus doth He command you, that you may learn wisdom."<sup>71</sup>

"Nor take life which God has made sacred except in justice. And if anyone is killed wrongfully, we have given their heir recourse for justice. But let him not exceed bounds in the matter of taking life, because he is being assisted."<sup>72</sup>

Consequently, on the Quranic continuum of punishment for sexual offenses there are at least three distinguished levels – none of which decree the death penalty. First, on the personal level, those who have committed an offense and ask God for forgiveness will find forgiveness and a pleasant eternal abode:

"(forgiveness and heaven is for)... those who, having committed a shameful deed, or wronged their own souls, earnestly bring God to mind, and ask for forgiveness for their sins, and who can forgive sins except God - and are never obstinate in persisting knowingly in what they have done."<sup>73</sup>



At the second level, where the sexual offense has been witnessed by at least four men, the punishment is dependent on the degree of the offense and is at the discretion of a judge:

“If any of your women are guilty of lewdness, you must produce four reliable witnesses from amongst you against them; and if they testify, then they should be confined to houses until death does claim them, or God ordain for them some (other) way.”<sup>74</sup>

“If two men are guilty of lewdness, both of them should be reprimanded. If they repent and amend, leave them alone, for God is oft returning, Most Merciful.”<sup>75</sup>

The third and most extreme level points out the limits of punishment for sexual offenses: “Do not approach *zina*<sup>76</sup>; for it is a shameful deed and a way abating!”<sup>77</sup>

“The woman and the man guilty of *zina* – flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by God, if you believe in God and the Last Day: and let a party of the Believers witness their punishment.”<sup>78</sup>

Based on the Quranic system of equity and the prophetic teaching of moderation, a balance should always be struck between the polarities the Quran points out. Even though complete justice, an eye for an eye, is practical in the case of retaliation, the Quran favours forgiveness.<sup>79</sup> Muslim scholars would agree that a hundred lashes are not definitive because the number of lashes can differ depending on the severity of the crime. The status of the person also influences punishment handed down in the judgment:

“O Consorts of the Prophet! If any of you were guilty of a shameful deed, the pun-

ishment would be doubled to her, and that is easy for God.”<sup>80</sup>

“If any of you have not the means wherewith to wed free believing women, they may wed believing girls from among those whom your right hands possess: And Allah hath full knowledge about your faith. You are one from another: Wed them with the leave of their owners, and give them their dowers, according to what is reasonable: They should be chaste, not lustful, nor taking paramours: when they are taken in wedlock, if they fall into shame, their punishment is half that for free women. This is for those among you who fear being compelled; but it is better for you that ye practise self-restraint. And Allah is Oft-forgiving, Most Merciful.”<sup>81</sup>

The word “stoning” (*rajm*)<sup>82</sup> does not appear in the Quran. Throughout Islamic history attempts have been made to claim that such a verse was revealed to Muhammad (pbuh) but was either lost or abrogated. For example, some *hadith* have narrated:

“Umar said: ‘I am afraid that after a long time has passed, people may say, ‘We do not find the Verses of the Rajm (stoning to death) in the Holy Book,’ and consequently they may go astray by leaving an obligation that Allah has revealed. Lo! I confirm that the penalty of Rajm be inflicted on him who commits illegal sexual intercourse, if he is already married and the crime is proved by witnesses or pregnancy or confession.’ Sufyan added, ‘I have memorized this narration in this way.’ Umar added, ‘Surely Allah’s Apostle carried out the penalty of Rajm, and so did we after him.’”<sup>83</sup>

Furthermore, it is recorded in Sunan Ibn Majah that the Prophet Muhammad’s wife Ayesha said:



“When the verse on “Rajm” (Stoning) descended, it was written on a piece of paper and kept under my pillow. Following the demise of Prophet Muhammad (pbuh) a goat ate the piece of paper while we were mourning.”<sup>84</sup>

These *hadith* narrations contravene verse 2:106 of the Quran:

“None of Our revelations do We abrogate or cause to be forgotten, but We substitute something better or similar: Know you not that God has power over all things?”<sup>85</sup>

