Published: December 15, 2004
Last Updated: March 15, 2018

HOMOSEXUALITY II. IN ISLAMIC LAW

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The foundational texts of Islam address, and generally condemn, sexual relations between members of the same sex. While the Qorʾān does not legislate explicitly on this matter, in its reiterated references to the story of the people of Lot it is unequivocal in expressing abhorrence for the desire of the men of that community to have sexual relations with Lot's angelic visitors: "And Lot! (Luṭ) when he said to his people, Will you commit an abomination that no one in the world did before you? You come to men (with lust) instead of women. Indeed, you are a wanton people!" (7:80-81; cf. 26:160-166, 27:54-55, 29:28-29) Later exegetes and jurists unanimously understood this as referring specifically to anal intercourse between males and condemning it as a major sin, and were supported in their interpretation by a variety of prophetic *hadith*, most of which are far more explicit but of less than impeccable authenticity. The possibility that Qorʾānic allusions to the beautiful boys (*weldān, ḡelmān*) who will serve as cupbearers to the believers in Paradise (52:24, 56:17. 76:19) carried homoerotic overtones was generally ignored by the exegetes, although certainly entertained from an early date by the wider society; and the Ḥanafi jurists, at least, were willing to discuss, if nevertheless ultimately to dismiss, the idea that homosexual intercourse, like wine, was a

pleasure forbidden in this world but offered to the male elect in the next. The Qorʾān seems to have nothing at all to say about female homosexual behavior; only one maverick commentator, the Muʿtazilite Abu Moslem Eṣfahāni (d. 322/934), understood two highly ambiguous verses (4:15-16) as referring to, respectively, female and male homosexual behavior (with permanent house arrest prescribed for the former and simple chastisement for the latter; see Faḵr-al-din Rāzi, *al-Tafsir al-kabir* IX, Cairo, 1938, pp. 229-36); while otherwise there was unanimous consent that the subject of both verses was heterosexual fornication and that they had been abrogated by later revelations stipulating more precise penalties. (Abu Moslem's views have, however, enjoyed a major resurrection in the 20th century, although their ultimate source has been carefully obscured.)

While there are no references to homosexuality in the *hadith* collections of Boḵāri and Moslem, and no *hadith* at all reporting an actual occasion in which the Prophet dealt with it in any way, the other "canonical" collections do record, in various forms, his condemnation of the "act of the people of Lot," usually in the form of a command to "Kill both the active and passive partner." Non-canonical *hadith* add little more, except for one labeling sexual relations between women (*sehāq*) a form of fornication (*zenā*) and another declaring that men marrying boys will be one of the signs of the eschaton. All the relevant *hadith* are conveniently brought together in a series of monographs attacking the sin of sodomy (*ḏamm al-lewāt*), the earliest of which is that of al-Hayṯam b. Ḵalaf Duri (d. 307/919) but which were still being produced as late as the eleventh/seventeenth century. These monographs also include a much larger number of statements from the Prophet's Companions and influential figures from the following two generations, mostly expanding on the Prophet's condemnation and offering a variety of views on the appropriate form of punishment for sodomy, as well as purported (but mutually inconsistent) reports of actual cases of execution for the offense by the early caliphs, beginning with Abu Bakr (the offenders being invariably anonymous; see Ḡamri, *al-Ḥokm al-mażbuṭ fi taḥrim fi'l-qawm Luṭ*, ed. ʿObayd-Allāh al-Meṣri al-Aṯari, Cairo, 1988).

Both the dearth of concrete prescriptions from the Prophet and the contradictory nature of the information from early authoritative figures resulted in considerable disagreement across the Islamic legal tradition with regard to homosexual acts. The focus throughout is almost exclusively on anal intercourse between males, and the primary point of contention is whether,

