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# progressive muslims

ON JUSTICE, GENDER AND PLURALISM

EDITED BY  
OMID SAFI



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SEXUALITY, DIVERSITY, AND ETHICS IN THE  
AGENDA OF PROGRESSIVE MUSLIMS*Scott Siraj al-Haqq Kugle*<sup>1</sup>

This study is dedicated to Hamid Nastoh, for bravery despite despair.<sup>2</sup>

In the name of God, the Merciful and Compassionate. Praise be to God, the marvels of whose creation are not subject to the arrows of accident. Minds do not reflect on the beginning of such wonders except in awe and bewilderment. Praise be to God, the favor of whose graces continue to be bestowed upon all creatures. These graces come in succession upon the created beings whether or not they wish to receive them. One of God's marvelous favors is creating human beings out of water, causing them to be related by procreation and marriage, and subjecting creatures to desire through which God impelled them toward sexual intercourse and thereby preserved their descendants.<sup>3</sup>

With this majestic praise of sexual intercourse, Imam al-Ghazali begins his book that deals with sex, procreation, marriage, and romantic relations. Imam al-Ghazali is very forthright in talking about sex. In this respect, he represents the whole tradition of Islamic scholars, who never shied away from a frank (and often delightfully raunchy) discussion of sex with all its dangers and delights following in this way the footsteps of the Prophet Muhammad. If we can judge by the traditions passed down from him, it appears that Muhammad challenged his society not only in the realms of faith and ritual, but also in the realm of sexual pleasure and the complex relationships it creates.

In comparison with many other religious traditions, it has often been noted that Islam is a religion that has evaluated sexual life positively. Articulating the integral relationship between spirituality and sexuality is one way that the Prophet Muhammad challenged his society. It remains for us, today, to

continually struggle with that challenge. The system of norms, rules, and laws created by Muslims in the past (a collective body we call *Shari'ah*) does not absolve us of this challenge. It may, in fact, create complexities that drive us to reinvestigate the topic while presenting obstacles to a just resolution of those complexities. Scholars in the contemporary period have not lived up to the standards and frankness of pre-modern Islamic scholars, and much work has yet to be done on the question of sexuality in Islamic scripture, law, and society. Many scholars and Islamic leaders in the present shy away from honest discussions of sex and sexuality, with all its promise and problems. Muslims in pre-modern times certainly were not shy about discussing matters of sex, so why should we be prudish? The most basic goal of this essay is to return to us contemporary Muslims the "awe and bewilderment" that al-Ghazali felt when considering sexual pleasure.

Sexuality is connected not just to spirituality, but to politics as well. What is required of us in political situations is an acute sense of justice, but we often ignore or obscure justice when it comes to matters of sex and sexuality. We need to think more clearly about "intimate citizenship," how the personal, emotional, and sexual dimensions of our lives (which are often locked away as "private") actually have very public and often political consequences.<sup>4</sup> Questions of sex and sexuality become incendiary when members of a religious community feel threatened by or in conflict with external "enemies." Under such conditions, religious communities maintain restrictions and develop ideologies governing sexuality and gender. In our contemporary age, this is a serious problem, in both Muslim-majority societies in Africa, Asia, the Middle East, and also among Muslim minorities in the West. We see fundamentalist groups securing political power through the persecution of women, sexual minorities, and gender minorities. Even in North America, where many in the Muslim community feel threatened, the discourse around sexuality and especially homosexuality can become quite ideological and even violent. The Qur'an demands an acute sense of justice from all Muslims. Justice does not allow us to displace political tensions and economic inequalities onto sexual and intimate relationships. Conversely, open discussion of human sexuality helps us perceive more clearly ethical issues in the more public social fields of politics, economics, and criminal law.

What do we mean by sexuality? We certainly mean more than lust. The concept of sexuality identifies an integral dimension of each individual's personality: "an indicator of our core being, a sexuality which interweaves thoughts, desires, motivations, acts and psychological and mental well-being within its meaning."<sup>5</sup> The critical re-evaluation of sex and sexuality grows out of the feminist re-evaluation of gender and the constraints that gender imposed on women. As feminist scholars critique the assumed superiority of patriarchal masculinities, space is opened for a deeper introspection about sex – not in the light of gender alone but also in the light of sexuality. The success of any project

to free sexual practices from the constraints of patriarchy depends ultimately on the success of freeing women (and eventually men too) from the same dominance of patriarchal structures of power.

#### SEXUALITY AND EROTIC LIFE AMONG MUSLIMS

The mass media in the West assert that Islam is a "repressive" religion. However, comparison with other religious traditions reveals that Islam is a sex-positive world religion. In Muhammad's teachings (as in the Qur'an), sexuality is not an obstacle to spirituality in general. Rather sexuality is a field where spirituality plays out, as it does in economic life, ritual practice or political struggle. Even conservative religious scholars saw sexuality in a positive light.<sup>6</sup> The Qur'an does not blame sex or sexual desire for the "fall" of Adam and his mate from Eden, nor do Muslims in general see sex as part of fleshly corruption in the life of this world. Rather, sexual desire is part of creation and expresses Allah's wisdom. It brings divided people together, forces them to confront spiritual and ethical truths, and allows for continuity between generations.

This characteristic distinguishes Islam from its Abrahamic cousins. Authorities in the Judaic tradition often see sex as positive only in procreative results, and Christianity (like many interpretations of Buddhism) harbors deeply negative assessments of sexual activity. Early Christian leaders struggled with the question of whether the faithful should have sex at all, and speculated with horror whether the resurrection would be "bodily" with sexual organs and sexual desires. In contrast, the Qur'an depicts a heaven that is not just bodily, but sensually delightful and even sexually blissful.

In posing the radical legitimacy of the practice of sexuality, Islam helped in the formation of a specific form of culture. The continuous outpouring of oneirism [cultivation of dream visions], combined with the most delicate and most elaborate eroticism, gave birth to a particularly original and attractive mode of life ... To be attentive to one's own body, to assume it in its totality, to take one's own fantasies seriously, to make the quest for orgasm an essential aim of earthly life and even of the life to come, are some of the aims of Islam.<sup>7</sup>

With these words, the Tunisian sociologist Abdelwahab Bouhdiba tries to preserve the Islamic challenge of connecting eroticism with spirituality.

The Prophet Muhammad is remembered as saying, "Three things were made beloved to me in this world of yours: women, perfume and prayer."<sup>8</sup> This saying has given generations of Muslims pause to consider the intimate connection between beauty, sexual desire, and worship of the One God. The general picture that emerges from the traditions preserved about the Prophet's teachings is that sexual activity is an important form of worshipful pleasure. It embraces sexual play (the giving and receiving of erotic pleasure) in many forms as a good in and

of itself, without being restricted to procreative acts. One *hadith* scholar, 'Ali Muttaqi (who died in 1567 CE) relates these prophetic traditions about the benefits of sexual play with one's partner:

A man's sexual play with his partner, when accompanied by sincere intent, causes him to be rewarded by Allah. As the Prophet is reported to have said, "Allah is pleased with a man's playing with his wife, and records a reward for him and makes a worthy provision in the world for him because of it." There is another *hadith* that says "When a man gazes at his wife and she gazes at him, God looks at them both with a gaze that is compassion and mercy."<sup>9</sup>

This openness to sexual play is within established relationships, in which partners acknowledge their relationship through some kind of contract. Such relationships were not historically limited to formally matrimonial relationships (*nikah*), but included sexual relations through informal contract (*mut'a*), ownership in slavery, and other less formally legalized relationships.<sup>10</sup> Contemporary Islamic communities, especially in the West, tend to demand exclusively matrimonial relationships. However, this was never the exclusive norm in pre-modern Islamic societies, where other kinds of sexual relationships were legal and socially sanctioned.

Islamic society's acceptance of sexual pleasure as a good in itself explains its openness to the use of contraception.<sup>11</sup> Beyond its procreative function, sexual play was valued for establishing effective and emotional bonds of caring between partners. The Qur'an addresses the question of non-procreative sexual acts directly and affirms them (in Surat al-Baqara 2:223, though interpretation of this verse was always the subject of contest and debate).<sup>12</sup>

In summary, the Islamic tradition has valued the pursuit of sexual pleasure positively. Sexual play was not limited to marital relations, but was permissible in other kinds of contractual relationships. Sexual pleasure was not restricted to procreation, but was seen as spiritually and socially beneficial in itself, such that some kinds of contraception were encouraged. This positive assessment of sexual pleasure was traditionally limited to sex between a male and a female. A "heterosexist" assumption underlies all these positive assessments. Accordingly, Muslim jurists saw their primary duty to regulate sexual activity that might lead to the birth of illegitimate children or situations of unclear parentage.

However, is it honest to assume that all Muslims are heterosexual in their sexual orientation and practices? Is it factual to assert that genders are clearly divided by physical nature rather than by socialization? Is it realistic to pretend that sexual desire is always only between a man and a woman? The ambiguities that arise from exceptions to the heterosexist assumption are always a challenge to any human community, and Muslims are no exception. Muslim scholars and jurists of the past certainly confronted these issues and offered certain answers to the questions they raise.

In the light of new biological knowledge about genetics and sociological knowledge about personality development, the traditional answers may no longer be convincing. This is especially true now that several generations of Muslim feminist scholars have questioned the patriarchal assumptions behind so many practices that Muslims popularly consider integral to their religious tradition. Inspired by feminist critiques, some Muslims who are attuned to sexuality are taking the contemporary situation as an opportunity to return to the sources of Islamic religious beliefs in order to reassess questions of sexuality and its diversity. An honest and subtle examination of these sources (the Qur'an, the prophetic traditions, and the decisions of Islamic jurists) reveals more ambiguities than the defenders of "orthodoxy" care to admit. This study will illuminate these ambiguities to show how they are productive ambiguities. These ambiguities should urge those Muslims with a keen sense of justice and a firm hold on reason to entertain the possibility of reassessing the Islamic tradition's stand regarding homosexuality as part of rethinking its stand on sexuality in general.

This study begins with what might seem like a radical notion, that Islam does not address homosexuality. It might be conceivable that particular Muslims in particular situations addressed issues related to something we currently call "homosexuality."<sup>13</sup> We must be instantly suspicious of statements like "Islam says ..." or "The Shari'ah says ..." as if these abstractions actually speak. Things do not speak. Only people speak. Although all Muslims revere the Qur'an and respect the Prophet Muhammad, statements about these sources of divine guidance are interpretations of them. Such interpretations are always expressed and advocated by people. And people, even Islamic leaders, are never infallible. There must be room for an educated and sensitive dialogue about even these most intimate (and sometimes scandalous) topics.