If these *hadith* were in fact some two of the many thousands of fabrications identified by Imam Bukhari, then it would suggest that there was a conscious attempt to preserve and continue the practice of stoning to death as a form of capital punishment. In the event of such a case, the following Quranic verse would apply:

“But there are, among men, those who purchase idle tales (*hadith*), without knowledge (or meaning), to mislead (men) from the path of God and throw ridicule: for such there will be a humiliating penalty.”<sup>86</sup>

There seems to be no Quranic support for the notion of stoning to death. Those who justify stoning to death of people who commit the offense of adultery do so in direct contradiction of verses 33:30 and 4:25 of the Quran. Both of these verses describe scenarios in which the women in question are married, yet they prescribed that their punishment is either halved or doubled. While it is possible to half or double the number of lashes a person may receive, the absolute nature of the death penalty makes implementing halving or doubling of the punishment prescribed by the Quran impossible.

## Conclusions and Recommendations

Muslims would agree that the Quran serves a personal and a social purpose. The Quran is a vehicle towards God-consciousness and the criteria to judge between what is appropriate and what is destructive for society. Hence, the Quran should be instrumental in building a healthy society in which everyone is free to choose as God intended, but at the same time co-exist inter-connectedly and in harmony. Muslims are not asked to take responsibility for the world’s problems, but they are chosen according to the Quran to be the community that is instrumental in the workability of society through encouraging what is appropriate and discouraging what is not.<sup>87</sup>

Iran is a good example of an Islamic state which has a system that is not in the best interest of its people or the society. The emigration of Iranians to the West due to irreconcilable issues with religion such as forced marriages, sexual orientation and *Hadd* punishments has left Iran’s Islamic model questionable. The Iranian government has not “purified” its society from the perceived evil of homosexuality; neither has it assisted individuals on the path of salvation by executing them. It is evident that the purpose for which the Quran was intended is not manifested in this society or other Islamic states.

It can only be concluded that there is another face of Islam, other than the one propounded through the Quran, that has taken power through the employment of secondary Islamic sources. The Islam we are engaging with today seems to be an Islam that has usurped religious power for political gain. This has a huge impact on the lives of Muslims who are afraid to utter their discomfort with certain issues pertaining to Islam, as the religion itself teaches blind-following and obedience to authority.

This article has argued that sexual expressions are only punishable when an evidently private expression of sexual intimacy becomes a public one which was witnessed by at least four people. This injunction is to safeguard individuals from being falsely accused of public indecency. There are many institutions these days that pass *fatwa* (religious judgment) which dictates actions around personal issues such as masturbation, sex with one's legal partner and contraception and which many progressive Muslims have started to question.

The poetic nature of the Quran is such that it can be interpreted in many ways. It depends on the personality and disposition of the interpreter. However, the liberty of interpretation that this noble book affords us was never intended to disregard diversity or to exploit its subject's freedom of choice, right to life and freedom to co-create.

Islam will continue to grow as a way of life for many millions of people across the globe. It is one of the most influential world religions. As such, polarising the debate on sexual orientation and directly opposing Islam will likely only create stronger opposition within the Islamic world. It is important that structures are promoted which enable progressive Muslim thought to flourish. Organisations such as The Inner Circle in South Africa, Sisters in Islam in Indonesia, Muslims for Progressive Values in the USA and indeed organisations that have the capacity to bring forth alternative understandings of Islam that value human rights offer important pathways into starting this process.

Some Muslims consider that anything emanating from the West is a ploy to destroy Islam. Even something that could be beneficial to humankind can be criticised simply because it has Western origins. These charges

could be alleviated by increasing dialogue between Western and non-Western Muslims; this would enable many projects which seek to promote LGBTI rights to achieve a sense of legitimacy in the Muslim world. It is also important for non-Muslims to ally with Muslims on common social issues.

The Inner Circle's research and alternative interpretation of the Quran is perhaps one way in which Muslim authorities can re-evaluate Islam's position on the matter of sexual orientation and gender identity in order to bring about an equal and workable Islamic world. It is imperative that funders who seek to create transformation within Muslim communities enable progressive Muslim organisations to publish and disseminate their views to those who have not had access to alternative interpretations of Islam.