for the purposes of determining a penalty, this act should be analogized to that of heterosexual fornication (*zenā*). Among the Sunni schools, the Mālekis, along with some Ḥanbalis and Šā-feʿis, accepted the *hadith* prescribing execution for both partners in all cases, but did rely implicitly on analogy in specifying the form of execution as stoning, as well as the same stringent rules of evidence—eyewitnessing of the act of penetration by four adult males, or reiterated confession—as those for *zenā*. Most Šāfeʿis, however, and some Ḥanbalis and Ḥanafis, extended the analogy further, taking into account the marital status (or, more technically, *eḥṣān*) of the offender and prescribing the normal *zenā* penalties: stoning for the married (and free), but rather one hundred lashes for the unmarried and free and fifty lashes for the slave. Among the Ḥanafis, while Abu Ḥanifa's principal students Šaybāni and Abu Yusof adhered to the *zenā* analogy, Abu Ḥanifa himself refused to recognize its validity, arguing that sodomy simply is *not* the same thing as fornication and imposing only the lesser *taʿzir* penalty left to the discretion of the judge and generally understood as a reduced number of lashes (see ,e.g., Saraḵsi, *al-Mabsut*Â IX, Cairo, 1906, pp. 77-79).Arguing somewhat differently (and enthusiastically demolishing the claims to authenticity of *all* relevant *hadith*), the Ẓāheri Ebn Ḥazm (and presumably his Ẓāheri predecessors) came to the same conclusion as Abu Ḥa-nifa (see Ebn Ḥazm, *al-Moḥallā*, Cairo, 1347-52, pp. 380-94; Camilla Adang, "Ibn Hazm on Homosexuality. A Case-Study of Zahiri Legal Methodology," *Al-Qantara* 24, 2003, pp. 5-31).All the Sunni jurists agreed that anal penetration was the crucial aspect of the "act of the people of Lot" and that all other, non-penetrative, sexual activities, including, for example, intercourse between the thighs by two males but also *all* sexual acts between two females, were subject only to the judge's discretionary *taʿzir*.

For reasons that have not been adequately elucidated, Emāmi Shiʿi law is altogether harsher than Sunni law in dealing with homosexual acts. While the early Shiʿi *hadith* collections do not differ much in their content with regard to this topic from those of the Sunnis, legal works from the fourth/tenth century concentrate heavily on a distinction between penetrative and non-penetrative (explicitly, between the thighs) sexual acts between males, labeling the former simply "unbelief" (*kofr*) and reserving the term "sodomy" (*lewāt*, in contrast to the Sunni locution "act of the people of Lot") for the latter. Both partners in a penetrative act are to be executed, regardless of *eḥṣān*, the method of execution being at the discretion of the judge, a verdict maintained throughout the subsequent Emāmi tradition down to the present (although the label "*kofr*" was eventually dropped). Non-penetrative acts (including all those between

women as well as those between men) were more controversial, some jurists maintaining that the *moḥṣan* is to be stoned and the non-*moḥṣan* to be given one hundred lashes, others that both offenders are to be given one hundred lashes, regardless of *eḥṣān*; over time the latter, milder view gradually won out (see, e. g., Ruḥ-Allāh Ḵomeyni, *Tawżiḥ al-masāʾel*, Qom, 1985, pp. 102-8). Neither the Zaydis nor the Isma-ʿilis emulated the strictness of the Emāmis, but adopted views similar to those of the Sunni Šāfeʿis.

It is extremely difficult to assess the degree to which the theoretical legal sanctions against same-sex behavior were actually enforced at any given time or place. Historical and anecdotal texts suggest that the laws were there to be appealed to when desired, usually in cases of rape or other forms of exceptionally blatant infringement on public morals; but the stringent rules of evidence militated against regular application of the penalties, and documented cases of prosecution for these offenses are rare; cases of properly conducted ones, as opposed to having recourse to extra-Šariʿa measures, are even rarer. In any case, undue focus on the specificities of the law would give a very unbalanced picture of actual attitudes in societies which, at least from the late second/eighth century, manifested a striking acceptance of the public expression of homoerotic sentiment, at least from males, if not from females, whatever actually happened behind closed doors (see iii. below).

There is very little evidence for homosexuality, however understood, in Islamic societies of the first century and a half after the death of the Prophet. Abruptly, however, at the end of the 2nd/8th century, the cultivation of (male) homoerotic poetry appears, particularly in Baghdad, and most of all in the verse of the extraordinary Abu Nowās (d. ca. 199/814), whose love for boys was matched only by his love for wine. In both cases the joys he celebrated were antinomian ones, that for boys being expressed either in puckish but chaste verses or in roguishly obscene ones. However, Abu Nowās was by no means alone: already in his own generation it came to be generally accepted that poets were just as free to compose verses about boys as about women; and indeed within a century the homoerotic love lyric (*ḡazal*) in Arabic had expanded to match the entire range of emotion expressed in its heteroerotic counterpart, from the earthy to the ethereal. At the same time, historical and anecdotal texts indicate a widespread acceptance of homoerotic love affairs, at least in elite society and probably much more generally, throughout the lands of Islam, with very little geographical or ethnic differentiation.