#### DIVERSITY AND SEXUALITY IN THE QUR'AN

Before turning to the topic of homosexuality in all its controversy, let us return to the more general category of sexuality. We should approach homosexuality from the wider perspective of diverse sexualities. We should begin by asking whether the Qur'an positively assesses diversity in creation and among human beings. We should observe the Qur'an's positive assessment of diversity in gender, race and ethnicity, color, language, and culture, and then turn to ask whether this positive assessment might include diversity in sexuality as one more dimension of the creation of humanity.

Such a basic question might seem absurd to Muslims who identify as gay or lesbian. Like many Christians and Jews, Muslims tend to put religion behind them when they begin to identify as gay or lesbian, in reaction to the rejection they experience from their families and religious communities. They tend to leave behind the active participation in religion (as ritual or community) even if they

feel nostalgia for the sense of belonging that religion promises or retain a sense of distinctive identity in coming from a Muslim background. Many gay and lesbian Muslims feel that Islam is antiquated, oppressive, or hopelessly corrupted by a patriarchal elite. In avoiding the Islamic community, many embrace gay and lesbian communities, hoping to feel comfort and belonging under the rubric of "homosexuality" that they were denied under the rubric of "Islam."

For gay and lesbian Muslims, the term "homosexuality" represents the acknowledgement that there is a natural diversity in sexuality in human societies. For them, it may be disquieting to examine the origins of that term "homosexuality." When it was invented and interpreted in Europe and America in the late nineteenth century, "homosexuality" did not represent an acceptance of diversity in sexuality. The term was popularized in medical clinics to identify a "deviant" sexuality in order to classify people, control their behavior, and "cure" them or confine them. Western societies are still deeply divided over whether there is and should be a natural diversity in the sexuality of its members, though more and more thoughtful people are accepting that homosexuality is not a sickness, weakness, or sin, but rather is a natural variation in human character.<sup>14</sup> This should give gay and lesbian Muslims reason to be courageous and optimistic, for terms mean what they mean as a result of discussion, debate, and struggle. Like the term "homosexuality," the term "Islam" can (and inevitably does) mean different things to different generations and communities. It may not be inevitable that "Islam" stands in opposition to "homosexual" in a relation of contradiction.

A basic strategy for questioning dominant Muslim interpretations of Islam is not to reject Islam as an entire tradition. Rather we should return to Islam's most basic principles, knowing that the details of dominant interpretations may not be in accord with the basic principles.

At its most basic level, Islam is a religion that positively assesses natural diversity in creation and in human societies. Despite the chauvinism of many Muslims, the Qur'an announces the radical idea of diversity in religion. Allah has sent many Prophets, speaking in different languages, bringing ethical teachings and exhortations to different nations, giving rise to a confusing array of ritual practices and legal norms. Islam has a unique history of being a confessional, universal, and missionary religion that nonetheless accepts and protects other religious communities, guaranteeing the security of their members. As a corollary, the Qur'an accepts diversity in tribal, ethnic, and national groupings. The Qur'an's vision stands in stark contrast to the Biblical portrayal of the Tower of Babel (in which God scatters humanity into different groups with mutually incomprehensible languages as a punishment for their competition with God). The Qur'an addresses humanity, saying, "We created you different tribes and nations so that you may come to know one another and acknowledge that the most honorable among you are those that stay the most conscious of Allah" (Surat al-Hujurat 49:13).<sup>15</sup>

The Qur'an respects diversity in physical appearance, constitution, stature, and color of human beings as a natural consequence of Divine wisdom in creation. Muslim feminists have shown that the Qur'an celebrates the creation of women as equal to men, asserting that the differences between them are complementary and are an ethical challenge. The Qur'an does not portray Eve as having been created from Adam's rib, as if she were derivative or inferior.<sup>16</sup> Islamic scholars have traditionally acknowledged that Allah created two genders and also created people who cannot be categorized through a binary construction of gender. One Islamic scholar, 'Ali Muttaqi, displays this acknowledgement clearly in the introduction to his book on marriage and sexual play.

In the name of God, the Merciful, the Compassionate. Praise be to God who created male and female as partners, then mixed the two in a display of Divine power by creating hermaphrodites as well. Praise be to the One who favored humanity over all the rest of creation and made the continuation of the world to rest upon the conjugal union of the male with the female.<sup>17</sup>

Beyond the fundamental category of gender, the Qur'an asserts that human beings are created in variety and assesses this variation positively. "From among Allah's signs is the creation of the heavens and the earth and the difference of your tongues and the variation of your colors [*alwan*]" (Surat al-Rum 30:22).<sup>18</sup> *Alwan* is the plural of the word *lawn*, which literally means "color" but figuratively stands for shade or type, and can describe variation of texture, flavor, and kind (as in dishes of food).<sup>19</sup> *Alwan* therefore implies the existence of variations among people, not in outward appearance only but also in inward disposition. Another verse declares "that everyone acts according to his or her own disposition [*shakila*]" (Surat al-Isra' 17:84). This suggests that human nature that has been created diverse, not just in language, ethnicity, and appearance, but also in inward disposition and personality.

It is not a long step from these profound examples to ask whether the Qur'an accepts diversity in sexual disposition and orientation. The Qur'an never states this clearly, since there is no term in the Qur'an for "sexuality" in its abstract meaning (just as there is no term in the Qur'an for "gender").<sup>20</sup> The above examples show that the Qur'an asserts that creation is diverse on so many levels and that this variation is not random or mistaken and is never to be assessed negatively. With the Qur'an's vivid portrayal of diversity at so many levels of the natural and human world, it would be logical to assume that this diversity of creation plays out on the level of sexuality as well. It is also plausible to assert that, if some Muslims find it necessary to deny that sexual diversity is part of the natural created world, then the burden of proof rests on their shoulders to illustrate their denial from the Qur'anic discourse itself. The Qur'an certainly implies that some people are different in their sexual desires than others when it

mentions "men who are not in need of women" (Surat al-Nur 24: 30).<sup>21</sup> The Qur'an includes such men in a list of people whose presence does not require of women social modesty or seclusion (along with male relatives and children who have not attained sexual maturity). It is not clear what inner disposition caused such men to not be attracted to women. Perhaps they simply have no sexual desire (due to age, illness or self-control that involves an inner disposition that could be characterized as "asexual") or perhaps they experience sexual desire that is not attuned to women (which suggests an inner disposition that involves sexual orientation that could be conceived as "homosexual"). In either case, the Qur'an offers an example without negative judgment about men who do not conform to patriarchal assumptions that men are always, inevitably, and uncontrollably attracted sexually to women.<sup>22</sup>

This example from the Qur'an is suggestive, but not indicative. It is clarified by the fact that the Prophet Muhammad knew of men in his era who belonged to this category of "men who are not attracted to women." In Arab society at the time of the Prophet, there were men who lived outside the patriarchal heteronormal sexual economy (*mukhanath*), as described in the detailed study of Everett Rowson.<sup>23</sup> The evidence presented by Rowson from early Islamic literature shows that the Prophet accepted these men-who-acted-like-women as citizens in Medina, as long as they did not transgress certain ethical rules. They attracted the criticism of the Prophet only when they helped arrange clandestine affairs between men and women (since they were in the unique position of having access to both women's secluded spaces and the more public space of men).

It is therefore reasonable to conclude that the Qur'an accepts the existence of diversity in sexuality and sexual orientation. This is the basic fact that must be acknowledged before moving on to address any particular legal regulation of sexual acts or sexual relationships. In other words, Islamic discourse based on the Qur'an did not use a discourse of "natural" or "unnatural" to describe sexualities. European Christians introduced this concept of "natural" versus "unnatural" to describe variation in sexuality and sexual actions. It has remained the keystone of denunciations of homosexuality long after Christianity ceased to function as the moral touchstone for Western societies. Contemporary Muslims who explicitly denounce homosexuality as "un-Islamic" adopt this dichotomy of natural and unnatural, and apply it as if it were indigenous to the Islamic tradition and to the Qur'an.<sup>24</sup> This is a sign of bad faith, and a signal that contemporary Muslim moralists are not insulated from modernity, even as they depict gay and lesbian Muslims as corrupted by modernity. Gay and lesbian Muslims are certainly not required to accept the posturing of self-righteous defenders of a "tradition" that they anachronistically defend with conceptual tools from Christian thought and modern Euro-American culture. These same moralists and fundamentalists blithely assert that there are no homosexual people in Islamic communities (or if they are they should be killed). On the

contrary, when one looks through the historical and literary records of Islamic civilization, one finds a rich archive of same-sex sexual desires and expressions, written by or reported about respected members of society: literati, educated elites, and religious scholars.<sup>25</sup> This is so much the case that one might consider Islamic societies (like classical Greece) to provide a vivid illustration of a "homosexual-friendly" environment in world history. In fact, medieval and early modern Christian Europeans have often engaged in polemics against Muslims by accusing them of being "sodomitical" and of engaging openly in same-sex practices; this rhetoric was an integral part of the Christian campaigns to re-conquer Spain.<sup>26</sup>

How ironic, then, that modern Western scholars have averred to Muslim jurists' views of sexual morality, those jurists who were always a minority voice and often had no social power to enforce their views. It is surprising that most modern Western scholars consistently ignore the observations of medieval European scholars as well as the rich literary and historical examples of same-sex relationships among pre-modern Muslims. The situation among Western scholars has not changed since the time of John Addington Symonds (who first used the word "homosexual" in English prose in 1883), who remarked that homosexuals are a topic that scholars "touch with reluctance and dispatch with impatience."<sup>27</sup>

If medieval Westerners condemned Muslims for being completely permissive, modern Westerners have recognized only the most repressive elements among Muslims as spokespersons for their religious beliefs and practices. In this, modern Western scholars are certainly acting out their own indigenous forms of homophobia in the mis-recognition or erasure of gay and lesbian Muslims, who might protest, along with the poet Ghalib, that they were not created by mistake no matter who may seek to erase their presence.

Oh Lord, why does time move to obliterate my every trace?  
I'm no misspelling chalked on the tablet of the universe  
In punishment, go ahead, torment me any way you see fit  
I'm no infidel in the end, but just a simple sinner<sup>28</sup>

It is as if Ghalib were echoing (with a note of sarcasm) the benediction of Imam al-Ghazali: "praise be to God, the marvels of whose creation are not subject to the arrows of accident." If sexuality is inherent in a person's personality, then sexual diversity is a part of creation, which is never accidental but is always marvelous.

