

Islām and Individual Predisposition

to

Homosexuality

by

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Declaration

I declare that “Islām **and individual predisposition to Homosexuality**” is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

A handwritten signature in black ink, appearing to read 'Dawood Terblanche', written over a horizontal line.

Signature

Dawood Terblanche

26 January 2009

Date

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Transliteration

Name	Arabic Symbol	Phonetic Symbol		Name	Arabic Symbol	Phonetic Symbol
Alif	ا	a		Dād	ض	ḍ
Bā'	ب	b		Tā'	ط	ṭ
Tā'	ت	t		Zā'	ظ	ẓ
Thā'	ث	th		Ain	ع	`a
Jīm	ج	j		Ghain	غ	gh
Hā'	ح	ḥ		Fā'	ف	f
Khā'	خ	kh		Qāf	ق	q
Dāl	د	d		Kāf	ك	k
Dhāl	ذ	dh		Lām	ل	l
Rā'	ر	r		Mīm	م	m
Zay	ز	z		Nūn	ن	n
Sīn	س	s		Wāw	و	w
Shīn	ش	sh		Hā'	ه	h
Sād	ص	ṣ		Yā'	ي	y

The Arabic alphabet consists of 28 consonants. The hamzah (ء) is counted as an extra letter. It is indicated by the symbol ('). Three of the consonants are also used as long vowels or diphthongs, viz, alif (ا), wāw (و) and yā' (ي). They are indicated with a line (ˉ) upon the consonants. ¹

¹ Mohamed Yasien and Muhammed Haron.1989. *First steps in Arabic Grammar*. Pietermaritzburg: Natal Witness Printing and Publishing Company. pp. V111.

Abbreviations

R.A	May Allah be pleased with him.
SAW	May the salutations and peace of Allah be upon him.

Abstract

Islām and Individual Predisposition to Homosexuality

The debate around the issue of homosexuals in Islām has recently gained momentum globally. New arguments surfaced which were not discussed previously by the jurists. Some have argued that homosexuality is genetic and others believe it is caused by a hormonal imbalance.

Islām has given Muslims a comprehensive social system in which to operate. It has reserved explicit judgment on many pertinent issues and allowed research to address contemporary challenges by means of *Ijtihād* (personal reasoning). The Islamic judicial system states unequivocally and unambiguously that it expects from its followers to respect the judicial process.

This thesis aims to address the most recent arguments by Muslim homosexuals. I will employ *Qiyās* (analogical deduction) to assess these latest claims and formulate an Islamic judgment regarding them. The formulation of this judgment, though, will take place sketching a legal and historical background of homosexuality in Islām.

Summary

Islām provides clear guidelines to its followers when doubt prevails or in the event things are unclear on pertinent issues that might arise within the future that directly affect people. The Prophet (saw) laid the foundation for his companions in order to teach them the various disciplines that must be followed after his demise. This demonstrates the evolution of Islamic jurisprudence and its divine progressive ability that defies time.

The Islamic penal law is instituted in Islām to ensure that society is protected against the evil and immoral nature of man during moments of weakness. Fixed punishments have been designed to deter people from the serious consequences of crimes and to ensure that society can co-exist on a foundation built on mutual love, respect and honor.

The Islamic ruling on homosexual practices is clear and unambiguous. Islām considers homosexual practices an indecent immoral detested lifestyle that contradicts the origin and procreation of human life and destroys the social fabric of the community. The classical sources of Islām consider homosexuality as a hideous crime that is not open to any other interpretation or discourse. This has been the correct Islamic decree that has remained for centuries.

The *Qur'ān* provides a historical background of the origin of homosexuality in Islām and explains in derogatory terms how it defines this practice. The *Sunnah* of the Prophet (saw) affirms the abhorrent lifestyle that it is and explains the deserving punishment that is befitting to those found guilty of this practice.

Many factors may cause or affect the predisposition of homosexuality but Allah has endowed man with the ability of self-control during moments of immense weakness. Man may have an inclination towards a behavior but is ultimately judged by his actions. He is given the ability of choice and is constantly asked to reflect upon his intentions and desired actions.

Islām expects of its followers strict adherence to its codification of laws which preclude a person from submitting to his carnal desires whenever he chooses. Man must adapt to Islām's divine laws and not vice versa.

Frequently used terms

Apostle Lūṭ

Behavior

Homosexuality (*Liwāṭ*)

Inclination

Islām

Islamic law / Islamic decree

Punishment

Propensity

Qiyās

Qur'ān

Sharī'ah

Acknowledgement

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Introduction

When Islām started flourishing in the Arabian peninsula and beyond, every one knew the fundamental principles on which it was based. Anyone who embraced Islām gradually accepted its judicial system and regulations that were found in its codification of law. People became aware of the consequences and penalties when they failed to adhere to the system. Islām thus regulated their lives from which people derived their values.

The three major religions which people had the choice of embracing were Islām, Christianity and Judaism. When an individual was in search of the truth, he looked for it and was not forced to accept a religion. When the search ended, tranquility and contentment prevailed and the individual lived the religion. For centuries people coexisted with one another despite their ethnicity. Religious tolerance became the salient feature for man's coexistence.

All three Abrahamic faiths shared several common laws based upon a foundation that encourages the good and forbids the evil. The salient reason and objective is to build an exemplary society in which people can coexist with one another. Several communities became established where people enjoyed social, economic freedom and justice. Although at times the penalties from religion to religion differed, the primary objectives of its codification of laws were its deterrent.

During the early years of Islām, Muslims were well acquainted with the Islamic ruling of *liwat* (homosexuality). The Prophet (saw) explained to his people the evil that it is and warned them of the severe consequences if anyone was found guilty of practicing this undesirable and detested lifestyle. No one was confused regarding its understanding and it only had one explanation. The judgment was clear and unambiguous and no one questioned its verdict.

Orthodox Muslims have condemned homosexuality in the strongest of terms and it has always been seen as a deviant immoral behavior throughout Islamic history.

Throughout the centuries it has remained a detested topic to discuss. To many it is a moral disorder that can be treated. Homosexuality threatens the chastity and morality of the society because it contradicts the procreation and existence of human life.

Between 27th March and 3rd April 2006 the International Lesbian and Gay Association (ILGA) hosted a conference on homosexuality in Geneva. Muhsin Hendricks the president of the Inner Circle, South Africa, Cape Town was invited to present an Islamic perspective on homosexuality. In his article presented at the conference he argues the following points:

- 1 .The reason why Muslims do not accept Muslim homosexuals is because of their inaccurate understanding of the subject.
2. The views of the scholars over the centuries are based on *Ijmā'* (consensus) and *Qiyās* (analogical deduction) which is based on personal interpretation. He calls upon the scholars to revisit the classical text and understand the context in which it was revealed and see how it relates to both Western and Eastern modern contexts.
3. If one begins to understand the historical facts of Sodom and Gomorrah then he will realize that it is not similar to homosexuality as we find today (see annexure one).

Recently as two years ago the Muslim community of Cape Town had to be reminded once again of this evil practice. New arguments surfaced which needed answers and new responses. The majority of the Muslims had the same understanding of what *liwāṭ* (homosexuality) meant as during the early years of Islām. This debate continued on a number of radio stations that portrayed Islām as an unsympathetic and discriminative religion.

It was clear that the Muslim community could not adequately deal with the situation and started ostracising homosexuals. This resulted in a number of families severing their relations with their family members whom they suspected of being homosexual. The reality is that there are homosexuals who claim to be “ Muslims ”.

Every year in November, Cape Town hosts the Gay and Lesbian festival. During this period the city becomes known as the “Pink City”. It is a time when people regardless

of ethnicity and geographical boundaries emerges on the city to demonstrate to the world that they are proud homosexuals and to make their cause heard. In November 2007 the Muslim community was outraged to discover that there were once again Muslims partaking in this festivity. They promoted a documentary called “ *A Jihad for Love* ” which was premiered at the Toronto International Film Festival in September 2007 to demonstrate to the Muslim world the challenges faced by Muslims who are homosexual. After its worldwide tour, the documentary made its way to South Africa to be screened at the Gay and Lesbian film festival in Cape Town. The problem exacerbated when Muhsin Hendrickes and the director of the film Parvez Sharma were given airtime on the 16 November 2007 on a leading Muslim community radio station in Cape Town, The Voice of the Cape to promote their documentary.

According to Parvez Sharma the film brings to light the secret lives of Muslims who are gay, lesbian, bisexual and transgender. It addresses the struggle of these people to reconcile their ardent belief in Islām with the innate reality of their sexual orientations. They are at a constant personal struggle to reconcile their religious Islamic beliefs and their homosexuality in homophobic Islamic communities. Further the documentary tries to explain that it’s not the Islamic religious system that rejects and condemns gay men but it is the scholars who have controlled its interpretation through their understanding. The message in the documentary indicates that it is time for Muslims to bridge their religious divides and to portray the humanity of the values on which it is built. According to its director, the objective of the documentary is to present awareness on homosexuality and to break down the walls of silence and readdress the role of religious fundamentalism in this regard. Both Muhsin Hendricks and Parvez Sharma defended their homosexuality and presented their views concerning the validity of homosexuality and that there is nothing wrong in Islām with men being homosexuals. It was clear that when airtime was given to the listeners the majority of them were unable to articulate the correct Islamic verdict on these claims of propensity. It was not peculiar that they were unable to present the correct Islamic decree as it was the first time that these claims were raised. These claims were convincing to a number of Muslims because of their limited understanding on the subject.

Previously on the same radio station Muhsin Hendricks claimed that the historical facts are distorted in the classical sources, the *Qur'ān* and *Sunnah* around the issue of *Liwāṭ*. He further added that the reference made in the *Qur'ān* of Sodom and Gomorrah refers to male to male rape without consent. Thus, based on their understanding of the historical facts and interpretation, homosexuality is accepted.

Subsequently, the Muslim Judicial Council (MJC) convened an emergency meeting on Thursday the 22 November 2007 at their headquarters in Athlone, Cape Town with all the '*ulamā*' (Islamic scholars) in the Western Cape to seek direction and a suitable response to this confusion that resurfaced in the Muslim Community. The meeting concluded with a unanimous consensus and a way forward. They responded with a *fatwā* (Islamic ruling) in the form of an official statement (see annexure two). Shortly after the *fatwā* was aired on The Voice of the Cape, Muhsin Hendricks called upon individuals, organizations and institutions to oppose the *ḥukm* (verdict) issued by the MJC (see annexure three).

According to the Islamic Unity Convention (IUC) another Islamic organization in the Western Cape, the documentary “*A Jihad for love*” sends the following message to the Muslim community:

1. “ It is striving to replace the natural order with the unnatural.
 2. It is legalizing sodomy in Islam.
 3. We will be witnessing the disappearance of family life.
 4. It gives homosexuals and heterosexuals an equal status in the sight of Allah. ”
- (see annexure four)

This thesis attempts to look at the broader issue of homosexuality in light of the new arguments from the perspective of homosexuals. It will endeavor to give guidance to the Muslim community in light of the *Sharī'ah* (Islamic law) and present a greater understanding on the issue of homosexuality.

This thesis will look primarily at the salient arguments in the following three cases:

1. Those who partake in the practices of homosexuality, promoting it and believing that it is accepted in Islām.
2. Those who merely partake in homosexuality practices.
3. Those who have a predisposition to homosexuality.

Does the *Sharī'ah* regard all three cases under the same *ḥukm*, or does the *Sharī'ah* acknowledge that there may exist a distinct difference between the three cases and that the *ḥukm* may differ in those instances? The scope of this study will be useful to all Muslims. This thesis will provide clarity on the subject of propensity towards homosexual behavior based on contemporary arguments and will not only benefit the '*ulamā*' fraternity, but all Muslims globally especially in Cape Town. It will not only reiterate and confirm the Islamic position of what is viewed in Islām as homosexuality but will also clarify and shed light on the Islamic position of contemporary claims of homosexuals.

The classical sources such as the books on *tafāsīr* (interpretations of the *Qur'ān*) and the books on *aḥādīth* (Prophetic narrations) will allow us to give an Islamic legal perspective and verdict on the first two cases.

The classical *tafāsīr* books like the *tafsīr al-Jalālain* by Ibn Aḥmad al-Muḥallā and 'Abd al-Raḥmān al-Suyūṭī and *tafsīr al-Qur'ān al-Azīm* by Ibn Kathīr have a common focus. They not only explain the historical background of *liwāṭ* but also the form of destruction of the people of Apostle Lūṭ. These *tafāsīr* books are important references as they set the understanding of the exact practices of *liwāṭ* during the early times in perspective. It is also clear from these works that the issue of propensity towards homosexual behavior was non-existent and not discussed by these '*ulamā*'.

The *aḥādīth* books similarly discuss the Prophet's (saw) opinion of the danger of *liwāṭ* and what the appropriate penalty should be for offenders. However, it does not discuss the claims of propensity towards homosexual behavior nor how people should interact with them.

The history book *Qaṣaṣ al-Anbiyā'* by Ibn Kathīr which is considered to be one of the most important works amongst the historians has been extremely useful. The factual information presented in this classical work has been accredited and acknowledged by great scholars in the past. It has remained over time a well renowned and distinguished history book by all orthodox Muslims. It gives the information from the time Apostle Lūṭ meets the people of Sodom and Gomorrah up to their destruction. However, it does not discuss the question of propensity and predisposition to homosexuality.

Equally, another useful classical work written by Shams al-Dīn al-Dhahabī, *Al-Kabā'ir* between the year seven hundred and eight hundred after the *hijrah* (migration of the Prophet Muḥammad (saw) from Makkah to Madīnah) has been certainly helpful. It explains the evil and deviant sin that *liwāṭ* is based on the *Qur'ān* and *aḥādīth* of the Prophet (saw). It further explains the areas which *ijmā'* (consensus) were reached by previous '*ulamā'*'. The area which Imām Shams al- Dīn al-Dhahabī largely focuses on in his chapter of *liwāṭ* is the punishment of the people of Apostle Lūṭ and an incident recorded in history where a man was found guilty of *Liwaṭ* during the reign of rule of Abū Bakr (RA). This incident subsequently explains the accepted punishment of *liwāṭ* shortly after the demise of the Prophet (saw). This chapter on *liwāṭ* has been insightful, as it gives the understanding of the act of *liwāṭ* and what can be implied as *liwāṭ* which is often not discussed. However, this chapter does not address the issue of propensity towards homosexual behavior.

In relation to the third case, where classical literature is scarce I intend to use a *qiyās* (analogical deduction) approach. The *Sharī'ah* has allowed the implementation of *qiyās* when the *Qur'ān*, *Sunnah* and *Ijtihād* (juristic reasoning) fail to provide a ruling on a matter. Logical reason by way of *qiyās* has remained a subject of inquiry that is based on identifying the underlying principle of an existing case and present case. This allows the same rule of the first case to be extended to the second case on condition that there remains a common element between the two cases. This process will allow me to deduce a *Sharī'* verdict by using *qiyās* on the claim of propensity towards homosexual behavior. I will also consult the medical fraternity to determine whether the claim of homosexual propensities is valid or not.

Chapter One of this thesis will examine the literal and *shar'ī* definition of *liwāt*. This will provide the correct understanding of what constitutes homosexuality in Islām. It will cover the historical and legal background in this regard based upon the classical sources, the *Qur'ān* and *Sunnah*.

Chapter Two will deal with the first two cases. It will cover the Islamic legal verdict of those who promote homosexuality in Islām and also those who practices homosexual behavior. It will also cover the proposed punishment in Islām for offenders in both cases. This chapter will also look at the Qur'anic terms used to describe Apostle Lūt's people.

Chapter three will examine the contemporary claims of homosexuals. It will analyze whether propensity is a legitimate claim because of possible hormonal imbalances and if the findings are true medically. It will also focus on the *sharī'ah* perspective of *khunthā* (hermaphrodites) as a case study. The process that will be used is *Qiyās* as the fourth primary source in Islām. After understanding the *sharī'ah* perspective on the matter we will compare it by way of *Qiyās* to the issue of propensity towards homosexual behavior. If a common cause exists between the two case studies by meeting the requirements of *Qiyās* we will be able to deduce the appropriate *shar'ī* ruling on the matter. This concluding chapter, will look at various factors that contribute and affect homosexuality and will focus upon the social responsibility of the community towards homosexuals. Finally, it will determine whether this gives the right to any individual to practice homosexuality.

Chapter One

Homosexuality in Islām

Introduction

The Arabic word used to describe the concept of homosexuality is *liwāṭ*. This literal translation is relatively new to the Arabic dictionary. However, it does not give the absolute meaning and understanding of what *liwāṭ* means in Islām.

In the English language homosexuality refers to a sexual attraction to one's own sex.² According to the Encyclopedia of Religion the word homosexuality is derived from the Greek "homos", meaning same, and not from the Latin "homo", meaning man.³ This meaning refers both to sexual relations between males and sexual relations between females. More specifically, with regards to females, lesbianism is often used to describe the sexual relationship between females. When translating *liwāṭ* from the Arabic language into English one must have a clear understanding of its meaning and implication.

Literal Definition

The origin of this word is derived from the root verb لآل (*lāṭa*), which has a number of meanings; to stick, cling, join, etc. It also refers to loving someone and to connect

² *The Pocket Oxford Dictionary*, 1978. (Edited by Sykes, J.B. Sixth Edition). Britain: Oxford University Press. pp. 414.

The New Choice English Dictionary, 1999. United Kingdom. Peter Haddock Publishers. pp. 156.

Harrap's English Mini Dictionary, 1993. (Edited by P.H. Collin). Edinburgh: Harrap Books Ltd. pp.248 – 249.

Reader's digest Wordpower Dictionary, 2002. (Edited by Oxford University Press). London: The Reader's Digest Association Limited. pp. 463.

³ *Encyclopedia of Religion*, 2005 (Edited by Lindsay Jones. Second edition). United States of America. Publishers – Thomson Gale. Vol.1 pp. 14.

emotionally with another person.⁴ When this verb is transformed into its noun it has three distinct meanings and interpretations; to indulge in the actions of the people of the Apostle Lūṭ (Lot),⁵ sodomy and pederasty.⁶

Legal (*Shar'ī*) definition

The word *liwāṭ* in its verb or noun does not appear in the *Qur'ān*. However, its meaning is suggested through its verses. In places where references are made to Apostle Lūṭ the meaning is emphasized through these verses.