But the “homosexuality” expressed in classical Islamic texts, whether in poetry

or in prose, in Arabic or Persian or other languages, was of a very particular kind, on the whole quite comparable to what is known from the eastern Mediterranean world in antiquity but quite different from modern Western conceptions. It was assumed that many, or indeed most, mature men would be sexually attracted to adolescent boys, in a way strictly parallel to—and compatible with—their attraction to women. Like women, such boys have hairless bodies and soft skin, and like them they are subordinate members of society, that is, subordinate to mature men. Inevitably, men's tastes differ, some being interested only in women, some only in boys, but most in both. There is little difference in the love poetry about either, and as often as not—in Arabic and all the more in genderless Persian—it is impossible to determine the sex of the beloved being addressed or described. Often this is betrayed only by a sex-specific detail—a woman's swelling breasts, or a boy's downy first beard. The emergence of the beard was in fact a crucial aspect of male homoeroticism in these societies; seen as a mark of beauty at its first appearance (the ideal male beloved was about fourteen), as it became full it marked the end of the boy's—now the man's—sexual desirability. Despite frequent poetic protestations that a now-bearded boy or man was still beautiful, such sentiments were always perceived as going against the normal understanding. To the extent that men's power-differentiated love affairs with boys (like those with women) were assumed to be expressed by sexual activity, it was considered obvious that the man took the active role in (anal) intercourse, the boy being submissively passive and (in most cases, although this was a very ambiguous area) not submitting for the sake of sexual pleasure. However, once a young male reached adulthood, he was expected to become sexually active (with women and/or boys). While it was recognized that there *were* mature men who sought out the passive role in homosexual intercourse, they were viewed as both sick and contemptible; and indeed to accuse a mature man of such proclivities was both one of the strongest and one of the most common forms of insult.

The abruptness with which this pattern of homoeroticism appeared, in the late 2nd/8th century (and remained dominant throughout the Islamic world well into the 13th/19th) did not go unremarked upon at the time. In particular, in a famous passage the litterateur Jāḥeẓ (d. 255/869) attempted to explain it, describing how the troops sent by Abu Moslem from Khorasan to the Islamic heartlands in 132/749 to achieve the Abbasid Revolution were forbidden to take their wives with them, and in their deprivation took sexual refuge in their male pages, thus instantiating what was to become an enduring fashion.

Writing from Baghdad, he thus manages to portray male homosexuality as an import from Iran, but also as one without particular roots there (Abu Nowās, pp. 141-42).In fact, his other writings on the subject, and in particular his *Mofāḵarat al-jawāri wa'l-ḡelmān*, a debate on the relative merits of women and boys as sex partners (which was to become a well-cultivated genre in Islamic literatures), manifest close parallels rather with the Greek world (from which several exemplars of the same genre are known). Jāḥeẓ's explanation is patently implausible, but the truth of the matter, and the possible role of Iran in this "sexual revolution," remains quite unclear.

In any case, there is little evidence for any differentiation in attitudes toward homosexuality subsequently between Iran and the Islamic regions further west. The early 5th/11th-century anthology of Arabic poetry, the *Yatimat al-dahr* by Ṯaʿālebi (d. 429/1038), composed in Nišāpur, is replete with homoerotic verse and anecdote from eastern Iran and Transoxania; and the burgeoning Persian lyric poetry of precisely this era is no different. Two related developments may, however, be attributed to Iran (in the broadest sense) in this period. One is the cult of the particular beauty of Turks (and especially their "narrow" eyes), which first appears in Arabic and Persian poetry of the East and then spreads westward (with the Turks themselves). The other is a perceptible growing elasticity in the conception of the homoerotic beloved as adolescent boy: from this time, the Turkish *soldier*, in most cases certainly considerably older than fourteen, becomes a stereotypical beloved. Both these trends are embodied, above all, in the love of the Ghaznavid sultan Maḥmud for his cupbearer Ayāz (q.v.), a relationship attested to (if sketchily) by contemporary sources but one that was to become as paradigmatic (and multifaceted in the literary uses to which it was put) in the Iranian world as those of such traditional heterosexual couples as Joseph o Zolayḵā, Majnun o Laylā, and Ḵosrow o Širin (see iii. below).