Here we have to pause, and scrutinize this evident clash of pre-modern and modern terms of understanding sexuality. Under the conditions of modernity, as it developed in Europe and America, the terms for the debate over sexual diversity are "homosexuality" with its derivative terms "heterosexuality" and "bisexuality." As mentioned above, these conceptual terms are unique to modern societies. While we cannot avoid the terms, we admit that they are contested and

debated. It is also crucial for the Muslim community to understand the subtlety of these terms before refuting or denouncing them. Many contemporary analysts are uncomfortable with the term "homosexuality," since it is clinically prescriptive and was invented at the end of the nineteenth century. The term presumes a binary and irreducible opposition between two sexual orientations: "heterosexuality," which is normative, and "homosexuality" which is derivative (and therefore judged to be perverted, inverted, sick, criminal, or somehow unnatural or undesirable). Some historians of sexuality posit that "homosexuals" did not exist before the creation of the term "homosexuality"; they claim that homosexual people, like the term "homosexual" itself, are products of the peculiar conditions of modernity. This argument is the cornerstone of a political position that religious traditions have nothing to say about homosexuality or modern homosexuals, since their ancient scriptures have no term to describe them. Other historians of sexuality take a less nominalist position and argue that "homosexuality" is a particularly modern lens through which to see types of people, behaviors, and dispositions that exist in a more universal way in all societies.<sup>29</sup> They argue that an apple is an apple whether one calls it *Apfel*, *tufah*, or *sib*, even if the word/concept in English, German, Arabic, or Persian might have different metaphoric associations and cultural connotations. The argument between "essentialists" and "constructionists" over the usefulness of the term "homosexuality" has been a very productive argument with no easy resolution.

Many historians of sexuality have reacted against the binary opposition asserted by the language of "homosexuality" and "heterosexuality." Many now prefer to use a more open-ended term, "queer," to describe all sexual orientations and practices that fall outside the narrow constraints of patriarchal procreative sexuality (called "hetero-normativity"). "Queer" would include same-sex eroticism between men and men or between women and women. It would also include variations of bisexual eroticism in which men might engage in sexual attraction or practices with both men and women (either in series or simultaneously) and women might engage in the same with both women and men. At its conceptual frontier, "queer" would also include celibacy as a sexual practice that falls outside hetero-normative sexuality. More complex would be sexual practices that include gender-crossing identification, as with men who take on social roles described as "female" (through dress, language, or behavior), or women who take on roles described as "male."

The term "queer" allows for a more descriptive and complex analysis of a variety of sexual orientations and practices that are very distinct, but united in their common difference from hetero-normative sexuality. "Queer" is also a literal translation of the Arabic term *shudhudh* which is currently applied to the phenomena of homosexuality in humanistic studies and journalism. *Shudhudh* literally means "odd" in the sense of numerically unusual or rare. "Queer" also has a further merit, in that even heterosexual and normative sexual practices of the past may seem "queer" to heterosexuals in the present. For instance, the



notion that Islamic law and prophetic example permitted sexual relationships with slaves who were "owned" rather than "married" appears to many contemporary Muslims very strange and even shameful (since most Islamic communities today do not habitually own slaves any more, with some exceptions). Investigating queer people of the past makes us realize the general "queerness of the past."

#### HOMOSEXUALITY THAT IS NOT IN THE QUR'AN

With this background of basic Qur'anic principles about diversity and modern concepts of sexuality, what can we say about homosexuality? We can make some statements that may seem radical, but actually come from an insistence on respecting the literal specificity of the Qur'an as revelation. The Qur'an contains no word that means "homosexuality" (as an abstract idea denoting a sexuality of men who desire pleasure with other men or a sexuality of women who desire pleasure with other women). The Qur'an contains no word that means "homosexual" as a man or woman who is characterized by this type of sexuality as forming a core part of his or her identity. The terms that became popular in Arabic in later times (*Liwat* for acts associated with same-sex relations, and *Luti* for persons associated with these acts) are not found in the Qur'an at all. The Qur'an does not explicitly specify any punishment for sexual acts between two men or two women. Most modern commentators and demagogues insist that the Qur'an does do all these things, but their insistence is not rooted in a close reading of the Qur'anic verses with attention to specific terms and their narrative context.

Let us address each of the above points one at a time, since they may strike many Muslim readers as not just controversial but beyond serious consideration. The Qur'an contains no word that means "homosexuality." Nor does it contain a word that means "heterosexuality." The very concept of "sexuality" as an abstract idea is a characteristic of modern societies. This is why sociologists who write in Arabic have had to invent new words to describe homosexuality in the later part of the twentieth century, and have come up with *al-shudhudh al-jinsi* (which means literally "sexually rare or unusual"). Had there been a Qur'anic term for this idea, it would have entered the Arabic language through common usage and modern scholars would not have had to invent a new one. The Qur'an does contain terms that describe desire (*raghba*) and lustful appetite (*shahwa*) which are certainly components of sexuality in the abstract. But without the idea of sexuality, the Qur'an does not have specific terms for either homosexuals or heterosexuals.

That said, it is admitted that the Qur'an assumes a heterosexual norm among its listeners. This does not automatically mean that the Qur'an forbids homosexuality or condemns homosexuals – it means only that the Qur'an assumes that sexual desire between men and women is the norm and that addressing and regulating this desire is the basis for establishing a moral society.

Heterosexuality is certainly a numerical norm. In any society, homosexuals are a numerical minority and are discursively located at the margins of ethical regulations: whether they are condemned or admired, they are always unusual. This is exactly what the modern Arabic term *al-shudhudh al-jinsi* means: a sexuality that is uncommon, outside the general norm, and rare. However, despite being a numerical minority, homosexual women and men are also present in society and numerically persistent. In every historically documented society there is evidence of homosexual desire and activity and there are persons characterized by such desire and activities.

The closest the Qur'an comes to directly addressing homosexual people is the phrase "men who are not in need of women (or have no sexual guile before women)." The Qur'an presents this phrase descriptively in neutral tone, not linked to denunciation or legal proscription. To such people, the Qur'an does not explicitly address its discourse. Commentators and jurists have drawn analogies and presented arguments to conclude that the Qur'an does address such sexually unusual people, despite the Qur'an's lack of a term for them or the actions that characterize them. Those are, however, arguments of jurists and commentators; they are not the words of the Qur'an itself.

The Qur'an does not contain abstract analytical terms like homosexuality or homosexual, yet it does have words for certain acts. Its verses contain terms that designate actions that transgress ethical norms, like *fahisha*: some acts deemed *fahisha* could be sexual in nature. The most explicit term for sexual transgression is adultery, *zina*, but that is clearly applied to sexual penetration between a woman and man outside the bounds of a contractual relationship. As we will see later, many jurists sought to draw equivalence between "adultery" (*zina*) between a man and woman and other sexual acts between two men or between two women. However, this equivalence is based on analogy (*qiyas*) utilizing a legal fiction and is not based on the explicit wording of the Qur'an. Such analogies were the subject of intense debate and little agreement in classical Islamic law.

The Qur'an does specify an abstraction for the underlying moral attitude that gives rise to behaviors and actions that are deemed *fahisha* or transgression; it calls this attitude *fisq* or *fusuq*, which is usually translated as "corruption." As an action, *fusuq* means to break out of the bounds of moral restraint. As an attitude or spiritual condition that causes such action, *fusuq* means not being bound by obedience to the ethical demands of God and is synonymous with the worship of idols. Often in sermons or moral advice, well-meaning preachers will use the word *fusuq* to denounce sexual acts or sexual minorities, in utter disregard of the Qur'anic use of the term. In the Qur'an, the term is both general and deep, specifying a person's or community's inward spiritual state that either accepts God's presence through the Prophets' teachings or conversely rejects them. *Fusuq* is deeply linked to *kufir*, or denying that God is One who sends Prophets who are many. In the view of this writer, those who claim that *fusuq* is a



term referring mainly to sex, specific sexual acts, or types of sexuality grossly disregard the ethical and spiritual specificity of the Qur'anic message.

Since the Qur'an does not provide explicit terms for homosexuality or homosexuals, why have Muslims traditionally felt so confident in declaring that the Qur'an forbids homosexuality and condemns homosexuals? This is a very complicated subject, demanding that we assess the ways in which Muslims have read the Qur'an in the past. Nobody simply "reads" a text, especially when it is a scripture or sacred text. We have "ways" of reading. These "ways" refer to practices through which we come to the text, engage the text, and apply the text to people, situations, and events that are not the text. We do not come to the text naively. We come as human beings with our pre-conceptions, prejudices, experiences, and "pre-understandings." Our minds and hearts are already full of concepts and ideas (hard-wired, we could say in this computerized age) that we bring to the text before we ever open its pages and pronounce its words.

Every interpreter enters the process of interpretation with some pre-understanding of the questions addressed by the text – even of its silences – and brings with him or her certain conceptions as presuppositions of his or her exegesis ... One can proceed to examine and discuss the legitimacy, usefulness and justice of particular pre-understandings in contrast to others. Pre-understanding is a condition of living in history ... the ethics or absence of them, are located in an acknowledgement or denial of its [pre-understanding's] presence.<sup>30</sup>

These pre-conceptions both enable us to read and also limit our reading. It is unethical to ignore their presence even in the most respected of classical interpreters. Feminist scholars have shown how traditional readings of the Qur'an have been "male" readings of the Qur'an, entirely shaped by assumptions of masculine prerogative, privilege, and patriarchal power. Feminists have accused male readers of distorting the sacred text by importing into it patriarchal assumptions that may not be present in the Qur'an itself. Contemporary scholars attentive to injustices against gay and lesbian Muslims approach the question with the same moral agenda as feminist scholars. They use the same critical techniques of rereading the scriptural texts through new lenses in order to free the text from its former patriarchal confinement.