" و لوطا إذا قال لقومه أتأتون الفاحشة ما سبقكم بها من أحد من العالمين ، إنكم لتأتون الرجال شهوة من دون النساء بل أنتم قوم مسرفون "

" We also (sent) Lūṭ: He said to his people: Do ye commit lewdness such as no people in creation (ever) committed before you? For ye practice your lusts on men in preference to women: ye are indeed a people transgressing beyond bounds."
(Q 7:80 – 81)

" أ تأتون الذكران من العالمين ، و تذرون ما خلق لكم ربكم من أزواجكم بل أنتم قوم عادون "

" Of all the creatures in the world, will ye approach males, and leave those whom Allah has created for you to be your mates? Nay ye are a people transgressing (all limits). " (Q 26:165)

" و لوطا إذا قال لقومه أتأتون الفاحشة و أنتم تبصرون ، أ أنكم لتأتون الرجال شهوة من دون النساء ، بل أنتم قوم تجهلون "

⁴ Anīs Ibrāhīm, Muntaṣir 'Abd al-Ḥalīm, 'Aṭīyah al-Sawālihī, Muḥammad Khalaf Allah, Undated. *Al-Mu`jum al-Wasīṭ*. Turkey – Al-Maktabah al-Islāmiyyah. Vol. 2 pp. 846.

⁵ Ibid.

⁶ Wehr, Hans, 1980. *A Dictionary of Modern Written Arabic*. Beirut: Librairie Du Liban and London: Macdonald and Evans LTD. Third Print. pp. 883.

“ (We also sent) Lūṭ (as a messenger): behold he said to his people, Do ye do what is indecent though ye see (its iniquity)? Would ye really approach men in your lust rather than women? Nay, ye are a people (grossly) ignorant. ” (Q 27: 54 – 55)

From the above three mentioned verses, it is apparent that the *Qur’ān* makes reference to the understanding and interpretation of *liwāṭ*. It defines *liwāṭ* through its practice rather than merely definition so that its interpretation is clearly understood and not confused unequivocally. A clear distinction exists between the literal definitions and *shar’ī* interpretation. The literal definition may render some ambiguity as it may either refer only to a state of being, when an individual is attracted and inclined towards the same sex without the act of sodomy or to the actual act of sodomy. In Islām the definition is clear and it refutes the position that homosexuality is merely a state of being. Therefore, to translate *liwāṭ* simply as homosexuality is not entirely correct in Islām. However, in both definitions a common basis exists in which the origin is propensity. Propensity may therefore lead to sodomy in which an individual can become homosexual.

Historical background of Homosexuals in Islām

The practices of homosexuality initially started during the time of Apostle Ibrāhīm and Apostle Lūṭ. Apostle Lūṭ left the homelands of his uncle Apostle Ibrāhīm in Canaan upon his advice and permission ⁷ through the command of Allah ⁸ heading east. ⁹

He ascended upon a town known as Sadwum (سدوم) in land of Palestine ¹⁰ where he decided to settle with his family. As strangers, they were badly treated by the

⁷ Ibn Kathīr, 1991. *Qaṣaṣ al- Anbiyā’*. Syria - Dār al-Khair. pp.171.

⁸ Ibn Kathīr, 1997. *Tafsīr al-Qur’ān al- Aẓīm*. Riyādh – Dār Ṭayyībah. Vol.6 pp157.

Al-Ṭabarī, Muḥammad bin Jarīr, Undated. *Tārīkh al- Ṭabarī*. Dār al-Ma`ārif. Vol. 1 pp. 293.

⁹ Encyclopedia of Religion, Vol.1 pp. 14.

¹⁰ Ibid.

inhabitants of the city, except by an old couple who offered them hospitality.¹¹ After a few days of coexisting with people of the village he saw what he had never seen or heard of before. He discovered that they were polytheists worshipping idols, highway robbers and the initiators of all forms of evil.¹² He responded to them saying:

" أننكم لتأتون الرجال و تقطعون السبيل و تأتون في ناديكم المنكر "

“ Do ye indeed approach men (sexually) and cut off the highway (by robbing people) and practice wickedness (even) in your councils.....” (Q 29:29)

He later discovered as the days passed by that the majority of the men of the village were sexually involved with men. He started engaging and admonishing them to abandon their evil ways before the wrath of Allah would befall them.

The challenges that Apostle Lūṭ faced with his people were extremely difficult as they were accustomed to their bad ways. They responded to Apostle Lūṭ saying:

" قالوا لئن لم تنته يا لوط لتكونن من المخرجين "

“ They said: “If thou desist not, O Lūṭ thou wilt assuredly be cast out!.” (Q 26: 167)

" فما كان جواب قومه إلا أن قالوا أخرجوا آل لوط من قريبتكم إنهم أناس ينظرون "

“ But his people gave no other answer but this: They said, “Drive out the followers of Lūṭ from your city: these are indeed men who want to be clean and pure .” (Q 27:56)

From the above-mentioned verse it is clear that the people of Apostle Lūṭ acknowledged that their actions were wrong and that they wanted to continue with their ways. Subsequently after much deliberation with them, they decided to challenge Apostle Lūṭ on his admonition that the wrath of Allah will befall them. They said:

¹¹ Ibid.

¹² Ibn Kathīr, 1991. *Qaṣaṣ al-Anbiyā'*. pp.171.

Al-Ṭabarī, Muḥammad bin Jarīr. *Tārīkh al- Ṭabarī*. Vol. 1 pp. 293.

" قالوا انتنا بعذاب الله إن كنت من الصادقين "

" *They said: Bring us the Wrath of Allah if you are of the truthful.*" (Q 29:29)

After Apostle Lūṭ realised that he was unable to persuade them to change their life style he supplicated unto Allah to save him from their wickedness.

" قال رب انصرني على القوم المفسدين "

" *He said: O my Lord! Help Thou me against people who do mischief.*" (Q 29:30).

Shortly after Apostle Lūṭ's supplication, Allah sent Angels in the form of messengers who were disguised as young men.¹³ They first went to Apostle Ibrāhīm to inform him that Allah was going to destroy the people of Apostle Lūṭ.

" و لما جاءت رسلنا إبراهيم بالبشرى قالوا إنا مهلكوا أهل هذه القرية إن أهلها كانوا ظالمين "

" *And when Our Messengers came to Abraham with the good news, they said: "We are indeed going to destroy the people of this township" for truly they are wicked men.*" (Q 29:31)

Apostle Ibrāhīm then replied and said:

" إن فيها لوطا ، قالوا نحن أعلم بمن فيها ، لننجينه و أهله إلا امرأته كانت من الغبرين "

" *But there is Lūṭ there, they said: We know well who is there: we will certainly save him and his following, except his wife: she is of those who lag behind.*" (Q 29: 32)

After the Angels informed Apostle Ibrāhīm that Allah is going to destroy the people of Lūṭ they went to Apostle Lūṭ to convey the same message. According to the

¹³ Ibn Kathīr, 1991. *Qaṣaṣ al- Anbiyā'*. pp.176.

Al-Ṭabarī, Muḥammad bin Jarīr. *Tārīkh al- Ṭabarī*. Vol. 1. pp. 296.

historian and commentator of the *Qur'ān*, Ibn Kathīr, the Angels reached the river Sodom mid afternoon where they met the daughter of Apostle Lūṭ. They enquired of a place to stay and were taken to house of Apostle Lūṭ.¹⁴

" و لما جاءت رسلنا لوطا سيء بهم وضاق بهم ذرعا وقالوا لا تخف ولا تحزن إنا منجوك و أهلك إلا امرأتك
كانت من الغابرين "

“ And when Our messengers came to Lūṭ he was grieved on their account, and felt himself powerless (to protect) them: but they said: “Fear thou not, nor grieve: We are (here) to save thee and thy following, except thy wife: she is of those who lag behind.”
(Q29:33)

Apostle Lūṭ felt great despair and sadness because his people refused to obey him and abandon their malevolent ways. The messengers informed him that Allah requested that he leaves the city with his family during the night because the city will be destroyed the next morning¹⁵ and while leaving they should not look back.¹⁶

" قالوا يا لوط إنا رسل ربك لن يصلوا إليك ، فأسر بأهلك بقطع من الليل و لا يلتفت منكم أحد إلا امرأتك
إنه مصيبها ما أصابهم ، إن موعدهم الصبح أ ليس الصبح بقریب "

“ (The Messengers) said: O Lūṭ! We are Messengers from thy Lord! By no means shall they reach thee! Now travel with thy family while yet a part of the night remains, and let not any of you look back: but thy wife (will remain behind) to her will happen what happens to the people. Morning is their appointed time: is not the morning near?” (Q 11:81)

¹⁴ Ibid. Vol.1 pp.297.

Ibn Kathīr, 1991. *Qaṣaṣ al- Anbiyā'*. pp.177.

¹⁵ Al-Ṭabarī, Muḥammad bin Jarīr. *Tārīkh al- Ṭabarī*. Vol. 1. pp.301.

¹⁶ Ibid. pp.179.

Ibn Kathīr. *Tafsīr al-Qur'ān al-Azīm*. Vol.6. pp.157.

Shortly thereafter, he informed his family to prepare to leave the city. During the night he left with his two daughters¹⁷; Rathā and Zaghratā¹⁸ heading east. Just as they were out of the city, morning approached and the city was destroyed. Apostle Lūṭ and his family are rescued, except for his wife, who looks back and is destroyed.¹⁹

***Liwāṭ* in the *Sunnah* of the Prophet (saw)**

The Prophet (saw) explained to his companions in no ambiguous terms that *liwāṭ* is a great sin that they need to abstain from. He further explained to them, that the prescribed punishment is death if found guilty.

As the *Qur'ān* defines *liwāṭ* through the actions of the people Lūṭ, likewise does the *aḥādīth* define *liwāṭ*. These *Aḥādīth* (narrations) are recorded in *Sunan Ibn Mājah* and *Sunan al-Tirmidhī*. On the authority of Jābir bin 'Abd Allah, he reported that the Prophet (saw) related that he fears that the sin of *liwāṭ* might befall his people in the future. The Prophet (saw) said:

" إن أخوف ما أخاف على أمتي عمل قوم لوط "

“ Verily, what I fear the most for my people is the actions of the people Lūṭ. ”²⁰

In the *ḥadīth* narrated by 'Abd Allah bin 'Abbās he reported that the Prophet (saw) informed them of the deserving penalty for those found guilty of this hideous sin. The

¹⁷ Ibn Kathīr. *Qaṣaṣ al-Anbiyā'*. pp. 179.

Al-Ṭabarī, Muḥammad bin Jarīr. *Tārīkh al-Ṭabarī*. Vol. 1 pp. 299.

¹⁸ Ibn Kathīr. *Qaṣaṣ al-Anbiyā'*. pp.177.

¹⁹ *Encyclopedia of Religion*. Vol. 1. pp.14.

Al-Ṭabarī, Muḥammad bin Jarīr. *Tārīkh al-Ṭabarī*. Vol. 1 pp. 301 - 302.

²⁰ Muḥammad bin 'Īsa bin Sūrah, 2005. *Sunan al-Tirmidhī*. (Edited by Muṣṭafā Muḥammad al-Dhahabī). Cairo: Dār al-Ḥadīth. Hadith no. 1457.

Muḥammad bin Yazīd, 2005. *Sunan Ibn Mājah*. (Edited by Muḥammad Fuād 'Abd al-Bāqī). Cairo: Dār al-Ḥadīth. *Hadīth* no. 2564.

Prophet (saw) instructed that both the perpetrators of homosexuality must be killed.
The Prophet (saw) said:

" من وجدتموه يعمل عمل قوم لوط فاقتلوا الفاعل و المفعول "

“ Whosoever you find engaging in the action of the people Lūṭ, kill both of them. ”²¹

Conclusion

Throughout history the meaning of *liwāṭ* was interpreted in Islām as the explicit act of the people of Apostle Lūṭ. Traditional orthodox Muslim accepted the interpretation of homosexuality as defined in the *Qur’ān* and *Sunnah*. Both the classical sources, the *Qur’ān* and *Sunnah* address the serious nature of this deviant sin.

The *Qur’ān* is clear and unambiguous in describing the horrible and horrific destruction the people of Apostle Lūṭ faced. The *Sunnah* of the Prophet (saw) affirms and clarifies the deserving punishment for this abominable behavior for its perpetrators. A consciousness of their terrible destruction served over centuries as the deterrent from staying away of homosexual behavior.

The People of Apostle Lūṭ clearly understood what they were doing and invoked upon themselves the wrath of Allah. The historical information further refutes the possibility that sodomy may be used as another definition for *liwāṭ*. It is clear that their practice of homosexuality was consensual and a common practice which they initiated. This will be explained further in the next chapter.

Modern “ homosexual Muslims ” have recently tried to reinterpret the classical sources claiming that the historical information is questionable and distorted. They are of the opinion that homosexual behavior between the same sex is allowed in Islām. This will also be clarified in the next chapter.

²¹ Ibid. *Hadīth* no. 2561.

Chapter Two

Qur'anic Condemnation and punishment of homosexuality

Introduction

Throughout Islamic history, *liwāʿ* had a distinct interpretation and understanding amongst the orthodox traditional Muslims. It is only recently that the elucidations of the textual evidence are questioned by a number of “Muslim” homosexuals. They have tried to reinterpret the classical sources hoping to justify their behavior and claim to acceptance in the broader Muslim community.

From the previous chapter it is evident that Apostle Lūṭ had numerous encounters with his people to persuade them to abandon their evil ways. They met his advice with resistance and defiance and promised him that if he persisted they would expel him and his family from the city.

The literal interpretation suggests that sodomy was the reason why the people of Apostle Lūṭ were destroyed. This linguistic understanding of *liwāʿ* as another interpretation of sodomy will be explained in this chapter with reference to the appropriate punishment. This chapter looks at the definition of the word *liwāʿ* and analyses other terms used in the *Qurʾān* in connection with the people of Apostle Lūṭ. It will clearly be shown that these terms collectively denote a strong condemnation of homosexuality. This condemnation is reinforced by *aḥādīth* and consensus of Muslim scholarship.

Literal definition of sodomy

The linguists are divided regarding the translation and interpretation of sodomy. This has caused some confusion even among Muslims. The literal interpretation of a word is important because it serves as a basis for a correct understanding.

According to Harrap's English Dictionary the literal definition of sodomy denotes,

“anal sexual intercourse between men”.²² Al-Dhahabī implies that *liwāṭ* may refer to sexual relations with a female through her anus.²³ According to the Oxford dictionary sodomy refers to an “unnatural copulation act”²⁴, commonly practiced by males or between a person and animal.²⁵ This definition may suggest that sodomy may be practiced on women. This definition is also commonly used today. These interpretations, which exist, must be clearly understood within their proper context. The word *liwāṭ* in Islām has a distinct origin and a distinctive connotation and implication.

According to Muhsin Hendricks president of the Inner Circle South Africa that is based in the Western Cape; “*Without the story of Sodom and Gomorrah, which is believed to refer to the evil of homosexuality, it would be difficult for Muslim to formulate an opinion about homosexuality. If it can be proven beyond doubt that this story refers to male to male rape or anal sex without consent, then the argument that homosexuals deserved the same punishment as that of Sodom and Gommorrah, will fall flat on its face*”.²⁶

Muhsin Hendricks further argued that the act of sodomy was practiced on men who were not necessarily of the city of Sodom. He believes that this act was to disgrace them, assert authority over them and to prevent them from returning to their city. In the view of Muhsin Hendricks; “*it is clear that the nature of sexual atrocity committed was not of mutual consent or homosexuality, although the latter might have been practiced, but rather an abuse of sexual power that could be described as*

²² *Harrap’s English Mini Dictionary*, 1991. (Edited by P. H. Collin). Edinburgh: Harrap Books LTD. pp. 508.

²³ Al-Dhahabī, Muhammad, Undated. *Kitāb al-Kabāir*. Beirut: Lebanon. Dār al-Kutub al-‘Ilmiyyah. pp.65.

²⁴ *The Pocket Oxford Dictionary of Current English*, 1978. (Sixth edition). Britain: Oxford University Press. pp. 866.

²⁵ Ibid.

²⁶ World Conference of International Lesbian and Gay Association (ILGA), 2006. Article: *Islam and Homosexuality* by Muhsin Hendricks.

male to male rape”.²⁷

This chapter will examine the claims of Muhsin Hendricks by focusing on the reason why the people of Apostle Lūṭ were destroyed.

The Qur’anic reference that led to the destruction of Apostle Lūṭ’s people

There are two issues that the *Qur’ān* brings to the attention of its readers. It refutes all possible claims that sodomy through rape by men on men was the common practice of the people of Apostle Lūṭ. The *Qur’ān* is clear in its meaning that sodomy was the choice and practice of the men of Apostle Lūṭ. The *Qur’ān* uses words like “*shahwah*” and “*tadharūna*”.

" إنكم لتأتون الرجال شهوة من دون النساء"

“*Verily you practice your lust on men instead of women*” (Q 7:81)

" أ إنكم لتأتون الرجال شهوة من دون النساء"

“*Do you practice your lust on men instead of women?*” (Q 27:55)

" و تذرون ما خلق لكم ربكم من أزواجكم"

“*And you leave those whom Allah has created for you to be your wives*” (Q 26:166)

In the *tafsīr* of bin Kathīr he explains that Allah advised the people of Apostle Lūṭ to approach their females rather than their males because it was the divine order of the creation of Allah.²⁸ It is thus clear that they refused to practice that which had been prescribed for them as *ḥalāl* (permissible) by previous Apostles. Despite constant persistence no one accepted his advise.²⁹

²⁷ Ibid.

²⁸ Ibn Kathīr, 1997. *Al-Qur’ān al-Azīm*. Riyādh: Dār al-Ṭayyibah. Vol. 6. pp. 157.

²⁹ Ibn Kathīr, 1991. *Qasas al-Anbiyā’*. Beirut: Dār al-Khair. pp. 174.

