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SPECIAL ISSUE

Islam and Homosexuality

INTERNATIONAL INSTITUTE OF ISLAMIC THOUGHT
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Elements of a Prophetic Voice of Dissent and Engagement

In your hands is another thematic issue of AJISS, one that consists of two main contributions that address the Islamic tradition’s prohibition of the homosexual act. Jonathan A. C. Brown’s essay analyzes the authenticity of pertinent hadith traditions, whereas Mobeen Vaid’s essay explores the Qur’anic perspective. Both articles had their origin in presentations by a number of scholars at a colloquium held at the International Institute of Islamic Thought (IIIT) in Herndon, VA, on November 1-2, 2015. Although an earlier version of Vaid’s essay is available online, its original intent and thematic complementarity with Brown’s essay on hadith merit its inclusion here. Together, they make crucial contributions to the scholarship that has reopened the question of how the Islamic scriptural and jurisprudential traditions view this particular sexual practice. In the same workshop, I presented my reflections on the stakes of the rise of new pro-homosexual (or at least neutral) laws and cultural formations for Muslim scholarship as well as politics, which I share in a modified form in this editorial essay. In keeping with this issue’s theme of sexual ethics, we also include David Finn’s critical and extensive evaluation of Aysha Hidayatullah’s important Feminist Edges of the Qur’an (New York: Oxford University Press, 2014).

Scholarship does not always need to address burning issues; however, scholarship on Islam is often unable to provide the quiet anonymity that serious scholars often crave. What is at stake for American Muslims in the wake of the U.S. Supreme Court’s 2015 Obergefell decision on gay-marriage, the meteoric rise of homosexual assertiveness over the last few decades in the country, and the sea-change – let’s label it “homonormativity” – in cultural and intellectual norms that this decision has ushered in? As Muslims around the world are avid consumers and targets of American culture, norms, policies, and wars on terror – not to mention presidential sermons about the essence of Islam – the repercussions of its culture and norms in this era of globalization and American hegemony are not limited to American Muslims. Yet no one is more di-
irectly affected by the former, nor better placed to most intimately understand and critically evaluate its imperatives or exports. IIIT’s aforementioned colloquium intended to do precisely that.

This editorial seeks to frame the political as well as religious issues raised by homonormativity and suggest why and how Islamic norms, despite their origins in what was, as Dreher and his likes have argued (see below), a radically different time and place, remain relevant. As a minority residing under non-Islamic legal norms, Western Muslims may be justified in disarticulating their political and legal stances from their moral, cultural, and religious lives. Without claiming to offer political advice or critique, I wish to highlight the stakes involved in Western Muslims’ support for or opposition to same-sex marriage and in the arguments proffered for these positions.

One index of the stakes of the Obergefell decision can be found in the sobering words of Rod Dreher, an American Christian and editor of The American Conservative magazine, who writes in his bestselling The Benedict Option,

The advance of gay civil rights, along with a reversal of religious liberties for believers who do not accept the LGBT agenda, had been slowly but steadily happening for years. The U.S. Supreme Court’s Obergefell decision declaring a constitutional right to same-sex marriage was the Waterloo of religious conservatism. It was the moment that the Sexual Revolution triumphed decisively, and the culture war, as we have known it since the 1960s, came to an end. In the wake of Obergefell, Christian beliefs about the sexual complementarity of marriage are considered to be abominable prejudice – and in a growing number of cases, punishable. The public square has been lost.1

Whether this is all mere hyperbole remains to be seen; however, the undeniable fact that a large number of conservative Americans felt this way served as one of several reasons why many voted against the Democrats in the fateful 2016 presidential election. The ongoing electoral upset is epoch-making indeed, and yet it only reinforces trends long underway in American politics toward cultural liberalism and political conservatism. After citing the declining religiosity among young Americans (one in three 18-to-29-year-olds have put religion aside), Dreher turns to those who claim to be religious and finds even greater cause for concern. A 2005 sociological study of American teenagers from a wide variety of backgrounds found the most common religious views, regardless of the formal affiliation and denomination, to be a “mushy pseudoreligion” that the researchers labeled Moralistic Therapeutic Deism (MTD). It has five basic tenets:
A God exists who created and orders the world and watches over human life on earth;

- God wants people to be good, nice, and fair to each other, as taught in the Bible and by most world religions;
- The central goal of life is to be happy and to feel good about oneself;
- God does not need to be particularly involved in one’s life, except when he is needed to resolve a problem; and
- Good people go to heaven when they die.