This is a very weighty undertaking. It is a project in process. This study can only sketch the preliminary scope and method for such a project. Let it be admitted at the outset that gay and lesbian Muslims are not certain what will be found after a thoroughly critical reassessment of scriptural and juridical texts of their religious tradition. They are only certain that no reassessment has yet been made that takes into account differences in sexuality as well as gender. This article hopes to contribute, in a small way, to this project. It cannot address all the details, but it can highlight the crucial importance of this project and some of the preliminary insights that might be gained from it. It asserts that there is

reason to doubt the reasoning behind the traditional condemnation of homosexuality. More urgently, there is reason to doubt the justification of capital punishment for homosexual acts. This article will address texts and traditions in their order of importance to Islamic jurisprudence: the Qur'an, the *hadith* reports attributed to the Prophet Muhammad (*Sunnah*), legal reasoning by analogy (*qiyas*), and the consensus of jurists (*ijma'*).<sup>31</sup>

#### INTERPRETING THE QUR'AN DEPENDS ON THE EXPERIENCE OF THE INTERPRETER

There is, at present, no complete interpretation of the Qur'an from a non-patriarchal perspective. Islamic feminists have boldly begun this project, but it is hardly complete. Scholars like Amina Wadud, Riffat Hassan, and Fatima Mernissi have asserted that the Qur'an does not picture women as devoid of reason, biologically inferior, or inherently subject to men's control, despite the interpretations given to the Qur'an by traditionalists, jurists, and commentators. Gay and lesbian readers of the Qur'an have much to contribute to a non-patriarchal reading of the sacred text, but have only recently become empowered to join this project in the footsteps of their feminist heroines. As they do, they will use the same interpretive tools that feminists have developed (and these are the same tools that modernist, even politically radical, interpreters have used for liberationist purposes). Let us call this kind of interpretation "sexuality-sensitive" interpretation, as short-hand to compare its results to feminist interpretation and liberationist interpretation.

Sexuality-sensitive interpretation is attentive to the fact that sexualities are always multiple in society. It is attentive to the fact that variation is always arranged in hierarchical orders of power, leading to marginalization and disempowerment of the non-normative groups, such as gays, lesbians, or those whose gender is not easy to categorize as male or female. An elite is always empowered by silencing and oppressing the marginal few; the elite claims to speak for the norms of society, while subtly or explicitly supporting the oppression of other groups, like women or political dissidents. "Sexuality-sensitive" as a descriptive term for this kind of interpretation is a direct translation of the Arabic term *hassas*, meaning literally "a sensitive person" but used colloquially to denote "a homosexual person."<sup>32</sup>

Two basic interpretive strategies are important for sexuality-sensitive readings of the Qur'an: semantic analysis and thematic analysis of the Qur'an. These strategies are designed to move beyond "traditional" Qur'anic interpretation with its verse-by-verse analysis that decontextualizes moments of revelation, freezes their meaning, and specifies their interpretation according to a word-for-word replacement. It will become clear that word-for-word replacement, as practiced by classical Qur'anic commentators, has led to very narrow interpretations of the Lut story in the Qur'an. The Lut story in the

Qur'an is the same as the Lot story in the Bible, yet it is told in a very different way, with contrasting emphases and contradictory details. The stories are comparable but not collapsible. This study insists on naming the Prophet Lut (with Arabic spelling) in order to draw this distinction from the story of Lot, which may be more familiar to many readers. The Lut story is the constant reference for Muslims' understanding of same-sex relationships. Word-for-word replacement in classical commentaries has given rise to the dubious equation of the Divine punishment of Lut's people with a condemnation of homosexuality and juridically enforceable punishment for same-sex acts. This is a conclusion that looks less inevitable (and less intelligible) when we pursue different techniques of interpretation, like semantic or thematic interpretation.

First, let us review how classical commentators have interpreted the Qur'an. I do not say "traditional" commentators, for in their time they were pioneers not traditionalists. Only in retrospect have their works come to represent immutable tradition, as later readers of the Qur'an were too modest or were disempowered from giving alternative readings. Let's look at the example of al-Tabari, whose commentary on the Qur'an is accepted as one of the foundational texts of this genre. In his commentary on the verse in which Lut admonishes his people for "approaching the transgression" (Surat al-A'raf 7:80-81), al-Tabari writes,

The transgression [*fahisha*] that they approach, for which they were punished by Allah, is "penetrating males sexually" [*ityan dhukur*]. The meaning is this: it is as if Lut were saying "You are, all of you, you nation of people, coming to men in their rears, out of lust, rather than coming to those that Allah has approved for you and made permissible to you from the women. You are a people that approach what Allah has prohibited for you. Therefore you rebel against Allah by that act." That is what the Qur'an means by going beyond the bounds [*israf*] when Lut said, *You are a people who go beyond all bounds*.<sup>33</sup>

It is clear from this passage that al-Tabari's basic strategy is definition and substitution. He takes a term that is pivotal to the verse and defines it: "transgression" equals anal sex between men. Al-Tabari supplements definition with substitution. He substitutes his own words for the words of the Qur'an in order to add weight and validity to his interpretation: "It is as if Lut were saying this and that. This strategy allows al-Tabari to make a speculative assertion as if it were a foregone conclusion: "This reproach [declaring anal sex between men hateful] was the content of Lut's prophetic message [*risala*]; his purpose was to make this act forbidden."<sup>34</sup> This speculative assertion is not certain from the Qur'an itself. It is not clear that Lut was sent as a Prophet solely (or even primarily) to declare anal sex between men to be forbidden. It is not clear from the Qur'anic text that Lut's entire prophetic message revolves around sex acts. Rather, this is the conclusion that al-Tabari engineers through his strategy of definition and substitution.

Al-Tabari's techniques of commentary are very limited and give a very limited interpretation. However, it is the dominant mode of commentary in the classical period, and al-Tabari's interpretation is echoed in almost all later commentators. Once they were enshrined in classical commentaries, such conclusions were repeated in most commentaries through the present day, especially in commentaries that pretend to be simple "translations." If we take Abdullah Yusuf Ali's popular English "translation" of the Qur'an as an example, we find him engaging in very irresponsible translation that promotes a dangerously reductionist way of thinking. In his translation of Surat al-'Ankabut 29:28-35, where the Qur'an talks about "the lewdness that not has come to before in the wide worlds," Yusuf Ali describes this "lewdness" as homosexuality which is a "crime against the laws of nature."<sup>35</sup>

Al-Tabari's commentary conflates sexual acts of a specific nature with sexual desire of a particular orientation. He does not distinguish between sexual acts, sexual desire, or sexuality. These terms must be carefully dis-aggregated, according to sociological facts about the human personality and sexual diversity. Does the Qur'an talk about a sexual identity characterized by erotic orientation? Does it address a coupling between two people characterized by this identity? Or does it refer to specific sexual acts? These are specific questions that al-Tabari does not ask or answer.

In fact, his interpretive strategy pointedly precludes the possibility of asking these questions of the Qur'an. Sexuality-sensitive interpretation of the Qur'an needs to ask these questions. When we use methods of analysis and interpretation that are more complex and ethically alert, it becomes clear that the story of Lut is not about homosexuality or homosexuals in any general sense. Let's turn to two methods of interpretation that can give us new insights into the Qur'an. They can give us insights precluded by the simple denunciation of homosexuality which is content to take a few words or phrases out of context in order to interpret the verses by definition and substitution.

Semantic analysis of the Qur'an is a technique of reading that does not trust simple translation. The Islamic scholars have long been skeptical of the ability of translation to capture the meaning of the Qur'an in another language. Semantic analysis takes this skepticism further and makes an analytic technique out of refusal to trust a word-for-word translation of Qur'anic terms. The Japanese scholar of Islam Toshihiko Izutsu provided the most sophisticated explanation of this technique and demonstrated what it can contribute to Qur'anic interpretation.<sup>36</sup> He explained that words have meaning only by being enmeshed in a web of relationships to other words. This is especially true in regard to the Qur'an, which was revealed as scripture and represents the "Speech of Allah" that belongs to its own realm of discourse. The ethical imperatives of the Qur'an can be understood by looking at how its words relate to each other; in effect, its words "define themselves" by grouping into clusters of relationships in "semantic fields."

One scholar has applied this technique to the sexuality-sensitive interpretation of the Qur'an, in the first serious critical attempt to reassess the Qur'an's view of same-sex relationships.<sup>37</sup> Amreen Jamel analyzed the passages from fourteen surahs of the Qur'an that mention Lut and his relationship to the community of people to whom he was sent as a Prophet.<sup>38</sup> While it is clear that Lut's people were wicked and were destroyed by Divine punishment for their wickedness, it is not clear at all whether the Qur'anic terms that describe their wickedness and destruction are terms that specify same-sex relationships. Jamel's goal is

to discover the nature of the moral judgements within the Qur'an by raising questions about the Qur'an's perception of sin. The question that needs investigation is whether the specific moral terminology used within the Lut saga as well as in the rest of the Qur'an provides a direct link to attitudes toward same-sex sexuality.<sup>39</sup>

To do this, Jamel's article highlighted the seventeen Arabic root-words that appear in the story of Lut (which carry the weight of ethical condemnation of Lut's people). The article then analyzed their range of meanings both in the Lut story and throughout the Qur'an where they appear without any relationship to Lut's people. Jamel charted whether these terms specified sensual or sexual acts or attitudes and whether they were clearly positive or negative in their moral weight. Semantic analysis was used to discover how the Qur'an gave these terms a range of meanings, dependent on how the terms were related to each other and how they were repeated in different contexts.

This method gives a very "literal" reading of the text. It respects the words of the Qur'an not as defined not by human authorities who assign them meanings by definition and substitution, but rather as defined by their placement in relations to other words in the Qur'an itself. The results of Jamel's systematic and comprehensive study confirm that there is great ambiguity in the Qur'anic retelling of the story of Lut.

While there are no terms in the Qur'an that are uniquely attached to same-sex sexuality, certain terms (e.g. from the roots sh-h-y [as in *shahwa*] and f-h-sh [as in *fahisha*]) are frequently associated with same-sex sexual practices ... However, these terms are used to qualify morally opposite-sex and non-sexual activities as well. Same-sex indiscretions are, in fact, put on the same ethical plane as all sorts of inappropriate opposite-sex and non-sexual activities. In that form, same-sex sexual abominations [*sic*] are just another form of alienation from God, no different than anything else ... It is possible to suggest that Lut's people (specifically the men) were indeed destroyed right after they threatened to assault Lut's male guests sexually; however, there are others, like Lut's wife, who are destroyed for non-sexual indiscretions. This example alone

confirms the premise that same-sex sexuality is not the ultimate abomination that causes people to be alienated from God.<sup>40</sup>

Jamel's analysis is the first step in a serious analysis of the Qur'an from a sexuality-sensitive perspective. Yet the conclusions are very moderate in comparison with the data the study raises.<sup>41</sup> Jamel notes that the terms that the Qur'an uses to denounce Lut's people are not unique to Lut's people; some imply sexual activity but are not limited to sexual activity. Jamel's conclusions could go one step further, to question whether the overall condemnation of Lut's people was either about their sex practices in general or about the sexuality of specific persons in the community. It is certainly hard to imagine a just God, whose most basic message through the Prophets is that "whoever does an atom's weight of good will see the results and whoever does an atom's weight of evil will see the results" (Surat al-Zalzala 99:7), would destroy women and children because of acts of anal intercourse that could occur only between men. From this vantage point, it would seem that it was not sexual behavior or sexuality for which they were all punished, but rather something far more basic.