They continued their evil ways that ultimately led to their gruesome destruction. The *Qur'ān* is unequivocal and clear in its opinion regarding the people of Apostle Lūṭ. The *Qur'ān* uses derogatory terms to describe the serious nature of homosexuality and to bring to the attention of the reader the severity of this behavior.

Qur'anic terms used to describe Apostle Lūṭ's people

1. *Musrifūn*. (Transgressors of boundaries)³⁰

" إنكم لتأتون الرجال شهوة من دون النساء ، بل أنتم قوم مسرفين . "

“ *Verily you practice your lust on men instead of women. Nay, you are a people transgressing beyond bounds* ”. (Q 7:81)

According to the exegesis of Jalālain with regard to this verse, they have transgressed and gone over from *ḥalāl* to *ḥarām* acts by preferring to approach males sexually rather than females.³¹ This was because they abandoned solemnizing their marriages with the opposite sex. In the ambit of complete transgression from one state to another it must be noted that they were accustomed to and had adopted set principles that were passed on to them. The *Qur'ān* asserts that with time continuous transgressions becomes accepted. It is recorded in chapter Yūnus that Allah says:

" و إذا مس الإنسان الضر دعا نا لجنبه أو قاعدا أو قائما ، فلما كشفنا عنه ضره مر كأن لم يدعنا إلى ضره مسه
كذلك زين للمسرفين ما كان يعملون . "

“ *And when harm touches man, he invoke Us lying on his side or sitting or standing. But when We have removed his harm from him, he passes on as if he had never*

³⁰ Al-Muḥallā, Muḥammad bin Aḥmad and Al-Suyūṭī, 'Abd al-Raḥmān, Undated. *Tafsīr al-Jalālain*. (Edited by Muḥammad Al-Ṣādiq). Cairo: Maktabah al-Jumhuriyyah al-'Arabiyyah. pp. 93. Ibrāhīm Aghī, 'Abd al-Ḥalīm, 'Atiyyah al-Sawālīhī and Muḥammad Khalaf Allah, Undated. *Al-Mu'jam al-Wasīf*. Turkey: Al-Maktabah al-Islāmiyyah. Vol. 1. pp. 427.

³¹ Ibid. pp. 132.

invoked Us for a harm that touched him. Thus it is beautified to the transgressors that which they used to do.” (Q 10:12)

The *Qur’ān* further explains that transgression is unacceptable. The *Qur’ān* informs those who are guilty that their abode is the hell fire and that these people should not be obeyed.

" و لا تطيعوا أمر المسرفين . "

“ *And follow not the command of the transgressors.*” (Q 26:151)

" و أن المسرفين هم أصحاب النار . "

“ *And verily the transgressors they are the people of the fire.*” (Q 40:43)

2. *Mujrimūn.*

The *Qur’ān* also describes the people of Apostle Lūṭ as *mujrimīn* (criminals and sinners).³² The Angels first visited Apostle Ibrāhīm before they went to Apostle Lūṭ. Apostle Ibrāhīm tried to determine the reason for their official visit. They informed him that Apostle Lūṭ’s people are *Mujrimīn* and they were designated to destroy his people.

" قال فما خطبكم أيها المرسلون ، قالوا إنا أرسلنا إلى قوم مجرمين . "

“ *(Ibrāhīm) said: What then is the business on which Ye (Have come), O Ye Messengers (of Allah). They said: We have been sent to a people (deep) in sin.* ” (Q 15:57-58)

According to the exegesis of Jalālain the *Mujrimīn* in this verse refers to disbelievers.³³

³² Ibrāhīm Aghīs, 'Abd al-Ḥalīm, 'Atiyyah al-Ṣawālīhī and Muhammad Khalaf Allah. *Al-Mu'jam al-Wasīf*. Vol. 1. pp. 118.

³³ Al-Muḥallā, Muḥammad bin Aḥmad and Al-Suyūtī, 'Abd al-Raḥmān. *Tafsīr al-Jalālain*. pp. 219.

The *Qur'ān* is clear in clarifying the punishment of the *mujrimīn*. Firstly, it informs the reader that the *mujrimīn* were completely misguided because of their actions and then explains that they will be dwelling in the hell fire for eternity.

" إن المجرمين في ضلال و سحر . "

“ Verily the *mujrimīn* (polytheists, disbelievers, sinners, criminals) are in error (in this world) and will burn (in the hell-fire in the Hereafter).” (Q 54:47)

" إن المجرمين في عذاب جهنم خالدون . "

“ Verily, the *mujrimīn* will be in a torment of hell, to abide therein forever. ”
(Q 43:74)

3. *Qawmun Tajhalūn*. (Ignorant people)

After the *Qur'ān* explains that the people of Apostle Lūṭ are *musrifūn* and *mujrimūn* it regards them as ignorant nations because of their persistence with an unnatural way of life.

" أننكم لتأتون الرجال شهوة من دون النساء بل أنتم قوم تجهلون " .

“ Would you really approach men in your lust rather than women? Nay, you are a people ignorant. ” (Q 27:55)

According to the exegesis of Jālalain through their ignorance and refusal to change their aberrant lifestyle they incurred upon themselves the wrath of Allah.³⁴ Ignorance in this verse also refer to the lack of knowledge of the commandments of Allah and the lack of about what was pure and natural by accepting marriages with the opposite sex.³⁵

³⁴ Ibid. pp. 320.

³⁵ Ibn Kathīr. *Tafsīr al-Qur'ān al-Azīm*. Vol. 6. pp. 200.

4. **Mufsidūn.** (Those who commit mischief, crimes, sin and reject faith³⁶ by transgressing what is correct)³⁷

Shortly after Apostle Lūṭ realized that he was unable to persuade them to change their abhorrent lifestyle, he supplicated unto Allah asking Him to safeguard and protect him from his people whom he regarded as *mufsidūn*.

قال رب انصرني على القوم المفسدين ."

“ *He said: Oh my lord! Help thou me against people who do mischief.* ” (Q 29:30)

According to the exegesis of Jalālain the *fasād* (mischief) the people of Apostle Lūṭ initiated was introducing homosexual behavior amongst their men.³⁸ In other verses of the *Qur’ān* Allah is clear that the end result of the *mufsidūn* is not favorable and positive and that they are not loved by Allah.

" و انظروا كيف كان عاقبة المفسدين ."

“ *And see the end of those who did mischief.* ” (Q 7:86)

" و لا تبغ الفساد في الأرض ، إن الله لا يحب المفسدين ."

“ *And seek not mischief in the land, for Allah loves not those who do mischief.* ”
(Q 28:77)

Other commentators of the *Qur’ān* such as Ibn Kathīr have also explained that apart of this great sin which led to their destruction, other mischief they were involved in

³⁶ Ibid. Vol. 1. pp. 180.

³⁷ Ibrāhīm Aghīs, 'Abd al-Ḥalīm, 'Atiyyah al-Ṣawālīhī and Muhammad Khalaf Allah. *Al-Mu'jam al-Wasīṭ*. Vol. 2. pp. 688.

³⁸ Al-Muḥallā, Muḥammad bin Aḥmad and Al-Suyūtī, 'Abd al-Raḥmān. *Tafsīr al-Jalālīn*.. pp. 334.

included highway robbery and the innocent killing of people who passed their city.³⁹

5. *Zālimūn*. (Oppressors)

When the *Qur'ān* recorded the conversation that unfolded between Apostle Ibrāhīm and the Angels it referred to how the Angels viewed and defined Apostle Lūṭ's people. It is clear from the text of the *Qur'ān* that the Angels labeled them as *zālimīn*.

" و لما جاءت رسلنا إبراهيم بالبشرى ، قالوا إنا مهلكوا أهل هذه القرية ، إن أهلها كانوا ظالمين "

" *When Our Messengers came to (Apostle) Ibrāhīm with the good news they said: We are indeed going to destroy the people of this township, indeed its people are oppressors.*" (Q 29:30)

The exegesis of Jalālain further suggests that their defiance and refusal to change their repulsive and disgusting lifestyle led them to becoming *kāfirīn* (rejecters of the message).⁴⁰ Apostle Lūṭ's people were given sufficient time to rectify their way of life and follow the divine message of Apostle Lūṭ. Their defiance and arrogance stood in the way of their decision. Their repulsive manners and boastful behavior caused them to challenge the validity of the divine message. They went a step further by invoking the punishment of Allah to verify the validity of Apostle Lūṭ's message.

" قالوا اتتنا بعذاب الله إن كنت من الصادقين . "

" *They said: Bring us the wrath of Allah if Thou are of the truthful.* " (Q 29:29)

The punishment of the people of Apostle Lūṭ

The punishment for those who engaged in homosexual practices during the period of Apostle Lūṭ is clearly to be found in a number of verses in the *Qur'ān*.

³⁹ Ibn Kathīr. *Tafsīr al-Qur'ān al-Azīm*. Vol. 6. pp.276.

⁴⁰ Al-Muḥalla, Muḥammad bin Aḥmad and Al-Suyūṭī, 'Abd al-Raḥmān. *Tafsīr al-Jalālain*. pp. 334.

" و أمطرننا عليهم مطرا ، فانظر كيف كان عاقبة المجرمين "

“ *And We rained down on them a rain (of stones). Then see what was the end of the Mujrim īn.*” (Q 7:84)

" فجعلنا عاليها سافلها و أمطرننا عليهم حجارة من سجيل "

“ *And we turned (the town of Sodom) upside down and rained on them stones of baked clay.*” (Q 15:74)

" فلما جاء أمرنا جعلنا عاليها سافلها و أمطرننا عليها حجارة من سجيل منضود مسومة عند ربك "

“ *So when Our commandment came, We turned it upside down and rained on them stones of baked clay in a well-arranged manner, one after another, marked from thy Lord.*” (Q 11:82)

According to Dhahabī the word “ *musawwamah 'inda rabbika* ” indicates that their punishment was no ordinary punishment. The stones that rained upon them had signs that were not of this world.⁴¹ According to Ibn Kathīr on the surface of each stone was a name engraved of a person from the people of Apostle Lūṭ.⁴² This particular stone then fell on the person with that name. The exegesis of Jalālāin explains that the stones were baked in fire.⁴³ This form and type of punishment clearly shows the severity and evil of this sin. It serves as a deterrent and an admonition to anyone who considers committing the act of homosexuality.

However, the above-mentioned punishment was for a specific people during a specific time. After Allah destroyed the people of Apostle Lūṭ the evil practices of homosexuality were from a forgotten past. The *Qur'ān* speaks of their punishment as a deterrent and referred to in *aḥḍāḍīth* as an evil life-style. No other nation after them

⁴¹ Al-Dhahabī, Muhammad. *Kitāb al-Kabā'ir*. pp. 59

⁴² Ibn Kathīr. *Tafsīr al-Qur'ān al-Azīm*. Vol. 4. pp. 340.

⁴³ Al-Muḥalla, Muḥammad bin Aḥmad and Al-Suyūṭī, 'Abd al-Raḥmān. *Tafsīr al-Jalālāin*. pp. 219.

was found guilty of similar practices. An argument might arise as to what would be the appropriate punishment for homosexual practices today.

The punishment of homosexual practices during the life of the Prophet (saw)

During the life of the Prophet (saw) all forms of homosexual indecencies were non-existent. The Prophet (saw) only related to his companions the story of Apostle Lūṭ and that was sufficient as a deterrent. The Prophet (saw) reiterated in a number of *ahādīth* the evil of this behaviour for which the curse of Allah falls upon the culprit. He (saw) also informed his companions of what would be their appropriate punishment if found guilty.

" أخوف من أخاف عليكم عمل قوم لوط و لعن من فعل فعلهم ، (ثلاثا) لعن الله من عمل عمل قوم لوط لعن الله من عمل عمل قوم لوط لعن الله من عمل عمل قوم لوط . "

*" What I fear for you (my followers) the most is the practice of the people (Apostle) Lūṭ and (Allah) has cursed those who imitate their action. (He repeated it thrice) Allah has cursed those who imitate the action of the people of (Apostle) Lūṭ, Allah has cursed those who imitate the action of the people of (Apostle) Lūṭ, Allah has cursed those who imitate the actions of the people of (Apostle) Lūṭ. "*⁴⁴

" من وجدتموه يعمل عمل قوم لوط فاقتلوا الفاعل و المفعول "

*" Whosoever finds them engaging in the actions of the people of Lūṭ, kill both (perpetrators). "*⁴⁵

This verdict of the Prophet (saw) is 'ām (general) and does not refer to possible claims of a propensity towards homosexuality practices through possible hormonal imbalances. Nor does it explain the method of killing of those found guilty of homosexual behavior. The only existing consensus amongst the scholars pertaining to

⁴⁴ See Chapter One.

⁴⁵ Ibid.

this subject matter is that it is considered to be one of the major sins that Allah has forbidden.⁴⁶

During the reign of rule of Abū Bakr, he dealt with an incident of homosexual behavior. Khālid bin Walīd reported that they found men who were engaging in homosexual behavior. After a lengthy consultation with his advisors about the appropriate punishment, 'Alī bin Abī Tālib stood up and remarked; “ *My opinion is that they must be burnt alive.*” The independent view of 'Abd Allah bin 'Abbās was that they should be taken to the highest building in the city, thrown from it and stones hurled on them.⁴⁷ Abū Bakr agreed with the view of 'Alī bin Abī Tālib and commanded Khālid bin Walīd to burn them alive.⁴⁸

This has remained the correct Islamic decree for centuries; death as a capital punishment. Ibn Kathīr has further recorded the views of Imām Abū Ḥanīfah and Imām Shāfi'ī on the form of punishment for homosexual behavior.⁴⁹ According to Ibn Kathīr the view of Imām Shāfi'ī is that both perpetrators must be killed. This view is general and does not offer any clarity on the form of death the perpetrators deserve. The view of Imām Abū Ḥanīfah concurs with the view of Imām Shāfi'ī but clarifies the type of death. According Imām Abū Ḥanīfah the perpetrators should be taken to the highest building in the city and thrown from it. After they have been thrown from it, stones must be hurled upon them.

It must be stated that any attempt to revisit the verses with new interpretations seeking to justify homosexual behavior, after consensus has been reached on those verses, makes an individual an apostate.⁵⁰ The punishment for such views will fall under the decree related to apostasy.

⁴⁶ Al-Dhahabī, Muhammad. *Kitāb al-Kabāir*. pp. 60.

⁴⁷ Ibid. pp. 60.

⁴⁸ Ibid. pp. 64.

⁴⁹ Ibn Kathīr. *Tafsīr al-Qur'ān al-Azīm*. Vol. 4. pp. 342.

⁵⁰ Al-Nawawī, Yahyā bin Sharf, 1995. *Raudah al-Tālibīn wa 'Umdah al-Muftīn*. Beirut: Dār al- Fikr. Vol:8 pp.388.

The punishment for apostasy

The Arabic term used to describe apostasy is *riddah*. Etymologically the interpretation *riddah* refers to return or to return from where one comes from.⁵¹ The word *riddah* in technical terms refers to when a Muslim who is psychologically stable abandons his or her religion or renegades from Islām by choice.⁵² This may be done verbally, in belief or through actions.⁵³

The punishment for apostasy falls under the sphere of Islamic penal law. The Islamic penal law today is not enacted for the violation of divine injunctions, like *ṣalāh* and fasting but rather for the contravention of people's right in which society is affected.⁵⁴

There is consensus amongst Imām Abū Ḥanīfah, Imām Mālik, Imām Shāfi'ī and Imām Aḥmad that the punishment for a male apostate is death.⁵⁵ A minor under the age of puberty who becomes an apostate is to be imprisoned and encouraged to revert to Islām. If he refuses to accept Islām he is to remain in imprisonment until he attains puberty, and thereafter he is offered Islām again. If he refuses to return to Islām after

⁵¹ Al-Mālikī, Muḥammad bin 'Abd Allah, 1997. *Hāshiyah al-Khurashī*. Beirut: Dār al-Kutub al-Ilmiyyah. Vol. 8. pp 252.

⁵² Ibid.

Haider, S.M, 1985. *Shariah and Legal Profession*. Lahore : Ferozsons Ltd. *Islamic Law of Punishment*. Article by Gul Muhammad Durrani. pp. 302.

Al-Miṣrī, Shihāb al-Dīn, Undated. *'Umdah al-Sālik wa 'Uddah al-Nāsik*. Beirut: Manshūrāt al-Maktabah al-'Aṣriyyah. pp. 233.

⁵³ Al-Mālikī, Muḥammad bin 'Abd Allah. *Hāshiyah al-Khurashī*. Vol. 8. pp 253.

⁵⁴ Haider, S.M, 1985. *Shariah and Legal Professions*. Lahore: Ferozaons Ltd. pp. 224. Article: *Crime and the Laws of Islam* by Aminuddin.

⁵⁵ Al-Nawawī, Muḥī al-Dīn. 2001. *Kitāb al-Majmū'*. Lebanon: Beirut: Dār Ihyā' al-Turāth al-'Arabī. Vol.21. pp.47.

Al-Miṣrī, Shihāb al-Dīn. *'Umdah al-Sālik wa 'Uddah al-Nāsik*. pp. 233.

Al-Nawawī, Yahyā bin Sharf. *Raudah al-Tālibīn wa 'Umdah al-Muftīn*. Vol: 8 pp.388.

Al-Qurṭubī, Ibn Rushd, 1995. *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid*. Riyādh: Maktabah Nizār. Vol. 2 . pp 817.

three days the penalty of death is declared against him and he is killed on the third day before sunset.⁵⁶ The Shāfi'iyyah however are of the opinion that the apostasy of a minor is not correct; therefore, he should be left alone until the age of puberty.⁵⁷ After the age of puberty he is considered an adult and is to be treated like an adult.