Other religions such as Christianity and Judaism have similar issues with homosexuality and it is no surprise that their progressive clergy developed similar conclusions as that of The Inner Circle and other queer Muslim organisations. An interfaith voice creating dialogue in the hope of bringing forth progressive religious interpretations on the issue of sexual orientation and gender identity could have a stronger impact in the transformation process. At the same time human rights organisations should collaborate with progressive Muslims who are open and sensitive to human rights issues. Building coalitions with Muslim feminists who feel marginalised in a similar way to queer Muslims would allow the progressive Muslim voice to be amplified and the destructive voice exposed.

Many conservative Muslim organisations that operate in the West are selective in their human rights work and are hesitant to engage with topics such as homosexuality, safe sex and abortion. Such organisations should

be co-opted to accept public debate and re-evaluate their stance and its effects on the rights of individuals.

It is important to remember that Muslims are not opposed to reason, logic, scientific (including biological) and historical evidence. Indeed, Muslims pride themselves on the belief that science continues to prove the au-

thenticity of the Quran. In the last five years of The Inner Circle's engagement with Muslim clergy, it was noted that there is much ignorance around homosexuality in their arguments. It is thus crucial that conclusive evidence on the nature of homosexuality and on the psychology behind this sexual orientation is made available to Muslim clergy.

---

<sup>1</sup> Imam Muhsin Hendricks is the Director of the Inner Circle, a queer Muslim organisation based in Cape Town, South Africa. Established in 2006, the Inner Circle gives support to queer Muslims locally and internationally and has a number of empowerment programs for queer Muslims and the communities they come from. It also hosts an Annual International Retreat that brings together queer Muslim activists from different queer Muslim organisations across the globe.

<sup>2</sup> The term "queer" is controversial as it may be considered a derisive and derogatory term by many people. However, it saw substantial changes over the course of the 20<sup>th</sup> century. Many LGBTI people have reclaimed the term as a means of self-empowerment and embraced the term to describe a sexual orientation and gender identity or gender expression that does not conform to hetero-normative society.

<sup>3</sup> The Shariah is a code of law derived from the Quran and from the teachings and example of Muhammad's lifestyle. The Shariah is developed through consensus of early Muslim scholars. Muslims are subjected to this law specifically in Islamic countries.

<sup>4</sup> See above, note 1.

<sup>5</sup> See Murry, S. and Roscoe, W., *Islamic Homosexualities: Culture, History, and Literature*, New York University Press, 1997; see also Wright Jr., J. W. and Rowson, E. K. (Eds.), *Homoeroticism in Classical Arabic Literature*, Columbia University Press, New York, 1997.

<sup>6</sup> Scott Siraj al-Haqq Kugle is the first Muslim to publish widely on the issue of homosexuality and transgender identity in Islam. He is an independent research scholar in Islamic studies and has taught at Swarthmore College, Pennsylvania, and the University of Cape Town.

<sup>7</sup> Kugle, S., *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims*, Oneworld Publications, 2010.

<sup>8</sup> See, for example, Ali, K., *Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadith and Jurisprudence*, Oneworld, Oxford, 2006. Kecia Ali teaches religious studies at Boston University. She previously held research and teaching fellowships at Brandeis University and Harvard Divinity School.

<sup>9</sup> *Quran* 17:81.

<sup>10</sup> The Quran is the revealed book of God and regarded as the direct word of God to the Prophet Muhammad. It is also the primary source of law on which the Shariah law is based.

<sup>11</sup> The *Hadith* are oral narrations originating from the words and deeds of the Prophet Muhammad and later recorded as normative text. Muslims view *Hadith* as a secondary source to the Quran.

<sup>12</sup> This research was conducted by Core Krystal (Cape Town) after The Inner Circle saw a need to establish local Muslim responses to homosexuality, sexual practices and HIV. See also Kugle, S., *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims*, above, note 7.

<sup>13</sup> See above, note 8.

<sup>14</sup> *Quran* 57:25.

<sup>15</sup> Pbih stands for Peace be upon him, an acronym used with the name of Prophets of Islam as a sign of respect.