It is crucial to pursue this point in Qur'anic analysis beyond the initial study by Amreen Jamel. That study notes how Lut's people were destroyed after some of their men "threatened to assault Lut's male guests sexually." Why did these men threaten to assault them? What was the social, political, and moral context of this assault? Should readers of the Qur'an understand this "sexual assault" as an expression of sexuality (let alone homosexuality) or rather as an exercise of coercive power through rape? These are questions that cannot be answered through the technique of semantic analysis alone. We have to turn to a second technique, to "thematic analysis," to supplement Jamel's study and take its analysis to a deeper level of critical re-evaluation of tradition.

Thematic analysis of the Qur'an is based on the insight that the Qur'an is a unique scripture in its form and texture. Unlike the Hebrew Torah, the Qur'an is not a chronological account of a distinct people or tribe; unlike the Christian Gospels, it is not a biographical account of a founding religious figure. The Qur'an's verses are organized into chapters whose structure is more like a kaleidoscope than a chain. Its central themes radiate out in patterns from a central point (where Divine will impacts human language in the consciousness of the Prophet). These patterns are not subordinated to a chronologically organized story. In the Qur'an, narratives come as reminders. They are told in short sequences, interspersed with parables, directives, or ethical exhortations, only to be repeated or continued in a different place. This contributes to the Qur'an's unique power to communicate and move its audience. But this also creates a daunting challenge for those who seek to interpret "what the Qur'an says" about a particular topic. An interpreter cannot just pick one verse and use it as a proof-text to make an authoritative statement, for the same theme could

come up, in different contexts with different shades of meaning, in other places in the Qur'an.

Thematic analysis of the Qur'an embraces this structural characteristic of the Qur'an, while classical commentaries ignore it. A thematic analysis identifies a single theme (be it a concept, an image, or a character) and traces its multiple appearance throughout the Qur'an. It tries to provide a composite picture of the theme, based on its multiple and varied single instances, without privileging one verse over another and trusting that the Qur'an provides a thematic unity underneath all these instances. This type of analysis is basic to all reformist interpretation that searches for an inner unity of the Qur'an beyond the juridical rulings enshrined in the *Shari'ah*.

Reformist scholars all agree that the task of interpretation today must consider the time, location and an understanding of how tenets and directives respond to the contemporary context. They also share a commitment to the inner unity of the Qur'an and a rejection of random and selective citation.<sup>42</sup>

To see how this works, let's take a simple example. When one reads a Qur'anic passage about "water" one should not interpret it solely based on the lexical meaning of "water" as "liquid H<sub>2</sub>O" or on the grammatical placement of the word "water" in a sentence. One should not stop at "water" as a particular subject related to the verse before it or the verse after it. Rather, thematic analysis urges us to interpret "water" in relationship to all other instances in which the Qur'an mentions "water." This gives us a more holistic basis for interpretation, in which any mention of "water" is not isolated but has a greater meaning created by the varied repetitions of water imagery: as rainfall, as seas, or as a means of ritual purification. The meaning of "water" is more fully and more deeply understood if we take account of the multiple and varied contexts in which it is embedded, rather than ignoring these contexts in order to interpret a single verse. The Qur'an's repeated and varied references to water is a key to our thinking about *rizq* or how Allah distributes provision to all creatures, forcing us to consider the economics of distributive justice in our societies. Through thematic analysis, "water" forces us to examine the way our economies destroy the environmental interconnectedness that is the apparent conduit for Allah's continuous creation and provision. In addition, water is linked to sexuality through procreation, for (as al-Ghazali asserted in the quotation that heads this study) "Allah created all things from water," and al-Ghazali interprets "water" to mean the meeting of male and female sexual fluids with their procreative potential.

This method of analysis is especially useful, even indispensable, when we come to the Qur'an's more narrative passages. These are frequently about the Prophets who came before Muhammad, including the Prophet Lut. This study will focus here on the narrative of Lut's struggles as a Prophet, since it is from verses in this narrative that commentators and jurists have made assertions

about homosexuality. The Qur'an does not present this narrative completely in one place. Rather, various parts of Lut's story are mentioned in different places as reminders. Thematic analysis has trained us to be wary of interpreting one part of this story separate from the composite whole that is created by the repeated and varied presentation of parts of the story in scripture. The deeper meaning of Lut's struggles will be lost to us if we do not try to construct these textual incidents into a cohesive narrative while simultaneously being attentive to the context of their incidence.

Since the classical period, Muslim scholars have been engaging in thematic analysis of the Qur'an (without announcing the fact) by telling stories of the Prophets. They developed these "narrative re-constructions" into a new genre, called "Stories of the Prophets" (*Qisas al-Anbiya*). Though this genre was distinct from classical commentaries (*tafsir*), the Stories of the Prophets were in reality a kind of commentary on the Qur'anic verses that mention the various Prophets. Tradition presents the practices of telling these stories as just as old and just as authentic as making explicit commentaries on the Qur'an.<sup>43</sup> We have no books that date from this early period. For this study, we will focus on the Stories of the Prophets written by al-Kisa'i.<sup>44</sup> Although he wrote in the twelfth century CE, al-Kisa'i quotes from earlier books that no longer exist.<sup>45</sup> Al-Kisa'i is one of the earliest texts that we have in this genre in Arabic, along with other similar books in Persian, to which this study later refers.<sup>46</sup>

Al-Kisa'i interprets the Qur'anic verses about Lut by telling Lut's story. He arranges all the verses about Lut in a narrative sequence, buttressed by what the Islamic tradition had preserved of historical and sociological knowledge about "the Cities of the Plain" and the society that thrived there. Let's listen to his interpretation as an example of a thematic analysis of the Qur'an.

There were five cities known as the "Cities of the Plain" and the chief among them was named Sodom. The cities were each surrounded by high walls of iron and lead. In each lived thousands of inhabitants. The king of the realm was called "Sodom son of Khariq" and was from the family of Nimrod. The people of this realm were more skilled than any in the whole world in cheating in accounts and shooting at thrown clay targets. They were well-known for sins like clapping their hands, playing sports with pigeons, lining up fighting birds, playing with tooth-picks, chewing gum, setting up dog-fights and cock-fights and worshiping graven idols. Their king established special temples for the idols which were intricately sculpted and set up. Special seats for the idols were bedecked and decorated.

The people of these cities took to building gardens within the walls of their houses to avoid the public. In this privacy, they would retire to partake of beautiful and pleasant pass-times. Then a famine came and they fell into poverty. Iblis the accursed took this opportunity to come to

them, saying, "This famine has befallen you all because you prevented other people from entering your homes but did not prevent them from entering your orchards which are outside your homes!" They had gardens inside their homes that were hidden from the public, and gardens and orchards outside their homes which they left open for the rest of the people who might be travelling through and need to stop at night to take rest and provision.

So the people asked the Tempter [Iblis], "How can we guard against strangers and travelers entering these public orchards?" Iblis replied, "Make it your custom that if any strangers come and enter the orchards of your land you will fuck them from behind and steal all their belongings! If you do that, nobody will dare stop there in their travels to spend the night!"

On hearing this, the people went outside the city walls, searching for people whom they could debauch [*yaffuruna bihi*]. Iblis then appeared to them in a different form: the form of a young man, handsome and richly-dressed. The people overtook him, stole all his belongings, and fucked him. The people all decided this was a good thing. It became a habitual custom for them with any stranger who wandered onto their lands. Corruption spread among them.

Then Allah revealed to Ibrahim that his cousin, named Lut, has been chosen as a warner and a messenger to those corrupt and degenerate people.<sup>47</sup>

At this point, the apostlehood of Lut begins in earnest. Into this narrative reconstruction, al-Kisa'i embeds the verses from the Qur'an that mention Lut. The Qur'anic words are rendered here in italics, to make clear how he quotes scripture interspersed with commentary.

So Lut set off and traveled until he came to the cities [of the plain]. He stopped just outside the area, not knowing in which city he should begin. Then he entered the city of Sodom since it was the largest city and the residence of the king.

When he reached the market place, he raised his voice and announced, "Oh people, stay conscious of Allah and obey! Restrain yourself from these transgressions [*fawahish*, in the plural] that no other people has practiced like this before you! And quit worshipping idols! For indeed, I am the messenger of Allah sent to you!" It is as Allah said in the Qur'an, *And [remind them of] Lut, when he said to his people: Do you come to the transgression that nobody in the universe has before you? And Allah also said, Do you come to the men in your lust disregarding the women? Indeed you are a heedless and headstrong people!* (Al-A'raf 80-1 and al-Naml 27:55).

His people simply answered him by retorting, *Let us expel Lut and his family from this city of ours, for they are people who pretend to be purer!* (Al-Naml 27:56). They meant purer than them by abstaining from these transgressions [*fawahish*]. These are the things Allah indicated in the verse: *Indeed you come upon men and rob wayfarers and practice reprehensible things in your gatherings* (Surat Al-'Ankabut 29:29) meaning short-changing and cheating people, clapping their hands [*tasfiq*], playing sports with pigeons, wearing clothes dyed scarlet [luxurious clothes]. *Then the people answered Lut immediately, saying "Bring on the punishment from Allah if you are a sincere speaker of truth!"* (Surat Al-'Ankabut 29:29).

News of this confrontation reached their king, who demanded that Lut be brought before him. Lut came into his presence and the king asked, "Who are you? Who sent you here? And why?" Lut answered "Surely it is Allah the Exalted who sent me to you as a messenger that you might put an end to these transgressions [*fawahish*] and return to obedience to Allah."