According to the Ḥanafiyah a female apostate is not to be killed but rather kept in confinement until she recants.⁵⁸ The majority of the '*ulamā*' like Abū Bakr, Ḥasan al-Basrī, Al-Zuhrī, Al-Auzā'ī, Al-Layyith, Imām Mālik, Imām Shāfi'ī and Imām Aḥmad bin Ḥanbal hold an opposing view. They are of the opinion that a female apostate is to be killed because the *aḥādīth* endorsing the death penalty is '*ām*' in the case of a male and female.⁵⁹ A woman menstruating is only to be killed after her menstruation had stopped and if she is pregnant her death must be postponed after childbirth. During this period she must find a suitable female to breast-feed her child. Thereafter she is to be killed.⁶⁰

Contemporary scholars differ whether the punishment of *riddah* falls under the realm of a *ḥadd* (fixed) punishment or *ta'zīr* (discretionary) punishment.⁶¹ Jurists who view apostasy as *ta'zīr* punishment may prescribe death because of the severity of the sin.⁶²

⁵⁶ Al-Malikī, Muḥammad bin 'Abd Allah. *Ḥāshiyah al-Khurashī*. Vol 8. pp. 258.

⁵⁷ Al-Nawawī, Muḥī al-Dīn. *Kitāb al-Majmū'*. Vol. 21. pp. 43.

⁵⁸ Al-Rāfi'ī, 'Abd Qādir, 2003. *Taqrīrāt al-Rāfi'ī*. Beirut: Dār al-Kutub al-'Ilmiyyah. Vol. 14. pp. 434.

⁵⁹ Al-Nawawī. *Kitāb al-Majmū'*. Vol. 21. pp. 47.

Said Sābiq. *Fiqh al-Sunnah*. Vol. 2 pp. 304.

Al-Qurtubī, Ibn Rushd. *Bidāyah al-Mujtahid wa Nihāyah al-Muqtasid*. Vol. 2 . pp 817.

⁶⁰ Al-Mālikī, Muhammad bin Abd Allah. *Ḥāshiyah al-Khurashī*. Vol. 8. pp. 259.

⁶¹ El- Awa, S. Mohamed, 1998. *Punishment in Islamic Law: A comparative Study*. Riyādh: International Islamic Publishing House. pp. 55 – pp. 60.

Siddiqi, M, 1994. *Penal Law of Islam*. Delhi: International Islamic Publishers. pp. 97.

Al-Nawawī Yahyā bin Sharf. *Raudah al-Tālibīn wa 'Umdah al-Muftīn*. Vol.8 pp. 399.

⁶² Ibid. pp.55.

Haider, S.M. *Shariah and Legal Profession*. Article by Gul Muhammad Durrani. pp. 304.

This view has been influenced by the literal interpretation of the text in which the Prophet (saw) says:

" من بدل دينه فاقتلوه "

“ *Whosoever changes his religion kill him*”.⁶³

It has also been reported that a Jewish man embraced Islām in the company of the Prophet (saw). Mu’adh bin Jabl (RA) entered upon their company and witnessed the proceedings. Before Mu’adh (RA) sat he reverted to Judaism. The Prophet (saw) then told Mu’adh (RA) to sit and he refused saying:

" لا أجلس حتى يقتل ، قضاء الله و رسوله (ثلاث مرات) "

“ *I will not sit unless he is killed. (He then said thrice); May the Judgement of Allah and His Messenger prevail* ”.⁶⁴

The prescribed punishment of death for apostasy is a law decreed by a number of great companions of the Prophet (saw) like Abū Bakr, 'Umar bin al-Khattāb, 'Uthmān bin 'Affān, 'Alī bin Abī T̄alīb, Mu’adh bin Jabal, Abū Mūsā, Ibn 'Abbās, etc.⁶⁵ The wisdom behind prescribing the death penalty for an apostate is based upon the reasoning that man is created with a perfect intrinsic nature. When value and respect is not given to it, an individual disrespects himself so profoundly that he does not deserve to live. Another rationale is that Islām is a religion that extends beyond an individual. The concern of Islām is to ensure the preservation of the values that benefit the broader society. In violating these values mischief and evil begin to infiltrate society, therefore, by killing an apostate one begins to preserve not only Islām but also the society.⁶⁶

⁶³ Al-Asqalānī, Ibn Ḥajr, 1997. *Fath al-Bārī Sharḥ Saḥīḥ al-Bukhārī*. Riyādh: Dār al-Salām. Ḥadīth 6922.

⁶⁴ Ibid. Ḥadīth. 6923.

⁶⁵ Ibn Qudāmah, 2004. *Al-Mughnī*. Cairo: Dār al- Ḥadīth. Vol.12. pp. 86.

⁶⁶ Said Sabiq. *Fiqh al-Sunnah*. Vol. 1. pp. 302.

Sāliḥ bin Fawzān. *Mulakhkhas al-Fiqhī*. Vol. 2. pp. 570.

Muḥammad bin 'Abd Allah al-Khurashī al-Mālikī is of the opinion that an individual is only considered a *murtad* (out of the fold of Islām) if he openly confesses it and acts against the tenets of Islām.⁶⁷ If it is not known whether an individual is an apostate there must be clear undisputed indications and signs that prove beyond a reasonable doubt that he is a *murtad*. According to Al-Nawawī, Ibn Qudāmah, Muḥammad bin 'Abd Allah al-Mālikī and Ṣāliḥ bin Fawzān there are a number of actions which renders an individual out of the fold of Islām:⁶⁸

- a. Denying the principles and tenets of Islām. For example: Ascribing partners unto Allah, denying the existence of the Angels, etc.
- b. Permitting that which is agreed upon by the '*ulamā*' as forbidden.
Example: Permitting fornication, adultery, consumption of alcohol, etc.
- c. Forbidding that which is lawful. Example: The five daily prayers, fasting during the month of Ramaḍān, etc.
- d. Verbally abusing and mocking a Prophet.
- e. Mocking the religion of Islām.
- f. Claiming to be a Prophet.
- g. Throwing the *Qur'ān* into a bin.
- h. Ignorance of important aspects of Islām.

Al-Nawawī uses the example of *liwāt* to clarify and state unambiguously and unequivocally that any individual who believes that homosexuality is correct after consensus was reached upon its prohibition is regarded as an apostate.⁶⁹ This

⁶⁷ Al-Malikī, Muḥammad bin 'Abd Allah. *Hāshiyah al-Khurashī*. Vol. 8. pp. 252.

⁶⁸ Ibid. Vol. 8. pp. 253-257.

Al-Nawawī, Muḥī al-Dīn. *Kitāb al-Majmū'*. Vol. 21. pp. 51.

Ṣāliḥ bin Fawzān. *Mulakhkhas al-Fiqhī*. Vol. 2. pp. 566 – 567.

Ibn Qudāmah. *Al-Mughnī*. Vol. 12:86.

Al-Nawawī, Yaḥyā bin Sharf. *Raudah al-Tālibīn wa 'Umdah al-Muftīn*. Vol. 8. pp. 408 - 409.

Al-Nawawī, Yaḥyā bin Sharf, 2000. *Raudah al-Tālibīn wa al-Minhāj al-Sawīyah wa Muntaqā al-Yunbū'*. Beirut: Dār al-Kutub al-'Imīyah. Vol. 7. pp 283 – 284.

⁶⁹ Ibid.

judgment and decree coincide and concur with the *fatwā* issued by a leading Muslim body in the Western Cape, the Muslim Judicial Council, concerning the issue of homosexuality.

On 23 November 2007 the Muslim Judicial Council went on record in the form of an official statement on behalf of the '*ulamā*' in the Western Cape declaring; “ *That any Muslim who rejects the clear injunctions of Islam on homosexuality and believes it to be right, acceptable or correct, is regarded as out of the fold of Islam and such a person is decreed to be a Murtaḍ, an Apostate.*” This *fatwā* was in response to a programme aired on a prominent Muslim radio station the Voice of the Cape (VOC) on Friday 16 November 2007.⁷⁰

Another Islamic organization in the Western Cape, the Islamic Unity Convention (IUC) published the following review on the film “*A Jihad for Love*” which condones homosexuality saying; “ *The documentary Jihad for love sends the following message to Muslims: It is striving to replace the natural order with the unnatural, it is legalizing sodomy in Islam, we will be witnessing the disappearance of family life, it gives homosexuals and heterosexuals an equal status in the sight of Allah.* ”

The Muslim Judicial Council further stated; “ *To place the sacred word of Jihad within the context of a gay relationship is unaccepted, abhorred and offensive to Muslims. The MJC believes that coverage of the film and the opportunities given to the two controversial figures gives prominence to arguments in favour of homosexuals and helps propagate ideas foreign to Islam and unacceptable to Muslims. The MJC condemns the popularization of the practice and undue exposure given to proponents of the homosexual and lesbian lifestyle. The MJC is therefore committed to preserve and safeguard the sacred teachings of Islam. One of the basic, universal principals of Islam incumbent upon Muslims is the preservation of the Deen, even to the exclusion of negative influences which are so prevalent in our permissive society of Islam today. And since these might begin to affect the purity of*

⁷⁰ See annexure two.

the religion of Islam, we therefore call upon the Muslim community to boycott the film. We call upon all right-minded Muslims to uphold the teachings of the Quran and Sunnah, to hold firmly onto the basic tenets of Islam and reject all lifestyles which are foreign to and frowned upon by Islam.”

This ruling by the Muslim Judicial Council caused much debate in The Inner Circle, an organization committed to generate awareness around homophobia within Muslim communities both locally and internationally which Muhsin Hendricks heads. On December 5th 2007 Muhsin Hendricks, the president of the Inner Circle released a statement questioning the legality of the position taken by the Muslim Judicial Council. He stated; “ *We are still interested to know on what legal bases the passing of such a judgment is possible.*” Muhsin Hendricks further stated that the ruling is unconstitutional. “ *We also feel that the MJC is acting in disregard to the South African constitution by passing such judgment in the apparent need to protect the Islamic faith.*” He accused the Muslim Judicial Council of inciting hatred and violence against the lesbian and gay community; “ *We feel that the MJC’s statement is inciting hatred and violence and violates the rights of the lesbian and gay community to practice their right to sexual expression and choice of belief.*” The Inner circle called upon all sympathizers to unite and oppose in the strongest way the ruling of the Muslim Judicial Council.

On the 7th December 2007 the Coalition for Sexual and Bodily Rights in Muslim Societies (CSBR) sent an electronic mail to the Muslim Judicial Council protesting the ruling issued by the Muslim Judicial Council. CSBR stated that their response is on behalf of 35 prominent organizations from 14 Muslim countries; namely Association Democratique des Femmes du Maroc (ADFM) of Morocco, AMDF Morocco, Synergie Civique (Morocco), AFTURD of Tunisia, Association Tunisienne des Femmes Democrates (ATFD) of Tunisia, CEWLA of Egypt, Egyptian Initiative for Personal Rights (of Egypt), HELEM (of Lebanon), LECORVAW (of Lebanon), Independent Association for the Triumph of Women’s Human Rights (AITDF) (of Algeria), RACHDA (of Algeria), Reseau Wassila (of Algeria), New Ways (of France), Jordanian Women’s Union (of Jordan), ZENID (of Jordan), Sisters Arabic Forum (of Yemen), WCLAC (of Palestine), MADA (of Palestine), Women against Violence (WAV) (of Palestine), Women for Women’s Human Rights (WWHR) (of

Turkey), Amargi (of Turkey), Lambdalstanbul (of Turkey), Vision (of Pakistan), AAHUNG (of Pakistan), Gya Nusantra (of Indonesia), Indonesian Women Association for Justice (APPIK) (of Indonesia), Women's Health Foundation (of Indonesia), RAHIMA (of Indonesia), Malaysian Aids Council (of Malaysia) Sisters in Islam (of Malaysia), Women's Aid Organization (of Malaysia), IWRAW-Asia Pacific (of Malaysia) and Pilipina Legal Resources Center (of Philippines). They called upon the Muslim Judicial Council to withdraw their declaration because it will place the life of Muhsin Hendicks at risk. They further cited that the ruling is not only against their understanding of Islām but also against “*any international human rights norms*” and the constitution of South Africa.

The ruling on apostasy that is endorsed by the *Sharī'ah* is executed only in Muslim countries. Today this ruling is not commonly enacted because of international pressure from human rights activists. Yet this ruling is neither futile nor ineffective for many who may find themselves in countries similar to that of South Africa where the death penalty is abolished. It will remain our duty and responsibility to have open dialogue with these people and try to convince them to abandon their ill informed opinions and views.

Many families in the Western Cape distance themselves from their relatives who are homosexuals. Some have minimal contact with them while others refuse to associate with them. This is a common practice of many Muslim families in the Western Cape who find themselves in this situation.

Conclusion

In Islām there is a distinct difference between a sin and a criminal offence. One may be inclined towards a deviant sinful action like stealing or harming someone but acting upon it is wrong. Homosexuality may be a preference for somebody but he is not allowed to express it or act upon it. Acting upon it is a crime and a punishable offence.

The issue of homosexuality referred to in the *Qur'ān* covers the case in which individuals openly profess their homosexuality. The *sunnah* of the Prophet (saw) gives clear guidelines with regard to deserving punishment of individuals who are found guilty of homosexual behavior. The people of Apostle Lūṭ were regarded as disbelievers because they refused to accept the message of Apostle Lūṭ. They further believed that there was nothing wrong with their homosexual practices and preferences. However, no information is clearly rendered regarding those who are homosexuals because of hormonal imbalances.

We further deduce from '*ulamā*' that any individual who refuses to acknowledge that homosexual behavior is wrong and furthermore subscribes to this sexual orientation would be treated as an apostate. We are also able to deduce that any individual who questions the historical events of the *Qur'ān* after consensus was reached on it, becomes an apostate. Islām has its clear injunctions and principles that are firmly rooted in its primary and secondary sources that is binding upon all who subscribes to it. One must be careful not to introduce anything that may be contrary to its teachings.

Punishment is prescribed for the perpetrators because mere prohibitions or commands seldom prevent and deter people from engaging in it. The aim of punishment in Islām is to transform and to correct the weakness of human nature.

The movie "*A Jihad for Love*" underscores the view that homosexuality is acceptable. It emphasizes that individuals have been created in this way and therefore to act accordingly will be acceptable. In the next chapter we will discuss and focus on the most recent claims of "Muslim homosexuals" and factors that may affect their behavior.

Chapter Three

Causes affecting homosexuality – An Islamic response

Introduction

Contemporary homosexual Muslims believe that their homosexual behavior and tendencies are based on claims that they have been created in this manner. They believe that propensity towards homosexual behavior is because of hormonal imbalances and other factors beyond their control. Therefore, this hormonal imbalance is the cause for their sexual orientations and preferences that they have no control of.

This chapter will look at the claim of propensity and will attempt to clarify this issue. It will not only focus on the *Sharī'ah* perspective but will also delve into medical findings. This claim should not be viewed in isolation but its implications need to be understood. The following two cases will be looked at:

1. Those who believe that there is nothing wrong with homosexual practices because of an inclination towards it which is a result of hormonal imbalances. Thus, they feel unable to control their feelings.
2. Those who acknowledge that they might be homosexual because of hormonal imbalances and try their utmost to suppress their feelings.

The *Sharī'ah* is silent about these claims. However, it acknowledges the possibility of hormonal imbalances in another area. The approach in this chapter is based upon an analogy between what the *sharī'ah* recognizes and alludes to (a) as a hormonal imbalance and (b) as the propensity towards homosexual behavior. The reason for this approach is to identify and extract the appropriate verdict of the first case (*aṣl*) from the *Qur'ān* and *Sunnah* and to transfer it to the second case (*far'*). We will begin by explaining the legal bases of this approach.

Islamic jurisprudence is based on the primary and secondary sources in Islām. In

order to arrive at a legal verdict, the *sharī'ah* permits moving from the primary sources, the *Qur'ān* and *Sunnah*, to the secondary sources, *Ijmā'* (consensus) and *Qiyās* (analogical deduction) ⁷¹ when the primary sources are silent or no clear answer is available on an issue.

The fundamental purpose of revelation was to bring a transformation in the thinking of people and to govern their actions. The Prophet Muḥammad (saw) served as an interpreter and an elucidator of the *Qur'ān*. He (saw) emphasized its divine nature and brought to the attention of its readers its binding injunctions. The Prophet (saw) encouraged and endorsed rationality and public participation in affairs on that which the *Qur'ān* was silent. The *Qur'ān* and the *Sunnah* are co-related and inseparable from one another.

The law of *fiqh* (Islamic Jurisprudence) allows an individual to exercise his intellect to arrive at a decree in the absence of binding legal verdicts found in the *Qur'ān* and *Sunnah*. The aim of legislating a decree extrapolated from the primary and secondary sources is to ensure a codification of a way of life according to the principles and within the parameters of Islām. The *Sharī'ah* emphasizes the right of man to defend and protect his religion, wealth, honor, dignity and lineage.

قال رسول الله صلى الله عليه وسلم : " من قتل دون ماله فهو شهيد ، و من قتل دون دينه فهو شهيد ، و من قتل دون دمه فهو شهيد ، و من قتل دون أهله فهو شهيد . "

“ Whosoever is killed defending his wealth is a martyr, and he who is killed defending his religion is a martyr, and he who is killed defending himself is a martyr and he who is killed defending his family is a martyr. ” ⁷²

⁷¹ Al-Shāfi'ī, Muḥammad bin Aḥmad, 1996. *Sharḥ al-Waraqāt fī 'Ilm 'Uṣūl al-Fiqh*. Riyādh: Maktabah Nizār. pp. 63.

⁷² Muḥammad bin 'Īsā bin Sūrah, 2005. *Al-Jāmi' al-Ṣaḥīḥ*. Cairo: Dār al- Ḥadīth. Vol.3. pp. 450. *Ḥadīth* no.1421.

Aḥmad bin Ḥanbal, 1995. *Al-Musnad*. Vol. 6. pp. 455. *Ḥadīth* no.7030.

The *ahkām* (Islamic legal verdicts) are based on the *Qur'ān*, *Sunnah*, *Ijmā'* and *Qiyās*. As previously stated the *Qur'ān* and the *Sunnah* do not describe the situation of an individual who may be homosexual because of hormonal imbalances. We therefore have to resort to the application of *Qiyās* that forms an integral part of rational thinking. When analogical deductions are done in the proper manner, and supported by divine text, and a common cause (*'illah*) is found in both cases, the ruling (*ḥukm*) of the first case is extended to the second case. The ruling of the second case is now binding in the same decree as the first case.