The author highlights the unsettling vindication of these results in the experiences of American Christians at large: “America has lived a long time off its thin Christian veneer, partly necessitated by the Cold War … [t]hat is all finally being stripped away by the combination of mass consumer capitalism and liberal individualism.”

The decades-long ideological shift has made homosexuality not merely an issue of personal choice, but also the newest frontier of human rights, the decisive definition of what it means to be on the right side of history. Late-modern capitalism and its favored ideology of liberal humanism have finally moved to banish the last remnants of interdiction, sanctity, and prohibition from the sovereign path of individual desire.

But, one might ask, have not Muslims in the West lived in substantial numbers for nearly half a century alongside norms that violate their own? Why should Western Muslim intellectuals and ulama not treat this recently established homonormativity as just another such norm? What is it about this issue that poses a greater challenge to people of faith than, say, general sexual promiscuity and non-marital sexual relations?

Some reasons may be suggested as to why the stakes are higher. Homonormativity has arguably sealed the fate of the founding blocks of the American society that had been based upon a bedrock of Christian (lately dubbed “Judeo-Christian”) norms and that have been under attack since the 1960s. Barack Obama, who presided over this sea-change during his presidency, expressed the uneasiness of this shift well when he wrote, on the same page of his memoir *The Audacity of Hope: Thoughts on Reclaiming the American Dream*, “our law is by definition a codification of morality, much of it grounded in the Judeo-Christian tradition” and yet “Whatever we once were, we are no longer just a Christian nation; we are also a Jewish nation, a Muslim nation, … and a nation of nonbelievers” (p. 218). One may note the paradox reflected in these words: The same category of “non-Christian” that makes room for nonbelievers also affords breathing space to Muslims.
There is little point in disputing the fact that the opposition to homonormativity is often accompanied by an inveterate hatred for Islam and Muslims, an all-encompassing cruelty to all who are not white males, and both planet-threatening and willful ignorance. Lone voices (such as Professor Robert George, see below), notwithstanding, the complicit silence of American conservatives is deafening. To Muslims who simply wish to avoid ending up in concentration camps or that American bombs would stop incinerating ever more people and referring to them as “collateral damage,” allying with the right appears suicidal. Fateful ironies loom over any options American Muslims may adopt. Pious Muslims cannot avoid seeing the Faustian overtones of the bargain they have struck with the left, often by simply keeping silent. The legacy of black resistance and the civil rights movement, whose masterful deployment fuelled the politics of gay rights, also remains American Muslims’ only haven. Yet what has made the United States more hospitable to Muslims at a cultural level than Europe is precisely its lingering Christianity and conservatism, the same forces that, in their current forms, are bent on annihilating them.

Homonormativity aggravates the distance between Islam’s foundational socio-familial makeup and the American legal establishment, such that devout Muslims will be even more likely (whether individually or communally) to construct a cocoon for themselves, thereby disengaging from the larger society as the Orthodox Jews and the Amish have done. The assimilated Muslim mainstream will then become increasingly torn between Islam and the United States, a situation that can only lead them down the path of marginalization and alienation familiar to European Muslims. “All of Germany’s Muslim MPs voted in favour of same-sex marriage,” reads the title of a news-piece from the Independent, “whereas German Chancellor, Angela Merkel, leader of the Christian Democratic Union, has faced criticism for opposing the bill and announcing that ‘marriage is between a man and a woman.’”

To many religious American Muslims, the new sexual and gender norms heighten the cost of integration. Whereas anti-racism has been wholeheartedly Islamized as a cause that creates cross-cultural connections and anti-sexism has been embraced in a qualified form, normalizing homosexuality could shake the very foundations of Islamic moral community – unless, of course, this new chasm is met by the creation of sustainable and peaceful prophetic intellectual and counter-cultural movements and alliances.

Apart from pro-gay Muslim activists, two kinds of Muslim opinion leaders have encouraged indifference to the country’s shifting sexual mores and gender norms, which I labeled above as “homonormativity”: (1) those who strategically prioritize the community’s civil rights over religious concerns and (2) those who postulate a sharp separation between the political sphere and social
mores and who hope to be “outside” even while being “inside” the country, perhaps even advocating that the community selectively disengage from the larger culture. Some versions of this option rely on a logic of pragmatic reciprocity. Others have invoked the pluralistic model of pre-modern Islamic tolerance of or indifference to the objectionable practices of other communities to argue that a similar indifference may be justified in this case.