Hearing this, the King's heart was struck with fear. He said to Lut, "I am one with my people – as they answer you so I answer you." So Lut left the king and went out to the people. He beseeched them to return to obedience to Allah and forbade them from continuing their rebellious ways, warning them about the punishment of Allah and preaching to them about the destruction of former nations who were oppressive.<sup>48</sup> The people rushed upon him from every side, *shouting If you don't desist, Lut, you will surely be driven out!* (Surat al-Shu'ara 26:167) meaning driven out of their land. So Lut rebuffed them, *saying I am surely of those who stands above what you practice!* (Surat al-Shu'ara 26:168) meaning that he was one of those who find what they do reprehensible. [Lut prayed] *My Lord, save me and my family from what they are doing.* (Surat al-Shu'ara 26:169).

In al-Kisa'i's interpretation of the story, Lut is helpless. He lives among the people of the cities for twenty years, during which time his first wife dies (who had come with him from outside). He marries a new wife from among the people of Sodom. Now partly integrated into their society,

He persisted in preaching to them, but they heaped insults on him and beat him while continuing their ugly behavior. This continued until he had lived among them forty years. They continued to ignore him and refused to follow him and never desisted from their custom. This continued until the earth beneath them rose in tumult because of their awful deeds. So Allah revealed these words to the earth: "I am most restrained and patient and I never rush against those who rebel against



me, until their appointed time comes about" (echoing the phrasing of Surat al-Dhariyat 51:30). Yet still the people persisted in deeming this messenger of Allah as trivial and not heeding his call to return to obedience to Allah.<sup>49</sup>

The solution to this troublesome situation comes from outside the Cities of the Plain. Lut had an integral connection to the Prophet Ibrahim (Abraham). Lut was related by family ties to Ibrahim, and their prophetic missions were similar in opposing idol worship and espousing an ethic of care for vulnerable, weak, and marginalized people of their societies. As if to assert this integral connection between the two Prophets, the four angels who are sent to destroy the Cities of the Plain first stop at the camp of Ibrahim, in the form of human beings. Ibrahim welcomes them as his guests, "For it was his custom not to eat except with guests with whom to share his food, and he had not had any guests for three days in a row."<sup>50</sup> He greets them by saying, "Peace be upon you, strangers from an unknown people" (Surat al-Dhariyat 51:24). He invites them to stay with him and eat of his food: He grows suspicious and frightened when the guests do not eat, fearing that the risk he took to help them would be repaid by their intending harm against him (Surat Hud 11:69–70).

This sets up a narrative tension that explains the story in more depth. The hospitality, generosity, and care for the poor, strangers, and travelers that was exhibited by Ibrahim and Lut contrasts vividly with the "practices of the people of Lut" in the Cities of the Plain. They do not host strangers; they chase them away. They do not feed travelers; they rob them. They do not take care of guests and the needy; they rape them sexually by force as an operation of power over them.

Thematic analysis of the Qur'an has the goal of finding the deep structural motifs of the Qur'an and relating individual images or verses to these deeper motifs. In this way, thematic analysis of the Qur'an tries to make clear the most basic and profound ethical principles expounded in the Qur'an. At its deepest and most meaningful level, the Qur'an argues that humane values come from belief in one God while inhumane values come from idolatry. Belief in one God is the basis for generosity, hospitality, and an ethic of care for the needs of others. On the contrary, belief in idols is the basis for pride, hoarding wealth, denying the rights of others and exploiting their weakness in every way possible (through wealth, property, coercion, objectifying others, and using them). Sexual relations are not exempt from this ethical dynamic. They can express care for others or abuse of others, depending on the ethical situation, the moral intention and the social context in which they are practiced. Clearly the sexual acts of the people of Sodom are only one expression of their overall ethical corruption. Their acts are not important as sexual acts (as expressions of sexuality) but rather as expressions of their disregard for the ethical care of others and most specifically their rejection of the prophethood of Lut.

This is the repeated message of the Qur'an, which becomes clearer as al-Kisa'i re-constructs a narrative context for the story. It is the message that comes across clearly even as the angels enter the cities and Lut tries to take responsibility for hosting and protecting them as strangers and wayfarers.

Then the angels left Ibrahim and traveled to the cities where Lut lived. They arrived just before evening. The eldest daughter of Lut, named Rabab, spotted them approaching as she was irrigating the fields. When she saw how beautiful and attractive they were, she approached them and said, "What are you doing coming to these corrupt people? Especially when there is nobody to give you hospitality and protection except that old man over there. He is their Prophet, against whom they are remorselessly cruel in their opposition."<sup>51</sup>

This narrative commentary does not interpret the verses against their literal meaning; it places them in a social and historical context in which their literal pronouncements make sense. This context focuses not on sex acts as expressions of sexuality that might be called "homosexuality" or could be judged as "unnatural." Rather the context of the narrative focuses on acts of greed, selfishness, and inhospitality, which are taken to the extreme of violence against strangers. The sexual acts of the narrative are acts of violence more than acts of sexual pleasure; they are contiguous with acts of coercion and robbery. Worse, all these incidents of violent inhospitality are concentrated in rejecting the prophethood of Lut and disbelieving in the God whom Lut claims to represent. The narrative is clearly about infidelity through inhospitality and greed, rather than about sex acts in general or sexuality of any variation in particular.

One possible critique of this narrative style of commentary on the Qur'an is that it frames the Qur'anic verses in a "fictional" story. Critics might rush to point out that al-Kisa'i does not cite any reports from the Prophet or the early Companions to authenticate the elements of this story. However, other scholars who wrote narratives of the Prophet Lut in *Stories of the Prophets* have presented similar narratives in the form of reports from the Prophet and early Companions with an authenticating record of transmission (*isnad*). One example is the book by al-Rawandi, written in the late twelfth century CE.<sup>52</sup> He quotes a series of *hadith* attributed to the Prophet Muhammad, with full *isnad*, which support elements of the narrative framework presented by al-Kisa'i. For instance, one *hadith* presents Muhammad asking Jibra'il why and how the people of Lut were destroyed. Jibra'il answers,

The people of Lut were a people who did not clean themselves after excreting, and did not wash after sexual ejaculation. They were stingy and covetous in refusing to share food generously with others. Lut stayed among them for thirty years, living amid them without ever becoming like them, entering into intimate terms with them or establishing a family



among them. Lut called them to follow Allah's command but they never heeded his call or obeyed him as their Prophet.<sup>53</sup>

This *hadith* stresses that the sinful nature of the people of Lut was greed, avarice, covetousness, and a cruel lack of generosity. It supports the basic framework of al-Kisa'i's narrative interpretation of the Qur'an.

This is even more explicit in another *hadith* quoted by al-Rawandi. The report has Abu Ja'far asking the Prophet Muhammad to describe the consequences of stinginess in refusing to share with others (*bukhl*). The Prophet is reported as reciting the Qur'an – "And those who protect their souls from stinginess, they are the spiritually successful" (Surat al-Hashr 59:9) – and then he answers,

I will tell you about the consequences of miserliness. The people of Lut were inhabitants of a city that refused to share its food with others. This miserliness consequently became a disease that had no cure that infected their sexual organs [*furuj*] ... Their city was on the main highway between Syria and Egypt, so caravans and travelers used to halt there and stay as their guests. This situation increased until their means were stretched to the limits and they grew dissatisfied. Greed and miserliness bid them follow its call, to the extent that if any strangers stopped to ask for their hospitality, they would rape them [*fadahahu*] without sexual need, in order to dishonor them. They persisted in this behavior until they began to search out men and force themselves on them.<sup>54</sup>

Again, al-Rawandi asserts that the "sexual acts" of the people of Lut were acts of violence to drive away strangers, travelers, and those in need. They were not sexual acts expressing a distinct sexuality or even fulfilling the desire for sexual pleasure. They were acts of coercion expressing their miserliness, greed, and rejection of the ethic of care that was the hallmark of the Prophets. Rape is not primarily about sexual acts, pleasures, or relations. It is primarily about power and authority (as recent evidence from the war in Bosnia, involving the rape of women or police brutality cases involving anal rape of men, demonstrates).

This argument can be extended to explain why Lut offered his daughters to the crowd that rushed to his home intending to violate Lut's guests. Many interpreters have stressed the gender difference between the daughters who were female and the guest-angels who were male, explaining this episode as confirmation that females are the appropriate sex-objects of males to the exclusion of other males. However, this episode can be explained in a different way that highlights the ethics of hospitality rather than the hetero-normative conflation of gender difference with sexual desire.

As the head of a household, Lut had the duty to protect two kinds of people: his kin and his guests to whom he had offered food and shelter. Offers of hospitality were not just a matter of sharing a meal, but also cemented a social

bond including the duty to protect guests from threats in the surrounding community. The people of Lut rejected his prophethood by violating his right to offer hospitality and protection to strangers and visitors. Their attempt to abduct his guests and rape them most graphically demonstrates this rejection. When Lut offers up his family members (who happen to be female daughters) in exchange for his guests (who happen to be male visitors), he displays in most extreme terms the sacredness of protecting guests who are elevated even above the status of offspring. The difference in gender between the female characters in the narrative and the male characters obscures the more important underlying message, that caring for those in need is a sacred duty that overrides the duty to protect one's own family. How many of us, homosexual or heterosexual, can claim to live up to that ethical principle?

In this way, the genre of Stories of the Prophets acts as a commentary on the Qur'an, beyond the technical limitations of the *tafsir* genre. One could argue that authors of Stories of the Prophets are actually articulating the fundamental ethical principles of the Qur'an better than do the authors of *tafsir*, since they are not confined to grammatical and lexical commentary on each verse. They are freer to compare verses to come up with an intelligible narrative that does not contradict the explicit word of the Qur'anic verses that inform it. Their goal is to present each Prophet as a character who upholds ethical values in the face of rejection and opposition by their community, ethical values that can and should inform the Muslim community that strives to follow the whole line of Prophets.

#### JURISTS, SEXUAL ACTS, AND LUT'S PEOPLE

There is an instructive contradiction here. In populist religious discourse (*muwa'iza*), sexual acts between men are always condemned in reference to the people of Lut. However, in juridical discourse, there is nothing in the Qur'anic verses about Lut on which to base legal rulings. Jurists refer to Lut's people only rhetorically, not juridically. As short-hand, they call the act of penetration of a penis in another's anus "the act of the people of Lut." To construct legal rulings about this act, jurists rely on either *hadith* or, more often, reports of the decisions of the early followers of the Prophet. It is to this body of textual sources for the law they we must now turn.