In this chapter we will prove that a common element exists between hermaphrodites and homosexuals. The *Sharī'ah* perspective on the hermaphrodites is clear and unambiguous. The *'ulamā'* did not take into consideration the inclinations and the preferences of affected persons when formulating the Islamic legal decree, as there was no reason to do so. They based their opinion upon the physical development of the body. This same rule applies to the all Muslims who claim to be homosexually inclined because of possible hormonal imbalances.

Psychologists have suggested that there may be other factors that cause, or contribute towards homosexual tendencies. This final chapter will also look at various theories by different psychologists with special focus on the *Sharī'ah* perspective of causes that may influence the behavior and development of human nature and how this affects homosexuality. From an Islamic viewpoint, not much, if any has been written on this subject. The reason for this approach is to provide answers to homosexual Muslims who wish to change their lifestyle. For decades they have been condemned and their behavior criticized and collectively as an Islamic community, we have failed to provide suitable ways to remedy the situation.

Qiyās

Literal definition

The origin of the word *Qiyās* is derived from the verb *Qāsa*.⁷³ The noun of source is; *Qiyās* which linguistically means measuring, examining, ascertaining the length of something or the calculation of its weight.⁷⁴ The Arabs used this understanding in their expressions:

" قست الثوب بالذراع "

" *I measured the garment (material) with the yardstick* ".⁷⁵

" و قاس الطبيب الجراحة "

" *The doctor examined the wound* ".⁷⁶

The literal definition of *Qiyās* also suggests equality or close similarity between two things. Thus, the first can be taken as a measurement for evaluating the other.⁷⁷

***Shar'ī* definition**

The technical definition of *Qiyās* refers to an extension of the decree from one case, the original (*aṣl*), to a new case that is known as the *far'*. The extension only takes place if the latter has the same cause or effect as the former. The commonality, effect

⁷³ Ibrāhīm Aghīs, 'Abdul al-Ḥalīm Muntaṣir, 'Aṭīyyah al-Ṣawālihī and Muḥammad Khalaf Allah Ahmad, 1972. *Al-Mu'jam al-Waṣīṭ*. Turkey: Al-Maktabah al-Islāmiyyah. Vol. 2. pp. 766.

Ibn Manzūr, 2003. *Lisān al-'Arab*. Cairo: Dār al-Ḥadīth. Vol. 7. pp. 560.

⁷⁴ Ibn Qudāmah, 1997. *Raudah al-Nazir wa Junnah al-Munāzir*. Riyādh: Maktabah al-Rushd. Vol. 1. pp. 264.

Al-Ghazālī, Muḥammad bin Muḥammad, Undated. *Al-Mustafā min 'Ilm al-'Uṣūl*. Lebanon: Beirut – Dār al-Arqam. Vol. 2. pp 285.

⁷⁵ Ibn Qudāmah. *Raudah al-Nāzir wa Junnah al-Munāzir*. Vol.3. pp. 797.

⁷⁶ Ibid.

⁷⁷ Ibrāhīm Aghīs, 'Abdul al-Ḥalīm Muntaṣir, 'Aṭīyyah al-Ṣawālihī and Muḥammad Khalaf Allah Ahmad. *Al-Mu'jam al-Waṣīṭ*. Vol. 2. pp. 766.

or cause found in both is thus the basis for the same verdict.⁷⁸ This is known as the *Illah*.

" حمل فرع على أصل في حكم بجامع بينهما "

" *Carrying a subdivision upon its original that is joined in a common decree*".⁷⁹

" رد الفرع إلى الأصل لعله تجمعهما في حكم "

" *Returning the far' to the aṣl because of a common cause joining the two in a decree*".⁸⁰

According Imām al-Ghazālī the *ḥukm* of the first case may either affirm or negate the ruling on the new case.⁸¹ The analogical approach is only accepted by the *sharī'ah* when the new case cannot be found in the *Qur'ān*, *Sunnah* or the undisputable consensus of the jurists (by way of *Ijmā'*).⁸² *Qiyās* thus denotes identifying the common cause between two cases in which the former traces its ruling to a clear text, which is then extended and transferred to the second case. This latter case then shares the same decree as the former. *Qiyās* is only valid when all its requirements and conditions are fulfilled. If any component is absent, *qiyās* is rendered invalid.⁸³

The components of *Qiyās*

For *Qiyās* to be valid, five essential requirements must be fulfilled.

⁷⁸ Muḥammad bin Aḥmad al-Shāfi'ī. *Sharḥ al-Waraqāt fī 'Ilm 'Usūl al-Fiqh*. pp.131.

Ibn Qudāmah. *Rauḍah al-Nāẓir wa Junnah al-Munāẓir*. Vol. 3. pp. 797.

⁷⁹ Ibid.

⁸⁰ Al-Shāfi'ī, Muḥammad bin Aḥmad. *Sharḥ al-Waraqāt fī 'Ilm 'Usūl al-Fiqh*. pp.131.

⁸¹ Al-Ghazālī, Muḥammad bin Muḥammad. *Al-Mustasfā min 'Ilm al-'Uṣūl*. Vol.2. pp. 278.

⁸² Al-Rāzī Fakhr al-Dīn, 1992. *Al-Maḥṣūl fī 'Ilm 'Usūl al-Fiqh*. Beirut: Mu'assasah al-Risālah. Vol. 5. pp. 19 - 20.

⁸³ Bin Qudāmah. *Rauḍah al-Nāẓir wa Junnah al-Munāẓir*. Vol. 3. pp. 798.

- 1) The *aṣl* (original case) must be identified from a text. This must either be from the *Qur'ān* or *Sunnah* or both. It can also be identified by *Ijtihād*.
- 2) The correct *ḥukm* must be identified and attached to the *aṣl* and it must be clear and unambiguous.
- 3) The *far'* or new case must be identified without any previous *ḥukm* from a text.
- 4) The '*Illah* or common cause must clearly exist between the *aṣl* and the *far'*'.
- 5) The ruling of the *aṣl* is then extended to the *far'*.⁸⁴

When all the essential requirements of *Qiyās* have been fulfilled, the *ḥukm* of the original case is extended to the latter case. The decree of new case will be binding similarly as the original.

Examples of *Qiyās*

- (1) In *Surāh al-Mā'idah* Allah informs us that we need to refrain from the consumption of wine. The reason for this is the intoxicating properties of wine, which cause a person to lose all control of his senses and action.⁸⁵

" يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رَجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تَفْلَحُونَ "

" *Oh you who believe: (Khamr) wine and (maisir) gambling and (anṣāb) sacrificial animals slaughtered for the purpose of idols and (azlām) arrows used to seek good*

⁸⁴ Al-Shāfi'ī Muḥammad bin Aḥmad. *Sharḥ al-Waraqāt fī 'Ilm 'Usūl al-Fiqh*. pp.131 - 133.

Al-Rāzī, Fakhr al-Dīn. *Al-Maḥṣūl fī 'Ilm 'Usūl al-Fiqh*. Vol. 5. pp. 16 - 42.

Al-Nawawī. *Al-Mustasfā*. Vol. 2. pp. 228.

Al-Qādī, Abū Ya'lā, 1410. AH. *Al-'Uddah fī Usūl al-Fiqh*. (Edited by Aḥmad bin 'Alī Mubārakī). Vol. 1. pp. 175.

'Abd al-'Aziz, 'Alā al-Dīn, 1394 AH. *Kashf al-Asrār*. Beirut: Dār al-Kitāb al-'Arabī. Vol. 3. pp. 344.

⁸⁵ Al-Muḥallā, Muḥammad bin Aḥmad and Al-Suyūṭī, 'Abd al-Raḥmān bin Abī Bakr, Undated. *Tafsīr al-Jalālain*. Cairo: Maktabah al-Jumhuriyyah al-'Arabiyyah. pp.100.

Ibn Kathīr, 1997. *Tafsīr al-Qur'ān al-Azīm*. Riyādh: Dār Tayyibah. Vol. 3. pp. 178.

fortune are abominations of Satan, refrain from it in order that you may be successful. ” (Q 5:90)

In this verse the prohibition of the consumption of wine is explicit and clear. When we compare all types of narcotic drugs to this verse with emphasis on *khamr* we find a common '*illah*' that exists, that is; intoxication. This common '*illah*' allows us to extend the decree that is found in the verse to narcotic drugs, which then decrees that the consumption of narcotic drugs is also prohibited.

(2) The '*ulamā*' are unanimous in their opinion that any form of trade is prohibited after the second *adhān* (call) is rendered on a Friday for *Jumu'ah* (afternoon prayer).⁸⁶ After the prayer is concluded all normal trade may resume.

” يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَىٰ ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ ذَلِكُمْ خَيْرٌ لَكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ ”

“ *Oh you believe: When the call for Friday prayer is rendered, hasten to the remembrance of Allah (prayer) and abandon trade, that is better for you if only you knew.* ” (Q 62:9)

If one compares other forms of transactions such as concluding a marriage contract to normal trade, during this particular hour it will receive the same decree. The reasoning herein is that all other forms of transactions share in a common '*illah*', and therefore have to receive the same verdict. This common '*illah*' found between the two types of contracts is that it prevents an individual from fulfilling his obligatory religious worship during this sacred hour on a Friday.

⁸⁶ Ibid. Vol. 8. pp. 122.

Al-Nawawī, Undated. *Rauḍah al-Tālibīn*. Beirut: Dār al-Fikr. Vol. 1. pp. 426.

Al-Shafi'i, Muḥammad bin Idrīs, 1993. *Al-Umm*. Beirut: Dār al-Kutub al-'Ilmiyyah. Vol. 1. pp. 335.

(3) The Prophet (saw) expressed a decree that no man is permitted to propose in marriage to a female who is already proposed to.

" لا يخطب الرجل على خطبة أخيه "

" No man is permitted to counter the proposal of his brother (in marriage)....." ⁸⁷

By way of analogy any individual may not intervene in any agreement between two people. The reason for this is that a common *'illah* is shared between a proposal of marriage (*aṣl*) and other agreements between people (*far'*). When a third party violates this agreement, it causes animosity and hatred between people. This must be prevented to ensure that society is able to co-exist in peace and harmony.

In the above mentioned examples it is clear that the *aṣl* serves as the fundamental component for the validity of *Qiyās*. We may also identify the *aṣl* by means of *ijtihād* (personal reasoning) in the absence of the *Qur'ān* and *Sunnah*. This has occurred during the lifetime of the Prophet (saw) and shortly after his demise.

Examples of *Qiyās* through *Ijtihād*.

(1) After the victory in the battle of Badr that took place during the month of Ramaḍān in the second year after the *Hijrah* (migration of the Prophet saw from Makkah to Madīnah) the Prophet (saw)'s army managed to seize seventy prisoners of war. In the absence of revelation, the Prophet (saw) had to make a decision regarding the fate of the prisoners. It was the first time that the Muslims had captured prisoners and thus their fate was unknown. After the Prophet (saw) consulted and deliberated with his companions, he (saw) accepted the opinion of Abū Bakr. ⁸⁸ It was decided that their freedom would only be secured after their family members had agreed to pay their ransom.

⁸⁷ Al-Nawawī, Muḥī al-Dīn, 1997. *Ṣaḥīḥ Muslim*. Beirut: Dār al-Ma'rifah. *Ḥadīth* no. 3428.

⁸⁸ Ibn Kathīr, 1999. *Al-Bidāyah wa al-Nihāyah*. Cairo: Dār al-Taqwīm. Vol. 3. pp.320 – 321.

This same decree was implemented in other battles during the life of the Prophet (saw).⁸⁹

(2) Shortly after the demise of the Prophet (saw) the Muslims were in confusion as to who was to take up the position of leadership of the Islamic State. The senior companions of the Prophet (saw) deliberated the issue and it was decided to select Abū Bakr as the leader of the Muslims.⁹⁰ In his capacity as Head of State, he selected 'Umar ibn al-Khaṭṭāb as the next caliph after his demise. This was done mainly for the smooth transition of rule and to ensure that no confusion unfolded between the Muslims after his demise.⁹¹

(3) The caliph 'Umar ibn al-Khaṭṭāb applied the same principle of selecting a successor, and chose 'Uthmān ibn 'Affān to lead the Muslims.⁹²

We will now discuss the claim of propensity toward homosexual behavior by using the above – mentioned requirements of *Qiyās*.

The *Aṣl* (original case)

There is consensus amongst the jurists that the *aṣl* must be found in the *Qur'ān* or the *Sunnah*. The *aṣl* may also be valid on the bases of *ijmā'* (consensus) when no decree is to be found in the primary sources as explained earlier. The *aṣl* that will be used to authenticate the argument that propensity towards homosexual behavior might be valid, is the *aṣl* found in the *Sunnah* and in consensus amongst the jurists of *Fiqh*.

⁸⁹ Ibid. Vol. 4. pp. 76, 78, 190.

⁹⁰ Muḥammad bin Jarīr al-Ṭabarī, Undated. *Tārīkh al-Ṭabarī*. (Fifth Edition). Cairo: Dār al-Ma'ārif. Vol. 3. pp. 222.

Ibn Kathīr. *Al-Bidāyah wa al-Nihāyah*. Vol. 6. pp. 321.

⁹¹ Ibid. Vol. 7. pp.19.

Ibn Jarīr al- Ṭabarī. *Tārīkh al-Ṭabarī*. Vol. 3. pp. 428.

⁹² Ibid. Vol. 4. pp. 194.

Ibn Kathīr. *Al-Bidāyah wa al-Nihāyah*. Vol. 7. pp. 153

There is consensus amongst the *Ḥanafīyyah*, *Mālikīyyah*, *Shāfi'iyyah* and the *Ḥanābilah* that the question of hermaphrodites is valid in the *Sharī'ah* and that specific rules apply to them.⁹³ This topic is discussed extensively in the books of Islamic jurisprudence.

In technical terms and according to the medical fraternity a hermaphrodite is a person born with male and female sex organs.⁹⁴ *Hermaphroditism* is a condition in which both testicular and ovarian tissue is present in the human body (i.e. both male and female characteristics).⁹⁵

Hermaphrodite in the *Sunnah*

During the Prophetic era the people of Madīnah were faced with the question concerning the inheritance of hermaphrodites as they were uncertain whether they (the hermaphrodites) should be treated as males or females. The Prophet (saw) clarified the confusion and also explained how the inheritance due to them should devolve.

أن النبي صلى الله عليه وسلم سئل عن مولود له قبل و ذكر ، من أين يورث ؟ قال : " من حيث يبول " .

“ *The Prophet (saw) was asked concerning a child having both the female and male genitalia. How is he/she to inherit? He (saw) said: From the place where he/she*

⁹³ Al-Qurtubī, 1356 AH. *Tafsīr al-Qurtubī*. Cairo: Dār al-Kutub Al-Miṣriyyah. Vol. 5. pp. 65.

Al-Nawawī, 1995. *Rawḍah al-Tālibīn*. Beirut: Dār al-Fikr. Vol. 5. pp. 123.

Nizām, 1310 AH. *Al-Fatāwā al-Hindiyyah fī madhhab Abī Ḥanīfah*. Beirut: Dār ṣādir. Vol. 6. pp. 457.

Al-Kasānī, Abū Bakr, 1976. *Bidā'i al-Ṣanā'i*. Beirut: Dār al-Ḥadīth. Vol. 7. 327.

Al-Qarāfī, Aḥmad bin Idrīs, 1994. *Al-Dhakhīrah*. Beirut: Dār al-Gharb al-Islāmī. Vol. 13. pp.23.

Manṣūr bin al-Bahūtī, 2000. *Sharḥ Muntaha al-Idārāt*. Beirut: Mu'assas al-Risālah. Vol. 4. pp. 623.

⁹⁴ Ibid. Vol. 4. pp. 623.

Sāliḥ bin Fauzān. *Al-Tahqīqāt al-Mardīyyah fī al-Mabāḥiṭh al-Fardīyyah*. Riyādh: Maktabah al-Ma'ārif. pp. 205.

⁹⁵ Fox, Stuart Ira, 2006. *Human Physiology*. New York: McGraw Hill. pp. 669.

urinates.”⁹⁶

It is also reported in another narration that a hermaphrodite from amongst the *Anṣār* (Helpers-people living in Madīnah) was brought to the Prophet (saw) seeking clarity on his inheritance. The Prophet (saw) responded saying:

"ورثوه من أول ما يببول منه "

“ Allow him to inherit from the place he urinated from the first time ”⁹⁷

In the above-mentioned two narrations it is clear that the *Sharī'ah* provides some clarity on the status and condition of a hermaphrodite. However, further confusion aroused when it was difficult to determine the place of urination from the time of birth. In this regard the '*ulamā*' formulated clarity on all possible circumstances and scenarios through their *ijtihād*. They agree upon the following:

- (1) When a hermaphrodite at birth urinates from the male genitalia then he will be considered as a male and will receive the inheritance equal to that of a male. If the hermaphrodite urinates from the female genitalia then she will be considered a female. She will receive the inheritance of a female.⁹⁸
- (2) When the hermaphrodite urinates simultaneously from both the male and female sex organs, the quantity of urine is considered. If more urine is excreted from the male genitalia he will be treated as a male and when more urine is excreted from the female genitalia she will be treated as a female.⁹⁹

⁹⁶ Al-Albānī, Muḥammad Nāṣir al-Dīn, 1379 AH. *Arwā' al-Ghalīl* Beirut: Al-Maktab al-Islāmī. Vol. 6. pp.152.

⁹⁷ Al-Baihaqī, Aḥmad bin al-Ḥusain, 1356 AH. *Al-Sunun al-Kaba'ir*. India: Majlis Dā'irah al-Ma'ārif al-Uthmāniyyah. Vol. 6. pp.260.

⁹⁸ Niẓām. *Al-Fatāwā al-Hindiyyah fī madhhab Abī Ḥanīfah*. Vol. 6. pp.457.

Al-Kasānī, Abū Bakr. *Bidā'i'i al-Sanā'i'i*. Vol. 7. pp. 327.