The presuppositions underlying this logic invite further questions. Many scholars of the modern state point out its ability to penetrate and reshape its society’s culture; modern states are not empty political shells, but active agents that shape norms. Supreme Court decisions are not merely temporary dispute resolutions between opposing groups governed by legal formalism, but are actual articulations of norms based on political views that, unless actively challenged, define ethics and morality for American society. Unlike the pre-modern Islamic world, in which society governed itself through a communally grounded legal tradition that communities could interpret and negotiate, the modern state governs the individual inside and out. Such critics argue that the role of law, culture, and state in the United States cannot be wished away and that the pre-modern Islamic posture of political apathy, which perhaps once made sense in the context of legally pluralistic and minimally intrusive governance, cannot be used to justify Muslim indifference to these tectonic shifts in the American landscape.

It is no wonder, then, that for the vast majority of American Muslim individuals and institutions, American cultural norms are the backdrop and justificatory framework within which Islamic norms are reformed and selected, and not the other way around. According to one recent poll, for instance, 42% of American Muslims showed support for gay marriage. A 2007 PEW poll revealed that 27% of American Muslims supported homosexuality as a lifestyle and that 61% opposed it. According to the same poll, 50% of Muslims were unsure as to whether the Qur’an was literally true. Another survey put the number of American-born Muslims who abandon Islam at 23 percent. All else being equal, this rate of loss, about half that of Christians, will in all likelihood increase in the next generation due to greater assimilation.

A passive acceptance of homonormativity among conservative Muslims (as among Christians) may be accompanied by vague hopes of a reversal of trends or by a pessimistic view that, morally speaking, the United States is a lost cause, that it is fast traversing the path of decadence already trod by Europe and that there is no stopping it. Regardless, those concerned with the effects of American foreign policy abroad and with political and social justice at home find little choice but to align themselves with the left. Alternatively, some conservative Muslims may ally themselves with conservative Americans in their
moral dissent against the dissolution of sexual and social mores. Princeton University professor and influential Catholic intellectual Robert P. George is a rare and unheeded advocate of such an alliance with American Muslims.8 A healthy development of principled conservative interfaith discourse at a political level might have helped temper the right’s antipathy toward Islam. The recent swing of American politics in the ultra-right direction appears to have dampened any such hopes for the time being.

In addressing the challenges raised by homonormativity and the emergence of those Muslims who advocate for it, scholars must explore a number of interrelated fronts. The traditional Islamic case against sodomy, conventionally understood as being unanimous, needs to be explored afresh at both the legal and ethico-philosophical levels. But the applicability of these norms to the phenomenon of contemporary homosexuality requires great caution. In order to make a compelling moral and ethical case for the continued relevance and soundness of Islam’s norms, scholars must examine the historical conditions that enabled homosexuality’s rise as well as the context, meaning, and implications of the relevant pre-modern prohibitions. Finally, such scholarship cannot disregard the human cost of whatever conclusion it reaches or recommendations it makes, and must consider the pastoral and political strategies that Muslims can use to respond to this new homonormativity in an ethical, compassionate, and effective fashion. The two contributions featured in this issue, focused as they are on the exegetical task, are important steps in an ongoing discourse.

In broaching the challenges involved in formulating Muslim intellectual, political, and social responses to homonormativity, we must recognize that traditions of faith in God are tied to divine interdictions whose reasons, they believe, are not always discernible to the human intellect. These interdictions and the social order they envision stand in the way of modernity’s evisceration of all limits – limits not just on sexual conduct but also the environment; consumption; aesthetics and beauty; the human body; the realm of passions, desires, and emotions; and interpersonal ethics. Catholics call it “the natural law”; Islamic law has notions of fitrah and a natural order of ease and human felicity that is believed to be built into the Sharia.9 But this divinely ordained and thus “natural” social order (a contradiction in secular terms), in which marriage is tied to procreation, chastity, and honor, and, more broadly, the virtues of self-restraint, humility, and charity are desirable, is fundamentally at odds with the political and economic order of unbridled self-interest and systematic transgression that defines capitalism (as many economic philosophers from Adam Smith to J. Maynard Keynes10 have reiterated).
The conditions of late-capitalist modernity, sometimes called postmodernity, are structurally suited to such transgression because once projects of transcending natural limits (from the bio-technological refashioning of humans to cloning and age-defying technologies) are normalized, any ethical and creedal system grounded in respecting those natural limits is made to seem irrelevant and irrational. If procreation is undesirable for a planet that is already held to be overpopulated, a lifestyle that seeks pleasure without procreation, whether heterosexually or homosexually, is preferred. Similarly, where a secular welfare state bureaucratically manages all insurances and goods previously furnished by God, the family and community, ranging from laws and guidance to safety nets, marriage and family become inexplicable burdens. Put differently, homonormativity is structurally related not only to ethical and religious decline and the political success of a vocal minority, but also to the fundamental dynamics of late-modern politics and economy.