Let's look closely at commentaries on the Qur'an that were written by jurists. Their concern was not to give a semantic or thematic analysis of the Qur'anic discourse, but rather to give legal rulings for the ordering of society. Their commentaries were meant to highlight those Qur'anic verses from which legal rulings could be deduced. Jurists were concerned with acts rather than intentions, and they focused rather obsessively on the act of anal intercourse between men. While gay men can rightly protest that anal sex is not the definitive feature that characterizes them, and many gay men do not practice anal penetrative sex at all, it is the case that this is how the Islamic juridical

tradition pictured all same-sex desire.<sup>55</sup> It will become clear that jurists in the classical period did not reach a consensus about the legal status of anal sex between men. It will become even clearer that they did not even address something called "homosexuality" in the abstract. The jurists argued over how to understand the term *fahisha* in the Lut story, and whether it was, in legal terms, equivalent to *zina* or sexual intercourse between a man and a woman who are not related by marriage, contract, or ownership.

Let's begin with al-Qurtubi, a Maliki jurist who died in 1273 CE. He wrote a detailed commentary on the Qur'an, and tried to argue that anal sex between men was a *hadd* crime requiring capital punishment. A *hadd* crime (pl. *hudud*) is a crime that is explicitly defined in the Qur'an and for which specific punishment is demanded in the Qur'an. There are five crimes with *hadd* punishments that are explicitly mentioned in the Qur'an: murder, highway robbery, theft, adultery between a man and a woman, and false accusation of adultery. Al-Qurtubi argues that anal sex between two men is also a *hadd* crime, even if this is not explicitly stated in the Qur'an, since this sexual act is the legal equivalent of *zina*. *Zina* is an act of sexual penetration between a man and a woman who are not joined by a contractual relationship or marriage, and the punishment for *zina*, under certain legal conditions, is death by stoning. To make this argument, al-Qurtubi lines up a series of assertions, all of which are open to question and critique.

In the Qur'an, Lut says to his community, "Do you approach the transgression [*a ta'tuna al-fahishata*]?" In the commentary on this verse, al-Qurtubi gives a classic example of interpretation by substitution. He is unconcerned about the semantic range of the term *fahisha* or whether it is related to wider themes. Rather, he defines the word *fahisha* in juridical terms, by substituting it with a phrase that is explicit.

*Do you approach the transgression* means "sexually entering males" [*idkhal al-rijal*]. Allah mentions this act with the term *the transgression* [*fahisha*] in order to make it clear that this act is adultery [*zina*]. It is just like Allah's statement in another verse, *Do not approach adultery* [*zina*] for it is a transgression [*fahisha*] (Surat al-A'raf 7:80-84).<sup>56</sup>

In classical Islamic law, the *hadd* punishment for adultery is either lashing (if the person is unmarried) or stoning to death (if the person is already married). This is the punishment that al-Qurtubi argues should apply to men who have anal sex with a man. He argues this despite the fact that the Qur'an does not specify this as a *hadd* crime and the Prophet Muhammad does not give any explicit example of having applied this punishment to the act in question. By offering a definition (substituting "entering males" for "transgression") and an analogy (sexual penetration of an unmarried man by a man is equal to sexual penetration of an unmarried woman by a man), al-Qurtubi argues that this juridical decision is in reality nothing but a simple "reading" of the Qur'an.

One could argue with al-Qurtubi that his reading of the Qur'an is not just simple, but also erroneous, limited, and misleading. His reading is not attentive to grammatical subtlety or narrative context. In the verse that communicates Lut's prohibition *al-fahisha* comes in the definite nominal form, "the transgression," whereas the verse about adultery mentions *fahisha* in the indefinite nominal form "transgression." This suggests that transgression is a general category including many different specific kinds of acts; one could speak of the particular transgression in specifying an act or one could speak of transgression in general to imply a whole range of acts that transgress the boundary of decency, righteousness, or legality. Not every term mentioned as "transgression" would be equivalent, morally or legally or punitively. In fact, the Qur'an often uses the term "transgressions" (*fawahish*) in the plural in the narrative sections about Lut and his conflict with his community. One would have to ignore grammar and narrative context to draw the one-for-one equivalence that al-Qurtubi has done.

Al-Qurtubi is quite bold about doing this, and insists that he knows Allah's intention in using particular terms. However, al-Qurtubi cannot deny that other jurists have read the same passage and come to different conclusions. He admits that "jurists have differed amongst themselves over the exact punishment for this [anal sex between men] after they have come to consensus on forbidding it."<sup>57</sup> The Maliki and Shafi'i jurists insist that anal sex between men is a *hadd* crime punishable by death. This contradicts the Hanafi jurists, who argue that although it is an immoral act and is forbidden, it does not qualify as a *hadd* crime. Hanafis insist that there should be no punishment of death but rather the government authorities can punish the act as they think appropriate. As a Maliki jurist, al-Qurtubi quotes Imam Malik, for whom two contradictory judgments have been recorded: one says "He should be stoned [to death] whether he is married or unmarried," while the other says, "He should be stoned if he is married and disciplined if he is unmarried." Despite the contradiction, both judgments interpret anal sex between men as a *hadd* crime, equivalent to *zina*, or adultery. Imam al-Shafi'i's judgment makes this explicit in ways that Malik leaves implicit when he is reported to have said, "He should be punished with the *hadd* penalty to adultery by reason of juridical analogy."

There is a deep problem here for those who advocate capital punishment for anal sex between men. It is primarily countries that follow the Hanbali legal method (or countries ruled by fundamentalists influenced by Hanbalism) that make a state policy of executing gay men. Hanbalis are a tiny minority in the Islamic world. Only Saudi Arabia is an officially Hanbali state, though fundamentalist regimes in Sudan, Pakistan (under General Zia ul-Haq), and Afghanistan (under the Taliban) have been overtly influenced by Hanbali dogma. Hanbalis follow Shafi'i juridical positions in regard to anal sex between men, though they degrade legal reason and analogy and advocate capital punishment as a "literal" reading of the Qur'an itself.<sup>58</sup> The state of Iran (since

the Islamic Revolution in 1978) also has a state policy of executing gay men, which they justify through the Shi'i Ja'fari legal school. Though Shi'i Iranians are usually quick to distinguish themselves from their Sunni neighbors, in the case of execution of gay men the Iranian legal arguments parallel the Hanbali arguments. All these states argue (along the lines described by al-Qurtubi) that homosexual men are exclusively characterized by anal sex, which, they claim, is a crime with a "*hadd* penalty." It is unclear whether any of these contemporary states in practice apply the legal conditions that limit *hadd* cases, such as observation of the actual act of penetration by four adult male witnesses.

*Hadd* penalties are, by definition, those penalties described explicitly by the Qur'an itself. Jurists are not supposed to exercise legal reasoning and analogy in cases of *hadd* penalties. Al-Qurtubi, we noted above, had to resort to legal reasoning and analogy to argue that anal penetration between men was a *hadd* crime, since the language of the Qur'an is not explicit and exact in this case. Hanafi jurists were keenly aware of this problem, and argued that anal sex between men could not justifiably be considered a *hadd* crime.

The punishment for adultery [*zina*] is known [from the Qur'an explicitly]. Since this act is known to be different [in nature] from adultery, it should not be treated as a *hadd* crime equivalent to adultery ... This act is a kind of sexual intercourse in a bodily opening that has no relation to legal marriage and does not necessitate giving a dowry or determining parentage [as adultery does]. Therefore it has no relation to the *hadd* punishment for adultery.<sup>59</sup>

The Hanafi jurists mounted a strong case against the Malikis, Shafi'is, and Hanbalis (and also, implicitly, the Shi'is), and accused them of applying a *hadd* penalty for an act that was not defined in the Qur'an as a *hadd*, thereby committing a grave injustice.

In his juridical commentary on the Qur'an, the Hanafi jurist al-Jassas (who died in the tenth century CE), addresses this issue. He argues that the Qur'an specifies a *hadd* punishment of death by stoning for adultery between a man and a woman and in this specificity the punishment applies only to adultery (not to anal sex between men or other types of sexual acts). He argues this position with two *hadith* attributed to the Prophet. "Whoever applies a *hadd* penalty to a crime that is not a *hadd* crime has committed injustice and oppression" and "The blood of a Muslim is not liable to be shed, except in these three cases: adultery after marriage, infidelity after adopting Islam, and murdering an innocent person."<sup>60</sup> He acknowledges that certain *hadith* were in circulation, attributed to the Prophet Muhammad, that men found "doing the act of the people of Lut" should be killed. However, he notes that these reports have weak chains of transmission containing unreliable transmitters, and therefore cannot form the basis for a juridical decision to put a Muslim to death.<sup>61</sup>

Clearly, there was a hot argument on this issue among classical jurists, with no actual consensus on the nature of the act, the status of punishment for it, or the relation of punishment to the words of the Qur'an. It also appears that jurists faced opposition from commentators who read the Qur'an as a narrative of ethical exhortation rather than as a legal text, as did the authors of the Stories of the Prophets. When al-Qurtubi argued that the Prophet Lut's conflict with his community was about forbidding anal sex between men and that this justified capital punishment against those men found doing this, he recognized at least two possible objections to his interpretation. Both of these objections were based on ethical readings of the same Qur'anic narrative. The first objection is that "the people of Lut were punished because of their disbelief in Allah and their calling their Prophet a liar [*kufi wa takdhib*] just like the rest of the ancient communities that were destroyed by Allah." The second objection is that "the young children and old people of Lut's community were included with the mature men in being punished, and that proves that their actions should not be considered in the realm of *hadd* crimes [were not primarily sexual intercourse]."<sup>62</sup> After stating these objections from anonymous critics, al-Qurtubi dismisses them. Yet the points they raise are logical and ethically important, and are based on a literal reading of the Qur'anic narratives about Lut. Al-Qurtubi's dismissal of dissenting opinions cannot be construed as indicating consensus among the jurists on the legal status of anal sex between men.

In the face of dissenting opinion, how did jurists defend the position that anal sex between men deserved capital punishment (by stoning or by other means)? To defend this decision, Imam Malik simply noted that the people of Lut were destroyed by stones as hard as baked brick (*sijil*) that fell from heaven. This is an argument by rhetorical association, not an argument by legal reasoning. However, it is a kind of argument that would prove very effective, and seems to be based on early precedent among the Companions of the Prophet (though not on the example of the Prophet himself).

#### EXEMPLARY CONDUCT OF THE PROPHET MUHAMMAD

As noted above, jurists argued their cases based on the analogy that anal sex was like adultery, and that the Qur'an specified the firm and exact punishment for adultery. The earliest jurists did not make reference to specific *hadith* attributed to the Prophet Muhammad about anal sex between men. In fact, we have no evidence that the Prophet Muhammad ever punished any men for anal sex (or any women for same-sex behavior). We have no evidence that he addressed cases where people were accused of committing "the act of the people of Lut." This leads to another radical assertion of this study; the Qur'an does not address homosexuality or homosexuals explicitly and the Prophet Muhammad did not act to punish people as homosexuals or for acts associated with them in his lifetime.