The explicitly positive evaluation of male homoerotic (and, specifically, pederastic) sentiment was not, however, the exclusive preserve of lyric poetry and romance. Beginning in the 3rd/9th century, Sufi circles had developed the idea, and practice, of "gazing" (*naẓar*) at a beautiful boy as a representation, or "witness" (*šāhed*), of the beauty of God. While never ceasing to be attacked by conservatives who saw Sufi conventicles as hotbeds of homosexual licentiousness (and certainly not always without good reason, particularly in view of the antinomian strand in Sufism), the *naẓar* tradition continued to thrive, supported by such defenders as Aḥmad Ḡazāli q.v.). In late medieval

Iran (in contrast to the Arab world) Sufi and literary manifestations of homoeroticism became increasingly intertwined, resulting in the peculiarly Persian phenomenon of love lyrics whose referents—a boy? God? a woman?—regularly defy any attempt at a literalizing or reductionist analysis, from Rumi's exuberant expressions of love for Šams-e Tabrizi through Ḥāfeẓ's Tork-e Širāzi to Zolāli's (d. 1024/1615) *Mah-ámud o Ayāz* (fordetail, see iii. below).

Not that the unambiguously secular expression of male homoeroticism ceased to have its own place in Persian literature, whether chastely celebrating beautiful boys or describing sexual relations with them (positively or negatively) in the earthiest terms. Representative of the former is the *šahrangiz* or *šahrāšub* ("upsetting the town") literature, in which a series of poems describes the beauty of boys pursuing various crafts in a particular city (with appropriate wordplay based on their occupations); while the roots of this poetry extend far back into Arabic literature, it developed as a distinct genre, in Persian and Turkish, only from the 8th/14th century, quickly being taken up in Urdu as well (see de Bruijn, p. 212). At the other extreme, homoerotic "licentious" (*mojun*) poetry (and prose) was cultivated to some degree by many or most Persian litterateurs from the 6th/12th century on, but is associated above all with the works of the notorious satirist ʿObayd-e Zākāni (d. 772/1370), including in particular his *Riš-nāma* ("Beard Book").

While the medical tradition also paid some attention to homosexuality, it focused only, not surprisingly but significantly, on the one aspect of the phenomenon that was considered pathological, namely, the adult male who pursued the passive role in sodomy for purposes of sexual gratification. In discussing this question, Muslim physicians relied in large part on earlier Greek medical treatments, and especially a passage in the pseudo-Aristotelian *Problemata* (much modified, in several versions, in Arabic translation and paraphrase) that proffered both physiological and psychological explanations (see, e.g., ʿIsā b. Māssa, *Masāʾil fi'l-nasl wa'l-ḏurriya wa'l-jimāʿ*, ed. M. W. Anbari, Erlangen, 1971, no. 31). Abu Bakr Rāzi devoted an entire monograph, *On the Hidden Illness*, to the topic (ed. F. Rosenthal, "Ar-Razi on the Hidden Illness," *Bulletin of the History of Medicine* 52, 1978, pp. 45-60); but it was a section of Ebn Sinā's *Qānun* (Beirut, n.d., ii, p. 549), of similar import, that was to be most influential. Nowhere was *active* sodomy, or pederasty more generally, considered a medical question, nor did the physicians evince any interest in female homosexuality or homoeroticism.

Aside from perfunctory treatment in legal treatises, lesbianism is relatively poorly documented in our sources altogether. “Licentious” and erotological works do give it some attention, and incidents such as harem scandals are referred to occasionally in chronicles. The “origins” of lesbianism are most often either linked with those of sodomy and traced back to the people of Lot, or, more positively, found in the devoted love of Hend, the daughter of the Lakhmid king al-Noʿmān b. al-Monḏer in pre-Islamic Iraq, for Zarqāʾ al-Yamāma, after whose death she had a convent built to which she retired. Male authors manifest considerable ambivalence about female homoeroticism, being uncertain whether to assign “active” and “passive” roles to such relationships, whether or not to expect lesbians to be “mannish,” or indeed whether to be outraged or bemused by its existence; perhaps the most commonly expressed theme is the “conversion” of such women to proper heterosexual interest in men (see G. H. A. Juynboll, pp. 565-67).

Serious scholarly engagement with the material available from premodern Iran for female homosexuality, and overwhelmingly available for male homosexuality, has only begun, however, and much remains to be learned. In particular, further historical research is needed to obtain a better picture of the relationship of both the theoretical discourses of law and medicine and the highly conventionalized discourse of poetry to actual societal attitudes and practices over a millennium. While perception of homoerotic desire, of a specific sort, as natural, but the behavior it might lead to as sinful, was seen as no more a contradiction than the parallel situation with heteroerotic desire (outside of marriage and concubinage), any confident assessment of the actual incidence of homoeroticism, or homosexuality, however defined, in a given time and place remains elusive.

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