⁹⁹ Al-Bahūtī, Maṣūf bin Yūsuf. *Sharḥ Muntahā al-Idārāt*. Vol. 4. pp.623.

- (3) When it is impossible to determine through which genitalia (male or female) the hermaphrodite has urinated, or when the quantity of urine is the same from both genitalia, the gender of such an individual is determined through the physical development of the person. When predominately male features appear, the hermaphrodite will be considered male and when predominately female appear, then the hermaphrodite will be treated as a female.¹⁰⁰

We deduce from the foregoing that the '*ulamā*' accept and agree on the validity of the hermaphrodite category. They further agree that a hermaphrodite will inherit as stipulated by the *sharī'ah*. We conclude therefore that the jurists have based the Islamic legal verdict of the status of hermaphrodites not only upon the bases of hormonal imbalance and biological composition but also the physical development of the human body after puberty.

Recently the medical fraternity has supported Islamic rulings on this issue and has also provided further clarity therein. Extensive medical research and studies concluded the following facts:

Thirty four percent of hermaphrodites have an ovary on one side and a testis on the other; and about twenty percent have *ovotests* (part testis and part ovary) on both sides. The remaining forty six percent have an *ovotestis* on one side and an ovary or testis on the other.¹⁰¹ The reason why this happens is because some embryonic cells receive less of the Y chromosome, with its SRY gene. There are also other rare case studies where individuals are known as *pseudohermaphrodites* (pseudo = false) when either testes or ovaries have accessory sex organs and external genitalia that are undeveloped. The most common cause of female *pseudohermaphroditism* is known as congenital adrenal *hyperplasia* which is caused by excessive secretion of androgens

¹⁰⁰ Ibid. Vol. 4. pp. 623.

Al-Qarrāfī, Shihāb al-Dīn. *Al-Dhakhīrah*. Vol. 13. pp. 23.

Al-Kasānī, Abū Bakr. *Bidā'i'i al-Ṣanā'i'i*. Vol. 7. pp. 327.

¹⁰¹ Fox, Stuart Ira. *Human Physiology*. pp. 669.

from the adrenal cortex. Females with these conditions have mullerian duct derivatives (uterus and fallopian tubes) and wolffian duct derivatives and partially masculine external genitalia.¹⁰²

There are also case studies of male *pseudohermaphroditism* that is known as testicular feminization syndrome. People with this syndrome have normal functional testes but lack the receptors of testosterone. In this case large amounts of testosterone are produced by the body resulting in the inability of the embryonic tissues to respond to this hormone. This condition causes female genitalia to develop, although a uterus and a fallopian tube do not develop because of the secretion of mullerian. A person with this condition externally appears to be a normal girl but she has testes in her body cavity and no accessory genitalia.¹⁰³

A large amount of the testosterone hormone that is produced by the body is converted by the liver and adipose (fatty) tissue into estrogens. A person with testicular feminization syndrome develops female features; however she will never menstruate and can never become pregnant.¹⁰⁴

The second case (*al-far'*)

The Islamic decree of recent claims by homosexuals will be explained by analogical deduction. This new case must fulfill three conditions before the ruling of the first case can be applied to the new case:

1. The new case must not exist within a text from the *Qur'ān*, *Sunnah* or *Ijmā'*. If found in these sources there will be no need for a recourse to *Qiyās*.
2. The recourse of the first case must be applicable to the new case. The latter must have the same effective cause as the former. If any discrepancy exists the process of *Qiyās* is rendered invalid.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid. pp. 670.

3. The new case must not in any way overrule nor alter the law of the first case, as this will result in overruling the text by means of *Qiyās*.¹⁰⁵

The new case that is compared to the Islamic ruling of a hermaphrodite is the claim that is prominent throughout the documentary “*A Jihad for love*.”¹⁰⁶ The homosexuals who feature in the documentary are filmed in silhouette and at times with their faces blurred. They claim that they are not homosexual by choice but have been created in this way that is; they are homosexual in origin and nature. The majority of the people interviewed in the documentary film claimed that they realized from an early age that they were attracted to the same sex. During the course of their lives they realized that they were unable to live a life of lies by pleasing others and that they had to be honest regarding their sexual preferences.

The underlining message commonly portrayed throughout the documentary is that the claim of propensity towards homosexuality is the result of a biological disposition caused by hormonal imbalances together with other external contributing factors.

Recent studies have proven that a hormonal fluctuation in the human body does contribute towards the sexual orientations of an individual.¹⁰⁷ It has also been proved that an alternate orientation is not an entirely hereditary disorder but it does exist. Further according to the medical fraternity, between 5% and 8% of the human population could reasonably be characterized as homosexuals.¹⁰⁸

Extensive research has been done on the history of homosexuals and the factors that may contribute towards their behavior. Results have shown that feminine behavior in young boys or masculine behavior in young girls does impact on the subsequent development of homosexual behavior.¹⁰⁹ Further studies have also suggested that disparities in the brain structures between heterosexuals and homosexuals may reflect

¹⁰⁵ Al-Rāzī, Fakḥr al-Dīn. *Al-Maḥṣūl fī 'Ilm 'Usūl al-Fiqh*. Vol.5. pp. 19-20.

¹⁰⁶ Produced by Halal Films and premiered at the Toronto International Film Festival in September 2007.

¹⁰⁷ Weiten, Wayne, 2004. *Psychology Themes and Variations*. USA: Quebecor World. pp. 391.

¹⁰⁸ Ibid. pp. 398.

¹⁰⁹ Ibid. pp. 398.

the effect of prenatal hormones on neurological development. The hormones secreted during critical periods of prenatal development can impact on the brain, which could subsequently influence the sexual orientation of an individual. It is believed that the hormonal changes in early adolescence are crucial; it can affect the interest of sexuality ¹¹⁰ and also the tendencies of homosexuality.

“ Despite the recent breakthroughs, much remains to be learned about the determinants of sexual orientation. The pathways to homosexuality appear to be somewhat different for males as opposed to females (Gladue,1994). The behavioral genetics data suggest that the hereditary predisposition to homosexuality is not overpowering. Environmental influences of some kind probably contribute to the development of homosexuality, but the nature of these environmental factors remains a mystery.” ¹¹¹

How true the above-mentioned case studies might be or how profound it can be proven medically, it is not entirely certain as many questions still remains unanswered. No previous case study has proven unequivocally the exact cause of homosexual orientation and the effect it has on the behavior of individuals. Throughout most case studies the hormonal disposition appears to be a common factor, which might influence the biological development and sexual orientation of the individual.

The Islamic ruling of homosexuality is not based on the latter (i.e. hormonal disposition) but the physical development of the body after puberty as proven in case one (*aşl*). This does not imply however, that others factors that contribute towards the development of an individual or affect the behavior and sexual preference of such a person are excluded.

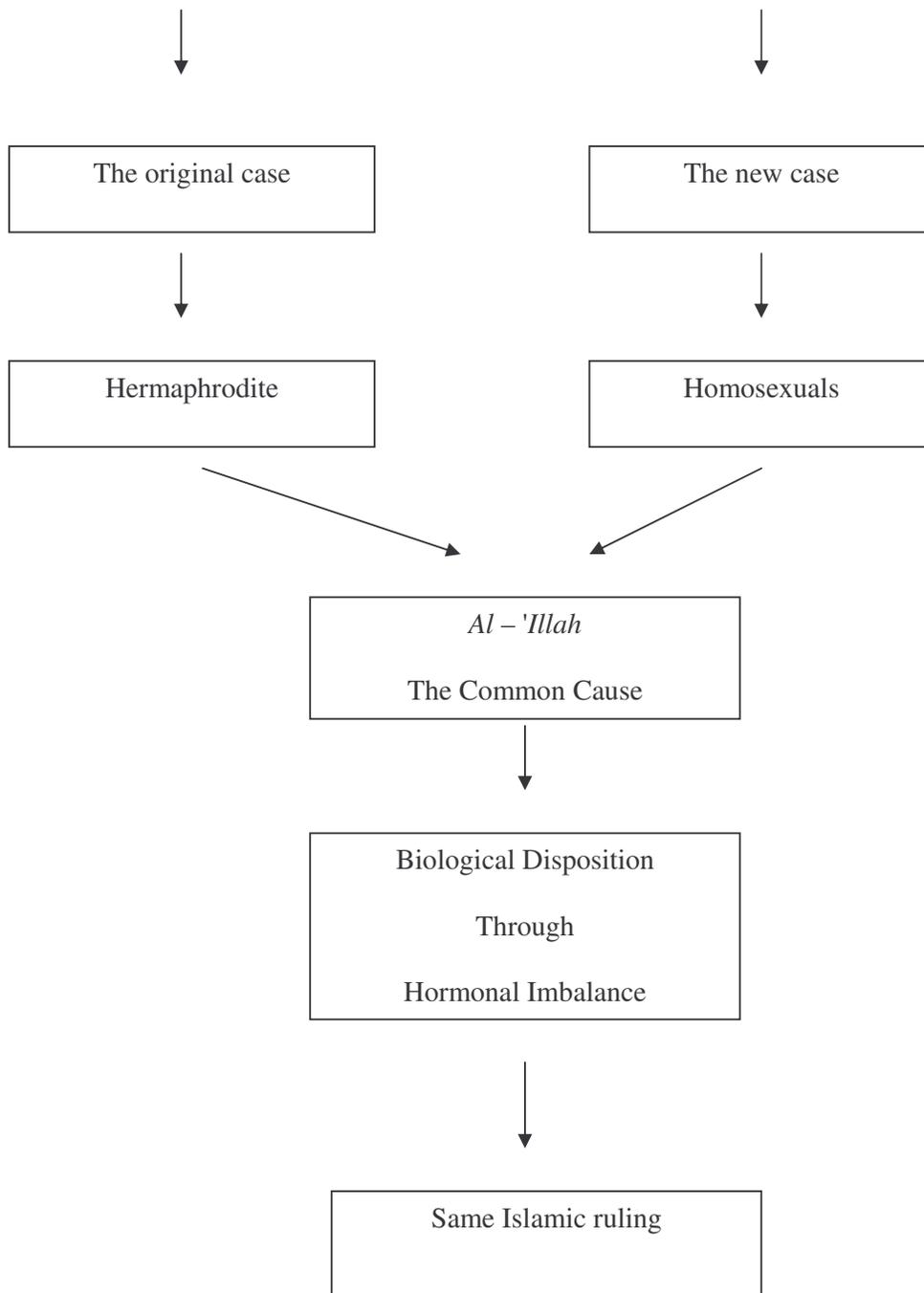
Diagram

Al- aşl

Al - far'

¹¹⁰ Ibid. pp. 102.

¹¹¹ Ibid. pp. 400.



Psychologists have argued that there are reasons and factors that influence the behavior patterns, personality and sexual orientations of humans. They have suggested that the behavior of people can be determined by genetic inheritance, environmental factors and everyday experiences. Others believe that our present

experiences and events in our lives have a major influence upon our personality and behavior. In a number of their findings it is clear that there are no consensus amongst them explaining the exact reasons that dictates or control man's behavior.

We find within ourselves the effect of sound knowledge and reasoning. This can either have a positive or negative impact on the behavior of man within a particular environment. This is largely due to the limited ability to execute sound reasoning in different situations. An element of anger and outrage that was caused by a situation based on limited conceptual knowledge may be the trigger of negative behavior when found in the same situation at a different time. The question is thus posed; does this imply that man possesses no ability to control his behavior, or does this imply that the actions of homosexuals are justified?

Causes affecting human behavior – A western approach

According to Freudian theory man has no free will. He is driven by his sub-conscious be it good or evil. He strongly feels that this is an inherited physiological factor that must come from somewhere. Freud's findings alluded that the critical period in the development of children's sexual preferences, is the early stages of childhood development. He further asserts that, "*the unconscious contains thought, memories, and desires that are well below the surface of conscious awareness but that nonetheless exert great influence on behavior.*"¹¹² This theory may suggest that homosexuality is driven by the unconscious mind, leaving them in no control over their preferences or their behavior. In addition, Freud argues that males are more likely to become gay when they are raised in an environment in which the father is a poor heterosexual role model, or by an over loving and protective mother.¹¹³

The findings of other psychologists like Adler, Jung, Eric Fromm and Eric Ericson agree that the earlier stages of the development of a child's life are critical but not absolute. According to Bailey and Zucker homosexual behavior is influenced from a

¹¹² Weiten, Wayne, 2004. *Psychology, Themes & Variations*. USA: Quebecor World/Versailles. pp. 7.

¹¹³ *Ibid.* pp. 398.

very young age; by feminine behavior in young males and by masculine behavior in young females. ¹¹⁴

Erich Fromm however, believes that man possesses certain psychological characteristics that can influence his character and personality. ¹¹⁵ He also believes that social and economical factors contribute toward man's nature. Skinner on the other hand believes that man has no free will over his actions. The environment in which he finds himself determines his behavior. ¹¹⁶ He maintains that, "*Organisms tend to repeat responses that lead to positive outcomes, and they tend not to repeat responses that lead to neutral or negative outcomes.*" ¹¹⁷ Watson agrees with Skinner, advocating that behavior is not entirely hereditary. He maintains that the behavior of man is primarily influenced by his environment, claiming; "*Give me a dozen infants, well-formed, and my own special world to bring them up in and I'll guarantee to take any one at random and train him to become any type of specialist. I might select – doctor, lawyer, artist, merchant-chief, and yes, even a beggar-man and thief, regardless of his talents, penchants, tendencies, abilities, vocations and race of his ancestors. I am going beyond my facts and I admit it, but so have the advocates of the contrary and they have been doing it for many thousands of years.*" ¹¹⁸

As stated earlier Wayne Weiten believes that the environment does not entirely develop homosexuality but contributes towards this tendency. By improving the environment in which one lives he improves his behavior. It is clear from most of these psychologists that the behavior of man is acceptable because they possess no freedom of will. Man becomes the product of his environment. Gordon Allport holds an alternate view of his predecessors; he believes that man has the ability to shape his own future and in doing so he possesses a degree of freedom. In his view man is optimistic, constantly looking at ways to improve and better his future. According to

¹¹⁴ Ibid. pp. 398.

¹¹⁵ Schultz, D and S.E. Schultz, 1994. *Theories of Personality*. (Fifth Edition). Pacific Grove: Brooks/Cole Publishing. Pp. 153 –193.

¹¹⁶ Ibid. pp. 151 – 377.

¹¹⁷ Weiten, Wayne. Psychology, Themes & Variations. pp. 9

¹¹⁸ Ibid. pp. 6.

his theory the present and the future have more influence over his nature than the past. However, he believes change is difficult once personal inclination and preferences are formed. ¹¹⁹

Abraham Maslow suggests that man possesses a freedom of choice and is in control of his actions and behavior. According to this hypothesis man is solely responsible for the path he takes. ¹²⁰ His behavior and actions are attributed to the choices he makes. He believes that behavior is driven and affected by the sense of self or “ *self-concept* ” and to understand this behavior, one must understand the motivation and inspiration behind his growth. ¹²¹

According to the theory of George Kelley man possesses the ability to constantly change. He has the capacity of selecting, controlling and adjusting his preferences when the need arrives. ¹²² Albert Bandura believes that man does not possess the absolute freedom of will. His environment and the company he keeps can affect his behavior. ¹²³

Modern science has also brought to light the fact that human behavior is influenced by hereditary factors. When the sperm that carries hereditary genes fuses with the ovary of the female that also carries hereditary genes, fertilization of two opposite hereditary genes takes place. “ *Thus, a dominant gene is one that is expressed when paired genes are different. A recessive gene is one that is masked when paired genes are different.* ” ¹²⁴

The case studies of identical twins suggest that their behavior might be hereditary related as their biological composition is the same. ¹²⁵ This may influence and affect the behavior of children. However, the case study of fraternal twins indicates that

¹¹⁹ Schultz, D and Schultz, S.E. *Theories of Personality*. pp. 197 –218.

¹²⁰ Ibid. pp. 275 – 299.

¹²¹ Weiten, Wayne. *Psychology, Themes & Variations*. pp. 10.

¹²² Schultz, D and Schultz, S.E. *Theories of Personality*. pp. 325 – 347.

¹²³ Ibid. pp. 381 – 406.

¹²⁴ Weiten, Wayne. *Psychology, Themes & Variations*. Pp. 103 – 104.

¹²⁵ Ibid. pp. 105.

their biological composition is different but their behavior might be the same. The result of this is largely attributed to environmental causes.¹²⁶

The above-mentioned theories are based on speculations and case studies. No clear consensus exists amongst leading psychologists on the exact factors that influence human behavior.

The *Sharī'ah* however alludes to and agrees with some of the findings of psychologists over the past century. It also provides answers to individuals who may find themselves in compromising situations and realizes that they possess the ability of change.

Causes affecting human behavior – An Islamic approach

Islām is clear on its expectations for its followers. It does not allow them to select some practices and to abandon others. The codification of Islamic law ensures a distinct and common practice that regulates behavior.

" يا أيها الذين آمنوا ادخلوا في السلم كافة و لا تتبعوا خطوات الشيطان إنه لكم عدو مبين "

“ Oh you who believe, enter completely into Islām and do not follow the ways of Shaiṭān, surely he is an enemy unto you. ” (Q 2:208)

By following the commandments of Islām discreet behavior is enforced in the daily lives of all its followers. However, there are factors that positively or negatively influence or contribute towards the behavior and reasoning of Muslims. We will now discuss some of these factors:

(1) Biological composition of human beings

Human beings are creations composed of both angelical and satanic qualities. They possess a disposition that allows them to freely move between these personas, which

¹²⁶ Ibid.

imply that they can attain a position of high spirituality or descend to the behavior of animals. Humans possess the freedom and power of movement and therefore are responsible for their environment and behavior. In being responsible for creating his own environment, man possesses the ability to control, alter or adjust his environment. In doing so he possesses the ability to control his behavior and those around him.

The *Qur'ān* makes reference to the fact that the angels acknowledged that man is created with qualities of good and evil. The difference however is that he has the ability of control and choice to regulate his behavior.