At a certain point in history, *hadith* attributed to the Prophet Muhammad began to circulate which addressed the issue of punishing men for having anal sex. This is just one specific case of a very general problem for Muslims ever since: the existence of reports, on a whole range of subjects, that circulate in the name of the Prophet without being reliably or verifiably known to represent the Prophet's actual actions and teachings. As more and more jurists accepted Imam al-Shafi'i's argument that all legal decisions had to be based on *hadith* attributed to the Prophet, the role of these *hadith* changed radically. They had circulated informally as moral advice, but now began to harden and crystallize into formal "knowledge" about what the Prophet said and did. It is probable that such *hadith* came into being long after the Prophet had died, and were attributed to him in order to give them the force of association with the Prophet's respected and revered personality.<sup>63</sup>

It is very difficult to establish the authenticity of most reports that circulate in the name of the Prophet Muhammad. But clearly, many reports were projected retrospectively back upon the Prophet without being reliably attributed to him. Muslims are confronted with *hadith* in which the Prophet reportedly speaks about issues that did not exist in his lifetime: such as the Shi'i-Sunni schism, various theological "heresies," and even the systematic collection of *hadith*. Reassessment of the authenticity of *hadith* reports is the key to legal and social reform among Muslims. However, in the contemporary period, there are less and less scholars who are trained in *hadith* criticism. Wahhabi and Salafi scholars, who may have such training, have no motive to critique *hadith*, for in their zeal to escape history and return to the Prophet's own time, they reify *hadith* as unquestionable building blocks for their monolithic iconic image of the Prophet's exemplary behavior.

The *hadith* that address the issue of punishing men for having anal sex are not linked to any specific case or event in the Prophet's life. This is in marked contrast to the *hadith* that address the issue of adultery between a man and woman, which are linked to very detailed cases that preserve the names of the men and women involved during the Prophet's lifetime. A review of *hadith* from the two most reliable collections (*Sahih Muslim* and *Sahih al-Bukhari*) reveals no evidence that the Prophet asserted, in word or deed, that homosexual relations were a *hadd* crime, or were to be equated with adultery, or ever punished any actual persons for "crimes" relating to homosexuality.<sup>64</sup> Nor is there any *hadith* in these two most authentic collections in which the Prophet discusses Lut in relation to sexual acts or relationships.<sup>65</sup> This writer further suspects that the very terms *Luti* and *Liwat* are not found in authentic *hadith*, although this would take more research to substantiate.

Based on this preliminary research, we can make some general conclusions about *hadith*. Most reports in which the Prophet reportedly condemns same-sex activities have weak chains of transmission and are found in *hadith* collections that are not the most authoritative. *Hadith* scholars in the medieval period

(when *hadith* criticism was still actively pursued in Muslim communities) explicitly debunked some of them for having forged chains of transmission. In the earliest period, jurists did not agree as to which *hadith* might be authentic and strong enough to form the basis of legal rulings.

It is very difficult to suppress *hadith* once they gain credibility and circulate widely. This is especially so when a report reinforces the common prejudice of patriarchal societies against same-sex relationships. Hanafi jurists earlier criticized the chain of transmission of *hadith* like "Whomever you find doing the act of the people of Lut, kill the active and the passive participant."<sup>66</sup> Al-Jassas rejects this *hadith*, since one of its transmitters, Amr ibn Abi Amr, is considered weak and unreliable. Similarly, he rejects the supposed *hadith* that reads "the one practicing the act of the people of Lut, stone the one on top and the one of the bottom, stone them both together," since one of its transmitters, Asim ibn Amr, is also considered weak and unreliable.<sup>67</sup> Despite these critiques, the *hadith* continue to circulate and are frequently put to rhetorical and even legal use.

There is further historical evidence to suggest that these *hadith* were fabricated long after the Prophet Muhammad had died and were retrospectively projected back onto him.<sup>68</sup> The earliest incident in which a man was punished for same-sex relations occurred during the rule of Abu Bakr, after the death of Muhammad. It is clear from this incident that the closest Companions of the Muhammad knew of no precedent for such punishment. The Prophet had never punished anyone for same-sex relations and had not specified a method of punishment. The Companions consulted together and decided to burn the man accused.<sup>69</sup>

This story is very revealing, since it shows the uncertainty of the Companions surrounding same-sex activity and confirms that the Prophet Muhammad himself had never specified it as a crime with a specific punishment. When Abu Bakr received report from a governor that he had found a whole town "doing the act of the people of Lut," he gathered the Prophet's closest Companions together to consult with them about what to do. 'Ali ibn Abi Talib reportedly said, "This is a sin that no community from the known nations has perpetrated except one single community. Allah did to them what you all know [from scripture]. My opinion is that such people should be burned in a fire." So the Companions agreed with 'Ali's idea that the punishment was burning.

This incident is certainly very disturbing. First, we don't know exactly what the governor meant by "the act of the people of Lut." If it were same-sex relations in general (or anal sex between men in particular) it is difficult to imagine a whole town being involved in a way that would be significantly different from other towns. It is highly probable that the town might have resisted the governor's authority (as this occurred during the earliest years of the Islamic conquests when their rule was new and contested) just like the people of Lut resisted Lut's assertion of authority over them. It may not have had anything

specifically to do with sexual acts. If the acts were sexual in nature, how could Islamic legal procedure have been applied (with four adult male witnesses to the actual act of penetration)? It is more probable that this was a case of putting down resistance to political conquest than enforcing Islamic "family values." However, the Islamic jurists have interpreted this incident as the first case of actual punishment for same-sex activities.<sup>70</sup>

Even if that were the case, it shows us something more disturbing still. The earliest punishment was burning. It was based on Imam 'Ali's opinion about what to do (very roughly linked to his reading of the story of Lut from the Qur'an), but clearly not based on any precedent or oral teaching or exemplary conduct of the Prophet Muhammad. The supposed *hadith* that later circulated usually specify stoning as the punishment, not burning. This establishes that these *hadith* were later inventions, reflecting the jurists' ongoing debate about whether anal sex between men was the legal equivalent to adultery with stoning as the *hadd* punishment. The conflict between stoning or burning as the appropriate punishment signals that the Prophet had not left any specific teaching about appropriate punishment, neither in word nor in deed.

Could it be that the Prophet never addressed the issue because he did not see it as an issue of crime and punishment, but rather as one variety of indiscretion? The Prophet certainly did encounter people in his Arab society in Mecca and Medina who had uncommon sexual identities and practices that contradicted the heterosexual norm. Researchers in pre-Islamic and early Islamic Arabic literature have uncovered a wealth of examples. Salah al-Din Munajjad has documented that same-sex practices existed among both men and women in pre-Islamic Arabia (refuting ideologues who claim that these practices were unknown among Arabs until the Persians introduced them during the Abbasid revolution).<sup>71</sup> Everett Rowson has documented the very lively culture of "effeminate men" during the Prophet's lifetime in Medina. These men took on women's social characteristics and were especially noted as popular musicians and comedians; some of them were associated with same-sex sexual desire while others were not. These people were ambiguous in their gender and their sexuality. Yet the Prophet is not known to have censured any of them for sexual acts or sexuality in the wider sense. There is no report of the Prophet having any of them burned or stoned for sexual practices.

#### CLARIFYING THE QUESTION OF SEXUAL ETHICS

Jurists claimed to enforce a punishment for same-sex acts that was based solidly on a literal reading of the Qur'an and legal proscription by the Prophet Muhammad. The evidence presented above shows that their assertions are based on legal analogy, not on literal interpretation. The analogy, in addition, is quite weak and is based on sources that are of doubtful authenticity. At its most basic level, this study argues that capital punishment for anal sex between men

is unjust and of questionable legal validity in Islamic law. There is not and has never been full juridical consensus that anal sex between men is a *hadd* crime (let alone less dramatic sexual acts that might be practiced in same-sex couplings).

In reading the story of Lut's struggle with his obstinate and violent community, jurists have missed the point. Why does the Qur'an tell the narratives about Lut if the story is not about forbidding homosexuality in the abstract or same-sex practices in particular? This study argues that the story is primarily ethical in intent, not juridical. The jurists' narrow focus on punishment for sexual acts obscures the deeper meaning of the story and the force with which the Qur'an tells it to an audience struggling to meet the challenges of faith and realize the fullness of the Prophets' teachings on *tawhid*. Leaving behind an obsessive attention to anal sex and stigmatizing same-sex sexuality can actually be a positive act for contemporary Muslims, one that brings new clarity to questions of sexual ethics. Addressing sexual ethics is, in the view of this author, a more faithful reaction to a close reading of the Qur'an.

To get beyond the jurists' obsessions, let's return to the project of thematic interpretation of the Qur'an as presented in the Stories of the Prophets genre. This genre highlights how the Qur'an tells the stories of Prophets with an underlying unity of intention. Their situations are different, but their ethical message is the same to each community. Through different means, each community finds ways of rejecting their Prophet, and the means are often violent. The Qur'anic discourse on Lut, therefore, mentions his unique circumstances, but always stresses his commonality with the other Prophets who preceded him and came after him, like Noah, Abraham, Salih, Hud, and others. Fragments of Lut's story are always retold in the Qur'an as part of a series about the seven exemplary punishments meted out to the communities of the past who rejected their Prophet.

To see clearly how the jurists' treatment of this story perverts its deeper message, we can compare Lut's story with that of Salih. Allah sent Salih to the people of Thamud as their Prophet. Like the people inhabiting the Cities of the Plains, the people of Thamud were wealthy, powerful, and arrogant. While the issue with Lut was giving hospitality and protection to travelers, the issue with Salih was the protection of a consecrated camel. Salih announced to his people that a certain camel was made sacred and should be allowed to wander freely, eat and drink on anyone's land, and be respected by all. The camel stood symbolically for the weak and vulnerable members of society; if the people could care for the sacred camel, they might have the spiritual insight and ethical strength to care for the needy in the midst of their society and at its margins.

Clearly, there are deep thematic parallels between the story of Lut and that of Salih. The people of Thamud rejected Salih as their Prophet and ridiculed his exhortations to live up to an ethic of care and justice. When he urged them to