<sup>16</sup> Al-Khatib Al-Baghdadi, *Taqyid al Ilm*, pp. 29-44.

<sup>17</sup> The word Caliph comes from the Arabic word "khalifah" which means "head of state", "successor" or "representative". It is also the title of the leader of an Islamic community under Shariah law. The early leaders of the Muslim nation following the Prophet Muhammad's death were called "Khalifah rasullallah" – the political successors to the messenger of God (referring to Muhammad).

<sup>18</sup> AH stands for "after the Hijrah". The Hijrah is the migration of the Prophet and his followers from Mecca to Medina. This incident marks the start of the Islamic calendar and is equivalent to 622 A.D.

<sup>19</sup> See Robinson, B.A., "Islam and Homosexuality: All Viewpoints", available at: [http://www.religioustolerance.org/hom\\_isla.htm](http://www.religioustolerance.org/hom_isla.htm), 16 November 2002.

<sup>20</sup> One of the four major schools of thought in Sunni Islam started by Imam Abu Hanifa (150 AH).

<sup>21</sup> *Hadd*, meaning limit, usually refers to the class of punishments fixed for certain crimes that are considered to be "claims of God." They include theft, fornication, consumption of alcohol, and apostasy.

<sup>22</sup> *Quran* 39:55.

<sup>23</sup> *Quran* 51:49.

<sup>24</sup> *Quran* 2:179.

<sup>25</sup> *Quran* 5:8.

<sup>26</sup> *Quran* 4:75.

<sup>27</sup> *Ijtihad* means independent reasoning – the endeavour to derive a rule of divine law from the Quran and *Hadith* without relying on the views of other scholars.

<sup>28</sup> *Taqleed* means imitation – the acceptance of a legal precedent without questioning. It is the opposite of independent reasoning (*Ijtihad*).

<sup>29</sup> *Quran* 2:208.

<sup>30</sup> *Quran* 2:256.

<sup>31</sup> *Quran* 10:41.

<sup>32</sup> *Quran* 109: 1-6.

<sup>33</sup> "Quraishi" means belonging to the ruling tribe of Quraish in seventh century AD Arabia during the time of the Prophet Muhammad and before the advent of Islam.

<sup>34</sup> *Quran* 50:45.

<sup>35</sup> *Quran* 3:110.

<sup>36</sup> *Quran* 30:22.

<sup>37</sup> *Quran* 49:13.

<sup>38</sup> *Quran* 36:36.

<sup>39</sup> Soble, A. and Power, N., *The Philosophy of Sex: Contemporary Readings*, Fifth edition, Rowman & Littlefield, 2008, pp. 11-12.

<sup>40</sup> Alexander, S. A., "Homosexuality", *Burhanol Islam*, Volume 35, April 2000.

<sup>41</sup> Nicolosi, J., Byrd, D., Potts, R. W., "Retrospective Self-reports of Changes in Homosexual Orientation: A Consumer Survey of Conversion Therapy Clients", *Psychological Reports*, Volume 86, June 2000, pp. 1071-1088.

<sup>42</sup> Lamberg, L., "Gay is Okay with APA—Forum Honors Landmark 1973 Events", *Journal of the American Medical Association*, Volume 280, 1998, pp. 497-499.

<sup>43</sup> *Quran* 29:29.

<sup>44</sup> *Quran* 54:36-37.

<sup>45</sup> Jewish Antiquities, 1:194-195, available at: <http://www.hup.harvard.edu/features/kugbib/chapter.html>.

<sup>46</sup> *Quran* 11:78.

<sup>47</sup> Denning, S., *The Mythology of Sex*, Macmillan General Reference, 1996.

<sup>48</sup> Harding, E., *Woman's Mysteries: Ancient and Modern*, Perennial Library, New York, 1976.

<sup>49</sup> See above, note 7.

<sup>50</sup> *Quran* 4:15.

<sup>51</sup> *Quran* 4:16.

<sup>52</sup> *Quran* 17:84.

<sup>53</sup> *Quran* 24:31.

<sup>54</sup> *Quran* 24:60.