" و إذ قال ربك للملائكة إني جاعل في الأرض خليفة قالوا أتجعل فيها من يفسد فيها و يسفك الدماء و نحن نسيح بحمدك و نقديس لك ، قال ، إني أعلم ما لا تعلمون "

“ And remember when Allah said to the Angels: Indeed I will place on this earth a vicegerent, They (the Angels) said: Will Thee place on it (the earth) who will commit mischief and spill blood? We (the Angels) glorify and praise Thee. He (Allah) said: Indeed I know that which you know not. ” (Q 2:30)

In the exegesis of Ibn Kathīr he alludes that man will receive the necessary direction and assistance to guide him through life.¹²⁷ This may suggest that as man is inclined to commit wrong, he may also be influenced to do good through the company he associates with. This proves in Islām that man has the ability to be influenced. He is given the ability of sound reason to choose what is beneficial for him and the society in which he lives. When man fails in the execution of his responsibilities and instead chooses to abide by his own rules that may be contrary as defined by the *Sharī'ah*, he

can descend to a status lower than animals.¹²⁸

" و لقد ذرأنا لجهنم كثيرا من الجن و الإنس ، لهم قلوب لا يفقهون بها و لهم أعين لا يبصرون بها و لهم

¹²⁷ Ibn Kathīr. *Tafsīr al-Qur'ān al-Azīm*. Vol. 1. pp. 216 – 217.

¹²⁸ Ibid. Vol. 3. pp. 514.

آذان لا يسمعون بها ، أولئك كالأنعام بل هم أضل ، أولئك هم الغافلون . "

“ And we have created for the hell fire Jin and man, they have hearts with which they comprehend not, eyes with which they see (the truth) not, ears with which they hear (the truth) not, they are like animals yet more astray, they are of those who forget (their responsibility). ” (Q 7:179)

Centuries before the pre-Islamic era Apostle Yūsuf (RA) recognized that the biological composition could affect the behavior of man. In addition to this, environmental factors contributed to the challenge he faced.

" و ما أبرئ نفسي إن النفس لأمارة بالسوء"

“ And I claim not (complete) innocence, indeed the nature of man is inclined toward bad ” (Q 12: 53)

According to 'Abd Allah bin 'Abbās and Sa'īd bin Jubair, in the above mentioned verse, Allah has taken an oath by the *nafs* (soul/nature) of man that has the ability to move between good and bad. Here it is further clear that biological composition of man can affect the behavior of man.¹²⁹ This does not give man the freedom of movement to move freely between what is good and evil, however, he needs to realize what is beneficial for his future, the hereafter.

(2) Environmental and social factors

Man's behavior is also influenced by the environment in which he finds himself in and this phenomenon is especially prevalent amongst many young adults of today. Coupled with environmental factors is the lack of reasoning ability that is rooted in the youth's understanding of Islām. Knowledge is the salient factor that will either deter a person from negative situations or will permit him/her to actively participate in such negativity. Children manifest in public what they are taught at home. When a

¹²⁹ Ibid. Vol. 8. pp. 276.

home is filled with values, principles and morals it can habitually impact upon children and they may eventually become responsible adults. The Prophet (saw) alluded that parents can influence the thinking and behavior patterns of their children.

" كل مولود يولد على الفطرة فأبواه يهودانه أو ينصرانه "

“ *Every child born is born in a pure state, his parents influences him in becoming a Jew or Christian.....* ”¹³⁰

Man is deemed to be responsible and naturally contributes towards the society and environment in which he lives, both negatively and positively. When children are reared with negative morals and values and act upon them, society is often seen as immoral and corrupt. This is a natural observation as we judge a society by its people. However, man possesses the power of constant change; therefore in order to change an environment, the mindset of its people should first be addressed.

The outcomes of a positive home environment is clearly manifested in the example of 'Alī bin Abī Ṭālib a young boy barely 9 years, a young protégé of the Prophet (saw) and Zaid bin Ḥārithah¹³¹ when they chose to embrace Islām and follow the Prophet (saw). This environment shaped, molded and contributed towards their behavior and encouraged them to become outstanding contributors and exemplars of Islām. The lives of these two men bear testimony to what a positive environment can accomplish in the lives of man.

The migration from Makkah to Madīnah further confirms how an environmental change contributed towards the growth and expansion of Islām. The Muslims were now free to practice their Islām without any fear or restrictions. The Prophet (saw) encouraged us to create an Islamic environment. Emphasis is placed upon parents to

¹³⁰ Al-'Asqalānī, Ibn Ḥajr, 1997. *Fath al-Bārī, Sharḥ Ṣaḥīḥ al-Bukhārī*.

Riyādh: Dār al-Salām. Vol. 3. pp. 312. *Ḥadīth* 1375.

¹³¹ Ibn Kathīr, undated. *Al-Bidāyah wa al-Nihāyah*. Cairo: Dār al-Taqwā. Vol. 3. pp. 26 -27.

Al-Ṭabarī, Muḥammad bin Jarir, undated. *Tārīkh al-Ṭabarī*. Beirut: Al-Ma`ārif. Vol. 2. pp. 316.

actively contribute towards the development of their children. This is done through creating an Islamic environment coupled with a strong base of Islamic ethos.

قال صلى الله عليه و سلم : " مروا أولادكم بالصلاة و هم أبناء سبع سنين ، و اضربوهم عليها و هم أبناء عشر ، و فرقوا بينهم في المضاجع "

*The Prophet (saw) said: " Command your children with prayer when they reach the age of seven, discipline them at the age of ten (when they are neglectful in praying) and separate them in beds. "*¹³²

The Prophet (saw) informed his companions about an incident that took place in the time of Banī Isrā'īl. He (saw) explained that a man killed one hundred people. After killing them he had a desire of repenting for all the evil he committed, and set out in search of someone who could help him to redeem himself . On his way he met a pious person who advised him to change his environment by moving to another village, as the people of that village were pious.¹³³

In this *ḥadīth* the Prophet (saw) alludes to his companions on how an environment can affect the behavior of an individual whether good or bad. The last chapter of the *Qur'ān*, *Sūrah Al-Nās*, (Mankind) demonstrates that man possesses the ability to be influenced. It shows that man must be careful in selecting the company he keeps. These divine admonitions allude to the fact that association with other individuals influences the behavior of man.

قال الله تعالى : " قل أعوذ برب الناس ، ملك الناس ، إله الناس ، من شر الوسواس الخناس ، الذي يوسوس في صدور الناس ، من الجنة و الناس . "

¹³² Sulaimān bin al-Ash'ath, 1999. *Sunun Abī Dāwūd*. Cairo: Dār al-Ḥadīth. Vol. 1. pp. 243. *Ḥadīth* 490.

¹³³ Al-'Asqalānī, Ibn Ḥajr. *Fath al-Bārī, Sharḥ Ṣaḥīḥ al-Bukhārī*. Vol. 6. pp. 626-627. *Ḥadīth* 3470.

Al-Nawawī, 1997. *Ṣaḥīḥ Muslim*. Vol. 17. pp. 86 – 87. *Ḥadīth* 6939 and 6940.

Allah says: “ Say I seek protection by the Lord of man, the King of man, the Ilāh (God) of man, against the evil whispers of Jinn and man who whispers (evil and bad) in the chests of man.”

Man goes through three dimensions of maturity and growth during his lifetime, which can be defined as:

- (1) Dimension One: From infancy until puberty – this phase is also defined as *fiṭrah* (purity).
- (2) Dimension Two: From puberty until the age of forty.
- (3) Dimension Three: From the age of forty until death.

In each of these dimensions man grows physically, spiritually and psychologically. In whatever phase he may find himself, he is advised to constantly acquire the necessary knowledge of what is beneficial for himself in this world and the hereafter. Each of these dimensions is interlinked and contributes towards the behavior of man.

In his commentary of Ṣaḥīḥ al-Bukhārī, Ibn Ḥajr al-'Asqalānī explains that all children in the phase of *fiṭrah* are regarded as innocent, pure and free of sin.¹³⁴ During this phase of their existence they are not held accountable for their actions and when taken away of this world through death their abode will be paradise. We have previously discussed the factors which contributes to the behaviour of children during this stage, i.e. the importance of the environment in which they are reared, the positive role model their parents display and how this contributes towards their behavior. Children in this phase of development are able to recognize, comprehend and understand more than they are able to articulate and express. They are particularly receptive towards their environment and have a remarkable ability to consider the perceptions of others. The manner in which parents eloquently or inadequately articulate happenings and phenomena will influence how well a child remembers it. Children are also more likely to develop a tendency to imitate and emulate those whom they love and associate with daily.

¹³⁴ Al-'Asqalānī, Ibn Ḥajr. *Fath al-Bārī, Sharḥ Ṣaḥīḥ al-Bukhārī*. Vol. 3. pp. 312 – 315.

Phase two of man's growth is crucial as it is during this stage man develops completely, acquires his potential to reason and becomes accountable for his actions. The rationale behind his actions is primarily based upon his understanding and limited knowledge acquired during the first stage. Satisfactory behavior in this phase is also influenced by an effective outcome of childhood.

Adolescence is a stage where several changes occur in the human body and mind; physiological, psychological and social. There is also the constant change in principles and values and a continuous search for the refinement of an Islamic identity. Man is now in a constant state of reviewing personal development from childhood and is in a reliable position of determining his future. This stage of life is highly regarded by Allah and highly rewarded because of the tremendous challenges during this phase.

" سبعة يظلهم الله يوم القيامة في ظلّه يوم لا ظل إلا ظله : إمام عادل ، و شاب نشأ في عبادة الله"

The Prophet (saw) said: “ *Seven people will be shaded on the day of resurrection in His (Allah's) shade, the day there will be no shade except His shade: A just leader, a youth reared in the worship of Allah* ”¹³⁵

It is during this phase of life that the sexual orientation of man develops and intensifies and he develops the desire to select his life partner with whom he intends to share his life. Psychologists have suggested that it is during this phase of life that the tendency towards homosexual behavior is discovered or recognized.¹³⁶

It is the responsibility of all Muslim religious institutions to critically study the data and the contributing factors that affect and influence homosexuality. Religious leaders must equip themselves with the necessary knowledge of the subject and address the issue effectively. Communities and Islamic institutions must find suitable ways of

¹³⁵ Al-'Asqalānī, Ibn Ḥajr. *Fatḥh al-Bārī, Sharḥ Ṣaḥīḥ al-Bukhārī*. Vol. 3. pp. 370. *Ḥadīth* 1423. Vol. 12. pp. 137. *Ḥadīth* 6706.

Al-Nawawī. *Ṣaḥīḥ Muslim*. Vol. 7. pp. 122. *Ḥadīth* 2377.

¹³⁶ Nicholas, Lionel, 2004. *Introduction to Psychology*. South Africa: Formeset. pp. 387.

making people aware of homosexuality, bringing its awareness into public discussion, in order to safeguard and protect people against this evil. Adolescence must be taught the Islamic position regarding homosexuality and must be made aware of its decreed punishment in Islamic law.

Ibn Kathīr asserts that the third cycle of man's life starts at the age of forty.¹³⁷ At the start of this stage, man has reached his peak and has also attained full biological and psychological maturity. He is now completely developed and thereafter he will descend into a gradual decline, physically and psychologically. During this developmental stage man enhances his potential and understanding of what is beneficial and important for him in this world and the hereafter. During this phase an individual's identity is refined and he develops a unique ability to intensify his principles and values. His maturing allows him to merge reason with emotions, and insight with personal experience. This allows him to develop wisdom. This is affirmed in the verse when Allah says:

قال الله تعالى : " ووصينا الإنسان بوالديه إحسانا ، حملته أمه كرها و وضعته كرها و فصله ثلاثون شهرا ، حتى إذا بلغ أشده و بلغ أربعين سنة قال رب أوزعني أن أشكر نعمتك التي أنعمت علي و على والدي و أن أعمل صالحا ترضاه و أصلح لي في ذريتي ، إني تبت إليك و إني من المسلمين ."

“ And we have enjoined upon man to be good to his parents, his mother carried him through difficulty, and gave birth to him with difficulty, his bearing and weaning is (equivalent) to thirty months, when he reaches full strength and forty years (of age) he says: Oh my Lord grant me the ability to be thankful for thy favors that Thou bestowed upon me and upon my parents and grant me the ability to do righteous deeds that Thou are pleased with and make my offspring good. Indeed I repent unto Thee and I am of the Muslims.” (Q 46: 15)

According to psychologists homosexual inclination in this phase of human development is often on a decline. This is attributed to a decline in sexuality, a

¹³⁷ Ibn Kathīr. *Tafsīr al-Qur'ān al-'Azīm*. Vol. 7. pp. 280.

change in lifestyle ¹³⁸ and senescence (*the period in the life span where people experience a decline in bodily functioning that is ascribed to ageing*). ¹³⁹

From the foregoing it could be suggested that many factors could contribute towards homosexual behavior. We have previously explained (in chapter two) that there is no harm in being homosexually inclined but to openly profess and act upon it is considered abominable in Islām. Allah informs us that man will experience various challenges throughout his life.

Homosexuality can be viewed as one of the challenges of the *nafs* (self). Islām provides various ways of overcoming the challenge of the *nafs*. Acceptance of the knowledge that homosexual behavior is wrong is the first step towards a positive change. Suppressing the challenges of the *nafs* and finding suitable measures of overcoming it is highly rewarded by Allah. The *Qur'ān* records the history of three young adults who refused to be influenced by their corrupt society and their people. ¹⁴⁰ After looking at various ways to continue being part of their society they eventually decided to leave their village in order to safeguard their religion. It was through this positive decision that Allah protected them, and their story is mentioned in the *Qur'ān* (Q 18) to inform the successive generations of man of various ways to overcome the challenges of the *nafs*.

Another way in overcoming the challenges of the *nafs* is to refrain from undesirable and detested behavior. Whenever a person experiences sexual orientation towards the same gender and manages to suppress and restrain this overwhelming desire and feelings, his intention does not go unnoticed by Allah. The Prophet Muḥammad (saw) has informed us that Allah recognizes the sincerity of an individual and rewards him abundantly.

يقول الله : إذا أراد عبدي أن يعمل سيئة فلا تكتبوها عليه حتى يعملها فإن عملها فاكذبوها بمثلها ، و إن تركها من أجلي فاكذبوها له حسنة

¹³⁸ Nicholas, Lionel. *Introduction to Psychology*. pp. 387 – 388.

¹³⁹ Ibid. pp. 44.

¹⁴⁰ Ibn Kathīr. *Tafsīr al- Qur'ān al-Azīm*. Vol. 5. pp. 139.

Allah says: “ *When my worshipper intends to do bad (Allah informs His Angels) not to register it until he executes it, when he executes it (Allah informs His Angels) to register only one bad deed, And when he leave it for my (Allah) sake (Allah informs the Angels) to register for him a reward of good.....* ”. ¹⁴¹

Further, Allah informs us in various ways how to facilitate positive change in our lives. A Muslim’s daily acts of *Tbādah* (worship), such as *Ṣalāh* (prayer) and *Ṣiyām* (fasting) develops and contributes towards the exemplary and commendable behavior of man. These forms of worship change the psychological conduct, behavior and spiritual development of man.

Allah informs us that *Ṣalāh* deters and prevents a person from all evil and unacceptable behavior that is contrary to Islām. In addition to being a form of worship, the other fundamental purpose of *Tbādah* is to perfect the behavior of man and to purify man’s soul from all appalling behavior and immorality.

قال الله تعالى : " إن الصلاة تنهى عن الفحشاء و المنكر "

“ *Surely the prayer prevent from bad and wrong.....*” (Q 29: 45)

Fasting is another form of worship that demands good character and behavior. The Prophet (saw) has informed us that when an individual refrains from observing the etiquette of fasting, Allah is certainly not in need of his fasting. This article of worship illustrates and proves that man possesses the ability and power to control his behavior and actions. It confirms that man in fact possesses the power of change within himself.

" أن الصيام جنة ، فلا يرفث و لا يجهل . و إن امرؤ قاتله أو شاتمه فليقل : إني صائم إني صائم . "

“ *Verily fasting is a protection, when he does not behave badly and does not do actions out of ignorance (the actions of the pagan Arabs), when someone intends to*

¹⁴¹ Al-'Asqalānī, Ibn Ḥajr. *Fatḥ al- Bārī Sharḥ Ṣaḥīḥ al-Bukhārī* Vol. 13. pp. 568. *Ḥadīth* 7501.

harm him or verbally abuse him, then let him respond saying: I am fasting, I am fasting.”¹⁴²

"من يدع قول الزور و العمل به فليس لله حاجة في أن يدع طعامه و شرايه ."

“ *Whosoever does not abandon bad speech and engages in it, Allah is not in need of him leaving his food and water.* ”¹⁴³

It is clear that the abovementioned articles of *Ibādah* contribute towards the behavior of man that is rooted in the ability to comprehend and understand its fundamental principles and expectations as defined in Islām. The ability of continuous learning and the refinement of knowledge may develop a permanent change in behavior. Positive knowledge together with its correct application will influence how a person thinks, behaves, interacts, relates and express emotions.

Man’s behavior is largely influenced by social and environment factors that are rooted in his ability to completely understand and comprehend the salient principles, morals and values entrenched in Islām. Through the different dimensions of life experiences, man develops a realization for the purpose of life and what is important and significant by virtue of him having received the required knowledge. Man has to take the responsibility for his actions and completely understand the consequences. Other factors that negatively contribute and influence man’s behavior are not considered reasons or excuses for adverse behavior. Man possesses and completely controls his ability of choice and actions.

A Muslim who claims to have homosexual tendencies and prefers to act upon this propensity and inclination must understand and acknowledge the consequences of his actions. Islām does not condone homosexual behavior and therefore such behavior cannot be justified for any reason. Therefore the onus is on that individual to seek the necessary help in order to ensure a positive change in his life and lifestyle in helping him to eradicate and eliminate his abhorrent behavior. In addition Muslim society

¹⁴² Ibid. *Hādīth* No. 1894.

¹⁴³ Ibid. *Hādīth* 1903.

should take the responsibility of providing the necessary support structure to Muslims with homosexual orientation and tendencies, in order to educate, uplift and provide them with suitable ways to overcoming this behavior.