Muslim thinkers have been only too willing to rethink Islam in a way designed to fit into the (often seemingly erratic) developments of the twentieth century, first the welfare state and then neoliberalism, rather than effectively questioning these developments. This post-hoc approach to change is a result, I argue, of the lack of a political philosophy that could help them envision the larger interests of Islam and its community and help replace the tired language of “catching up with the times” with discourses better grounded in Islam’s own vision. Note that I do not mean here merely the maqāṣid-based approach to fiqh, which although certainly helpful, in the absence of further checks and balances, can equally be used to justify the instrumentalization of Islamic law for any externally imposed ends. If fiqh chooses not to theorize political life in a fashion grounded in a coherent vision, then it nonetheless becomes politicized — but in a way that is reactionary and ethically irrelevant.

The Limits of Consent and the Autonomy of the Self

The key issue underpinning homonormativity is consent. Any kind of sex is ultimately permissible, under this vision, so long as it is consensual. Consider the advice given by professionals to those who suffer from “virtuous pedophilia”: to exercise restraint, remain virtuous, and not act on their desire. Thus, the concepts of self-control, abstinence, refraining from acting out one’s desire, and living without sexual fulfillment until one’s death are not foreign to the liberal world. What makes this case different from homosexuality, however, is the presumption that children are incapable of expressing consent. And yet intractable philosophical as well as legal problems continue to afflict the conceptualization of consent. As feminist and political theorist Carole Pat-
The Sexual Contract (1988) and ever since, the very notion of consent becomes meaningless if neither the structural factors (e.g., politics and economy) nor the contractual limitations that individuals place upon themselves are considered.

In the liberal account, consent is an expression of the human self – that mysterious entity which in the modern secular world cannot be judged but which judges all things. Yet the self also has a history. The pre-modern religious self (nafs, in the Islamic tradition) was thought to be both the source of all desire and also an object that one had to discipline and cultivate. Human desires were either good or bad; they could be judged by their singular creator, master, and sustainer. Good desires were natural, part of one’s fiṭrah, and bad ones came from the Devil and had to be resisted. But in nineteenth-century Europe, a number of modernity’s “prophets” (from Darwin and Nietzsche to Freud and Weber) killed God to their satisfaction and discovered a new one: the human self, which is supreme and sovereign.

For Kant, the self is autonomous because not only does it choose to act in accord with what is right, but it also defines or discovers for itself what is right. Nietzsche saw through this charade, for once there was no God or God became irrelevant to the discovery of morality (as Kant would have it), the self was both free and inscrutable. Nietzsche thus reasonably declared that all declarations of good and evil and all judgments related to desire were baseless. He taught that all ethics were a tale cooked up by the slaves and the weak to keep the few true men, the “supermen,” chained. It is often acknowledged that there can be no morality without God. But what is less understood is that with God there was no inscrutable self, that the self is governed territory. And precisely because the self is governable, there was no need for the sovereign modern state and its projects of refashioning the self. The self was governable under a regime of beliefs and norms that addressed and directed it. According to the Qur’an there was nothing worse than the unrestrained self (hawā), for it is the playground of the Devil.

Freud, arguably the greatest prophet of modern unbelief, freed the self from God by theorizing it in terms of a repressed, inscrutable desire, just as God’s prophets had explained the human nafs and its origin: the divine breath (rūḥ). Freud taught that the self was a world unto itself, only a tiny fraction of which comprised discursive reason. He used the analogy of a vast city under the sway of barbarians, only a small castle of which has been conquered by modern science and examined by objective discourse. Only the tip of the iceberg was known to us. Our desires came out of an inscrutable world, the id, that could neither be judged nor disciplined because no knowledge or agency could be superior to the human self.
This is the first element of “consent” – an expression of the sovereign self or psyche that could only have been posited and sustained in a Godless world. Within this world, human desires (ahwā’) cannot be judged. Elsewhere, whether in Aristotelianism, Thomism, or Islam, the self is there to be judged, disciplined, and trained, whether according to rational or revelational principles. This is why “homosexuality” could not have existed as a self’s identity in the pre-modern world: In its place, only an assemblage of desires and acts could be found, already judged by scripture and religious traditions as an abomination. Even in the Greek world, Plato considered male-male sex unnatural despite its immense popularity; whether it was good or bad was determined by whether it was natural and good, not simply because it was an irrepressible expression of the self. This is also why Christians and Muslims could relatively easily integrate Greek ethical philosophy, because despite having a radically different theology it did not contradict the Abrahamic notion of the human self as teachable, as a site of the battle between good and evil.