<sup>55</sup> Ahmad, N., *Qur'anic and Non-Qur'anic Islam*, Second Edition, Vanguard, 1997.

<sup>56</sup> Dawood, Sunan Abu Dawud, Book 38, Report 4449.

<sup>57</sup> *Ibid.*, Report 4450.

<sup>58</sup> Other *Hadith* compilations that are regarded as secondary add a little more detail. Some have set out that sexual relations between women constitute a form of fornication. Some have declared that men marrying boys is a sign of satanic power prevailing. Others offer varied views on the appropriate form of punishment for sodomy, as well as purported (but mutually inconsistent) reports of actual cases of execution for the offense by the early Caliphs, beginning with Abu Bakr. It is interesting to note however that the reporters of these *Hadith* are either questionable or not very well known and that the offenders are invariably anonymous.

<sup>59</sup> *Mukhannathun*, meaning "effeminate ones", or "men who resemble women", is the classical Arabic term for people who would now be called transgender women, perhaps poorly distinguished from eunuchs. *Hadith* often makes mention of them. Outside of the religious text they are strongly associated with music and entertainment.

<sup>60</sup> Rowson, E. K., "The Effeminates of Early Medina", *Journal of the American Oriental Society*, Volume 111, Number 4, 1991, pp. 671-693.

<sup>61</sup> Arabs in seventh century Arabia found fat women attractive. The folds that fat creates on the woman's body were seen as desirable and desert women with fat were seen as healthy.

<sup>62</sup> Abu Dawud, *Adab*, Number. 4928, 4:282.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Quran* 2:179.

<sup>65</sup> Abu al-Qasim Sulaiman ibn Ahmad ibn Al-Tabarani (360 AH). He narrated numerous *Hadith*.

<sup>66</sup> The Umayyads, headed by Abu Sufyan, were a merchant family of the Quraish tribe centred at Mecca. They had initially resisted Islam, not converting until 627 AD, but subsequently became prominent administrators under Muhammad and his immediate successors. Following the murder of 'Uthman, civil war ensued, and although Ali was initially triumphant, eventually Abu Sufyan's son Mu'awiyah, then governor of Syria, emerged victorious, establishing himself as the first Umayyad caliph.

<sup>67</sup> The Umayyads were considered too secular and discontent erupted into major revolts in Syria, Iraq, and Khorasan (745-746 AD). In 749 AD, Abu al-'Abbas as-Saffah was proclaimed as caliph who thereby became first of the Abbasid

dynasty.

<sup>68</sup> Peters, R., *Crime and Punishment in Islamic law*, Cambridge University Press, Cambridge, 2006, p. 61.

<sup>69</sup> *Quran* 2:179.

<sup>70</sup> *Quran* 5:32.

<sup>71</sup> *Quran* 6:151.

<sup>72</sup> *Quran* 17:33.

<sup>73</sup> *Quran* 3:135.

<sup>74</sup> *Quran* 4:15.

<sup>75</sup> *Quran* 4:16.

<sup>76</sup> *Zina* is a term used in orthodox Islam for extramarital and premarital sex for which there is a punishment of either stoning to death or up to a hundred whip lashes. Progressive Muslims would prefer to view *zina* as sexual relationships with someone outside of a longstanding commitment, contract or mutual agreement, be it verbal or written.

<sup>77</sup> *Quran* 17:32.

<sup>78</sup> *Quran* 24:2.

<sup>79</sup> *Quran* 5:45.

<sup>80</sup> *Quran* 33:30.

<sup>81</sup> *Quran* 4:25.

<sup>82</sup> *Rajm*, meaning stoning, is a punishment that has been prescribed as proper for married men and women who commit adultery when proof is established, or there is pregnancy, or a confession. However, this is not a term found in the Quran and hence this practice is justified through secondary Islamic sources.

<sup>83</sup> Al-Bukhari, *Sahih Al-Bukhari*, Volume 8, Book 82, Number 816.

<sup>84</sup> Ibn Majah, *Sunan Ibn Majah*, Volume 2, p. 39.

<sup>85</sup> *Quran* 2:106.

<sup>86</sup> *Quran* 31:6.

<sup>87</sup> *Quran* 3:110.