Conclusion

In Islām, divine law precedes the behavior and action of man. Man is constantly reminded to reflect whether or not his intended behavior is in conformity with the fundamental principles of Islām, which are codified as *Sharī'ah* law. The objective of the *Sharī'ah* is to provide guidance to humanity in deterring them from following the dictates of their desires and encouraging them towards the awareness of Allah. This can only happen through obeying the divine commandments of Allah.

A complete devotee of Islām will manage to unravel the important reform orientated messages embedded in its teachings. The *Sharī'ah* must be seen as a way to provide religious significance to an individual's daily life. The *Sharī'ah* is based on divine laws and injunctions that govern systematically all of human actions. It provides man with moral values and principles for amicable and social co-existence man. The laws of the *Sharī'ah* are explicit and unambiguous, deeply rooted in the sources upon which Islām exist. If the laws are applied sincerely with the correct application and understanding, it can ensure that human life is built on virtue and desirable qualities and it will deter of all evil vices that impact negatively on society.

In consideration of constant and continuous societal changes the divinely promulgated *Sharī'ah* has instituted the secondary principles of *Ijtihād* and *Qiyās* as a means to provide clarity and judgment for the development and advancement of man.

It must be borne in mind that all *ḥudūd* punishment such as theft, highway robbery, murder, fornication, adultery and apostasy are fixed and thus not subject to change, reinterpretation or alteration, irrespective of the applicable time and place. This penal code is clear, unambiguous and well documented in the primary sources (*Qur'ān* and *Sunnah*) on which Islām is built. The clarity of the penal code denotes the severity of capital sins or crimes and serves as an eternal deterrent for man.

Homosexuality from an Islamic perspective is a practice that contradicts the very existence and procreation of man. Even if a hormonal imbalance that causes a propensity towards homosexuality is present, Allah has endowed man with the ability to control his actions and thoughts. The lack of control or the inability to choose suppression of the *nafs*, makes man subservient to his inner weaknesses.

As Muslims we have been given the ability to reason and make informed choices. Islām promotes the safeguarding and protection of the human rights of mankind, as interpreted by the *sharī'ah*. Islām therefore focuses on ridding communities of any evil behavior, by ensuring that Islamic rules of conduct and laws governing it are implemented into the community. Failure to adhere to this comprehensive code of life leads to serious consequences. Thus, acting upon homosexual orientation leads not only to the destruction of the social component and moral fabric of the community but also an unnatural way of life, which can only end in destruction.

Unfortunately Muslim society has isolated and failed “ Muslim homosexuals ” by not providing the necessary supporting structures to assist those who may be homosexually inclined. Muslims who are homosexually inclined and do not engage in, or submit to homosexual behavior, should be provided with the necessary support structures to guide them appropriately and sensitively. Islām does not condemn nor ostracize an individual because of mere propensity towards homosexuality, but finds homosexual behavior abominable and unacceptable. Islām expects from all its followers strict adherence to its comprehensive lifestyle. Man should adapt to the conduct of Islām and not vice versa.

Muslims may not be selective in practicing certain principles and tenants of Islām, whilst recklessly abandoning others. We do not have selective choice options because of personal inclinations or sexual preferences, but must ensure that our intentions are pure and that our actions are commensurate with our intentions, whilst remaining in strict compliance with the *Sharī'ah*.

" يا أيها الذين آمنوا ادخلوا في السلم كافة"

Says Allah: “ *Oh you who believe: Enter completely into Islām.....*”. (Q 2:208)

The limitation of this study is confined to the Islamic ruling of homosexuality and the claims raised by homosexuals. It remains the right of each Muslim to accept the divinely promulgated message of Islām. In a post apartheid South Africa any practice that contravene the basic humanitarian rights of an individual is considered as disrespecting the democratic rights of a person, whether it be religious or traditional.

This study does not address the democratic rights of “ South African homosexuals ” who will insist to continue their homosexual behavior and in doing so, retain their Islamic identity and the consequences that it may have upon orthodox traditional Muslims. Nor does this study provide clarity on methods that can control or alter the claim of propensity towards homosexuality based on a hormonal imbalance through medical intervention or surgery.

Glossary

Adhān

call (to prayer)

<i>Aḥādīth</i> singular <i>Ḥadīth</i>	Prophetic precepts/narrations
<i>Aḥkām</i> singular <i>ḥukm</i>	Islamic legal decree/verdict
' <i>Ām</i>	general
<i>Anṣār</i>	helpers (people of Madīnah)
' <i>Aṣl</i>	original
<i>Fatwah</i>	Islamic legal opinion
<i>Far'</i>	subdivision/branch
<i>Fiṭrah</i>	pure state
<i>Fiqh</i>	Islamic jurisprudence
<i>Ḥadd</i> plural <i>Ḥudūd</i>	punishment/penal code
<i>Ḥalāl</i>	permissible
<i>Ḥarām</i>	forbidden
' <i>Ibādah</i>	worship
<i>Ijmā'</i>	consensus
<i>Ijtihād</i>	exertion/effort
' <i>Illah</i>	exertion/cause/effect
<i>Imām</i>	religious leader
<i>Jumu'ah</i>	Friday congregational prayer
<i>Kāfirūn</i> singular <i>Kāfir</i>	disbeliever
<i>Khamr</i>	wine
<i>Liwāṭ</i>	homosexuality
<i>Lūṭ</i>	Apostle Lot
<i>Muḥsidūn</i> singular <i>Muḥsid</i>	wrongdoers
<i>Mujrimūn</i> singular <i>Mujrim</i>	criminal
<i>Murtad</i>	apostate
<i>Musrifūn</i> singular <i>Musrif</i>	transgressors
<i>Nafs</i>	soul/self
<i>Qawmun</i>	people
<i>Qiyās</i>	analogical deduction
<i>Riddah</i>	apostasy
<i>Ṣalāh</i>	prayer
<i>Sharī'ah</i>	Islamic law
<i>Shahwah</i>	desire

<i>Şiyām</i>	fasting
<i>Sunnah</i>	Prophetic narration/lifestyle
<i>Ta'zīr</i>	discretionary (punishment)
' <i>Ulamā</i> ' singular ' <i>Ālim</i>	learned scholar
<i>Uşūl</i> singular <i>Aşl</i>	origin (referring to a methodology of extracting an Islamic decree)
<i>Zālimūn</i> singular <i>Zālim</i>	oppressor

Annexure One

Islam and Homosexuality

by Imam Muhsin Hendricks, President
The Inner Circle – South Africa

Islam's Shariah law is based on Quranic text and the teachings and actions of the Prophet Muhammad (peace be upon him) collected in books called Hadith. In both these sources reference is made to the story of Sodom and Gomorrah which forms the basis for the law and the blanket condemnation of Homosexuality in Islam. The analogical reasoning (qiyas) and the consensus of the scholars (ijma') are all based on the former two texts and their own interpretation of the text. What is required of contemporary Muslim scholars is to revisit those texts and the context in which it was revealed or written

and see how it relates to homosexuality in both Western and Eastern modern contexts as well as contemporary Islamic contexts. This can be done through the process of independent reasoning (Ijtihad) which is an aspect of Islamic thought and legal reform that has been effaced and long forgotten.

The prophet Muhammad (pbuh) never dealt with homosexuality in a direct way. Neither did he call for the punishment or persecution of homosexuals on the basis of sexual orientation. The prophet Muhammad did deal with a group of effeminate men in Medina called "Mukhannathun". However, while this group of Mukhannathun did possess qualities of modern gay men, it cannot be said that the



Imam Muhsin Hendricks. Picture: Collectif Item. www.collectifitem.com

"The prophet Muhammad (pbuh) never dealt with homosexuality in a direct way. Neither did he call for the punishment or persecution of homosexuals on the basis of sexual orientation."

Mukhannathun fully represents modern gay men, as they were involved in practices not common to contemporary gay men. The prophet went as far as prohibiting some of them to work in the women's chambers of the Muslim homes and banishing some of them out of Medina. These were all done on the basis of their immoral and irreligious actions, but never on the basis of sexual orientation.

This attitude towards the "Mukhannathun" and other effeminate men spilt over into the Umayyad (661 – 750) and Abbasid (758-1258) periods, for approximately 600 years after the demise of the Prophet Muhammad. Hence we find a tolerant attitude towards homosexuality in these periods. Homosexual poetry like those written by the homosexual Abu Nawas (813), flourished during this >

Imam Muhsin Hendricks > now know had to do with the grievous sin of abusing sexual power and male-to-male rape and not the condemnation of a homosexual orientation and identity which has been a natural phenomena since time immemorial.

In conclusion I would call upon the Muslim Theologians to review their attitude towards this diversity within humanity and amend Shariah laws to include the protection and rights of this diverse group of people.

God says in the Quran:
49:13

O humankind! We have created you out of the paring of a male and a female, and have made you into nations and tribes (Shu-ub also means off-shoots, sects or divisions and Qabeel also means different kinds or species), so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of God and who practice self-restraint. Truly God is all-knowing, all-aware.

17:84

Say: "Everyone acts according to his own "shakl" (disposition, specimen or make-up or fashioning) and God knows best who is guided along the way. <

Dalai Lama Expresses Support for LGBT Human Rights

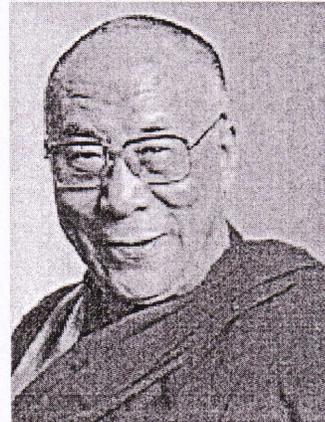
Participants at the XXIII World Conference of the International Lesbian and Gay Association (ILGA) Welcome Message of Support By www.temenos.net

Dalai Lama Expresses Support for LGBT Human Rights
Participants at the XXIII World Conference of the International Lesbian and Gay Association (ILGA) Welcome Message of Support

Participants at the World Conference of the International Lesbian and Gay Association received a special message of support from His Holiness the Dalai Lama. The statement expresses the Dalai Lama's concern at "reports of violence and discrimination against gay, lesbian, bisexual and transgender people" and "urges respect, tolerance and the full recognition of human rights for all."

"We are deeply grateful for the support expressed by His Holiness the Dalai Lama for human rights based on sexual orientation and gender identity", said Rosanna Flamer-Caldera and Philip Braun, Co-Secretaries-General of ILGA.

"In a world where the human rights of lesbian, gay, bisexual and transgender people are regularly violated, His Holiness' message of support is a beacon of hope and respect. We urge other world religious leaders to join with His Holiness the Dalai Lama in opposing violence and discrimination based on sexual orientation and gender identity, and demonstrate a similar commitment to respect for the human rights." >



Presentation delivered by Muhsin Hendricks at the 13th World Conference of the International Lesbian and Gay Association held in Geneva on the 27th March 2006.

Annexure Two



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MUSLIM JUDICIAL COUNCIL

STATEMENT

ON

MUSLIMS AND HOMOSEXUALITY

Issued by the Presidency and Secretariat on behalf of the general Majlis

Dated 23 November 2007

At an emergency General Majlis (assembly) meeting of the Muslim Judicial Council, held on the 22nd November 2007, corresponding with the Islamic date of 12 Thil Qaida 1428, at the Chambers of the MJC, the meeting declared the following :

The position of the MJC on homosexuality is the position being held by the Sharia (Islamic Law) and held throughout the ages and taught by all the Holy Prophets and Holy Scriptures.

In conformity with centuries of unambiguous and clear evidence from the Glorious Quran, the Sunnah and the consensus of the scholars of Islam, the MJC condemns the practice of homosexuality, the inclination towards homosexuality and the homosexual lifestyle. The meeting unanimously re-affirms the decision of its Fatwa Committee that the practice of homosexuality is haraam (Forbidden) and abominable.

The MJC further declares that any Muslim who rejects the clear injunction of Islam on the homosexuality and believes it to be right, acceptable or correct, is regarded as out of the fold of Islam and such a person is decreed to be a Murtad, an Apostate.

Allah Says: "For ye practise your lusts on men in preference to women: You are indeed a people transgressing beyond bounds." (Ch8:V81)

The Muslim Judicial Council also wishes to state that it distances itself from the programme aired on " VOC Talk at 9" on Friday, 16 November 2007, during which the presenter hosted three men on the issue of homosexuality amongst Muslims and the promotion of the Film "Jihad for Love". To place the sacred word of "Jihad" within the context of a gay relationship is unacceptable, abhorred and offensive to Muslims.

The MJC believes that coverage of the film and the opportunities given to the two controversial figures gives prominence to arguments in favour of homosexuality and helps to propagate ideas foreign to Islam and unacceptable to Muslims. The MJC condemns the popularization of the practice and undue exposure given to proponents of the homosexual and lesbian lifestyle.

The MJC is therefore committed to preserve and safeguard the sacred teachings of Islam. One of the basic, universal principles of Islam incumbent upon Muslims is the preservation of the Deen, even to the exclusion of negative influences which are so prevalent in our permissive society today. And since these might begin to affect the purity of the religion of Islam, we therefore call upon the Muslim community to boycott the film.

We call upon all right-minded Muslims to uphold the teachings of the Quran and Sunnah, to hold firmly onto the basic tenets of Islam and reject all lifestyles which are foreign to and frowned upon by Islam.

Signed


Moulana Abdul Khaliq Allie
Secretary General

Statement issued by the Muslim Judicial Council on Muslims and Homosexuality.

Annexure Three

Re-educating &
Creating Awareness
around
Homophobia in
Faith-Based
Communities

The Human Rights
Organization for
the Social and
spiritual &
Psychological
development of
Sexually Diverse
Individuals, Groups
and Communities

NPO Registration NR:
045 - 857 NPO

This organization is
supported by

To whom it may concern

Request for solidarity and support

The Muslim Judicial Council of the Western Cape, South Africa has recently issued a statement declaring all homosexuals and those who support them as (murtad) apostates and out of the fold of Islam. We are still interested to know on what legal basis the passing of such a judgment is possible.

The Inner Circle is dismayed at the MJC's reaction to the documentary "A Jihad for Love" and the subsequent negative (hukum) judgment passed against homosexuals and those who are sympathetic to them, while no one to our knowledge made any effort to contact The Inner Circle or Halal Films regarding this documentary or even watched it.

The Voice of the Cape Islamic radio station has also been severely criticized by the MJC and accused of entertaining the idea of homosexuality being possibly permissible in Islam.

We feel that the MJC's statement is inciting hatred and violence and violates the rights of the lesbian and gay community to practice their right to sexual expression and choice of belief.

We also feel that the MJC is acting in disregard to the South African constitution by passing such judgments in the apparent need to protect the Islamic faith.

The Inner Circle is calling upon all individuals in the community, organizations and institutions, secular and religious to appose the MJC's "hukum" in the strongest possible terms.

Letters can be forwarded to admin@theinnercircle.org.za. Letters from organizations and institutions should be on a company letterhead. Anonymous letters are also welcome.

We appreciate your support and effort in creating a peace-loving and tolerant society.

Thank you

Regards,
Muhsin Hendricks
Director
The Inner Circle
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7824

Statement issued by Muhsin Hendricks the Director of The Inner Circle in response to the statement issued by the Muslim Judicial Council.

Islamic Unity Convention speaks out against homosexuality

IN reaction to the screening of the film *Jihad for love*, the Islamic Unity Convention (IUC) has released the following statement:

Iblis is really moving with the times. His techniques are becoming more and more sophisticated. Now, in the twenty-first century, he is using modern technology to whisper in the hearts of men.

His latest tool of deception is using the concept "jihad", which is the most beloved and honoured concept in the sight of Allah and Islam, to justify homosexuality.

After a world-wide tour, the documentary *Jihad for love* was screened in South Africa during the Gay and Lesbian film festival, coupled with the internet, which is flooded with websites opening with the Kalimah Shahadah, promoting the acceptance of homosexuality in Islam.

This documentary is an onslaught against Islam and an onslaught against the countries and its people still upholding true Islamic values.

The most deceiving and subtle way concepts of Islam can be removed from the believers is through misconception.

It is through misconception that we can oppress ourselves and restrict our freedom.

The Qur'an defines the nature and role of gender in the following way:

The Qur'an likens the creation of the male and the female to that of the 'night' and the 'day', implying that they complement each other 'like twin-halves of a whole'.

But they are also functionally different.

Hence, a successful and harmonious male-female relationship requires that the day (ie the male)

The Qur'an likens the creation of the male and the female to that of the 'night' and the 'day', implying that they complement each other 'like twin-halves of a whole'. But they are also functionally different.

must function as 'day' and not try to become 'night' and, similarly, the 'night' (ie woman) must function as 'night' (which covers and conceals) and not try to become 'day'.

The following hadith compliments this analogy: "The throne of Allah trembles when males approach males instead of females."

This means that the true nature in which Allah has created creation is being disturbed when we choose to live unnatural lifestyles, for in Allah's creation there is order, balance, equilibrium and harmony; for every action there is a reaction.

Nature and the laws of nature need to be defended to prevent belief, life, honour and freedom from being violated.

One of the aims and objectives of jihad is the establishment of Divine rule and forcing the unruly to submit to Divine laws: "And fight them until persecution is no more, and religion is all for Allah." (Qur'an 8:39)

The documentary *Jihad for*

love sends the following messages to Muslims:

- It is striving to replace the natural order with the unnatural
- It is legalising sodomy in Islam
- We will be witnessing the disappearance of family life
- It gives homosexuals and heterosexuals an equal status in the sight of Allah.

Our Imaan, coupled with conceptual clarity, is our strongest weapon against all these evils brought to us disguised in the sacred concepts of Allah.

It is said: "There is no Islam without jihad, and no jihad without Islam." Remove this concept from the context of Islam then we remove the essence of Islam.

Jihad is, therefore, a ceaseless, continuous, superconscious and effective struggle for justice; a means of putting everything in its proper place, according to its due respect.

In other words, it is an acknowledgement that order exists; balance exists; equilibrium exists. Justice is, therefore, a natural law.

Statement issued by the Islamic Unity Convention (IUC) on the film *A Jihad for Love* in the Muslim Views in the December 2007 edition.

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