Of course, the secular self does not automatically lead to homonormativity in twenty-first-century America. Certain political and economic conditions of modernity that can be best captured as late-capitalism have led to a world in which desire reigns supreme and the conditions of excessive affluence in “winner” societies – never mind the enormous corresponding deprivation in the “losing” societies – provide the context in which inescrutable desires could be properly worshipped; not merely satisfied, but idolized, legalized, and infinitely extended and explored. And why not, for what else is there in a world that has lost its God and its raison d’être? After having demolished the community and the extended family, the biological and nuclear family is merely the latest frontier in the march of capitalism. Whatever else may be said about capitalism, it is inconceivable without secularism, but (like nationalism) it has often been fueled by foolish religious fervor, passion, or discipline.13

The non-liberal alternative to the modern, capitalist self was the Marxist self – a place that, while awash with passion for equality and revenge, was fundamentally empty. Capitalism can tolerate a religion that restricts itself to managing the poor, fueling its ideals, justifying its winners and losers, and/or quenching its guilt. But Marxism, bent on ideological consistency and purity, refused to traffic in even this nominal religion. Marxism, ultimately more modern and rational than capitalism, would fall with the rise of postmodernity, a condition best seen as a continuation or logical extension of, rather than a rejection of, modernity.

Unlike capitalism, which promotes greed or expanding desire as a principle and thus leaves the self to freely (“liberally”) choose its own myriad means of satisfaction and extension (limited only by the infinitely disputable principle
of no-harm), the Marxist self sought to limit itself by its dogma of materialism and the desires of which it approved. Having vanquished its nemesis, late capitalism has now overcome politics and democracy as well. The task of “manufacturing consent,” to use Noam Chomsky’s well-known phrase, may have been pioneered by the nation-state in times of war, but global capitalism, in its current neoliberal phase, has dwarfed states and taken over the task of managing mass desires while deepening the illusion of individual choice and freedom. A world set against divine interdictions and sanctions has proven unsustainable not only in the spiritual but also in the material sense, leading us ever faster toward an economic and ecological apocalypse.

The Limits of Historicism and Social Construction

It is widely acknowledged that whereas same-sex sexual activity has been recorded in nearly all past societies, homosexuality, the idea that certain persons are to be identified by their sexual preference, on the grounds that this is a fundamental part of their identity, is socially constructed and historically novel. Furthermore, whereas the biological and cultural bases of such desire are debated, science has returned empty-handed from its quest for a “gay gene.” According to the new ta’wīl, however, the results are carefully couched in a postmodern framework to draw our attention to the constructedness of all categories.

That homosexuality is a cultural construct as opposed to a biological construct does not mean that it is based on something other than a real, strongly felt, desire. But as Imam al-Ghazali said, “intention,” the basis and determinant of all actions, is semi-voluntary at any given instance. In other words, one cannot instantly purify and simply will to be as pious as one wishes. Our passionate constitution is comparable to our physical one; just as one builds muscle over a long period of time via a process that depends on training, discipline, diet, as well as other environmental and genetic factors, so is our emotional make-up multi-dimensional and only semi-voluntary. From an individual and instantaneous perspective, however, the source of one’s desire may appear moot. The misery of a pious homoerotic individual may indeed be great and is definitely worthy of compassion and support, but one must also be aware of the deployment of such tropes in accounts that are, in fact, key to constructing homonormativity.

Aside from homoerotic desire, which has been documented in almost every society, the homosexual identity that fortifies it as a right is a modern construction. In The History of Sexuality, Foucault famously shows that Western society’s views on sex have undergone a major shift over the past few centuries.
Same-sex relationships and desires certainly existed before—but homosexuality was never considered a biological type or social identity. Besides Foucault, various historians have argued that the idea of a homosexual role and stereotypical behavior emerged in late-seventeenth-century England.14

Psychologists, at that time still working under the remnants of Christian morality but without Christian belief, sought to replace religion and superstition and to categorize all untidy phenomena systematically. In this quest, they recast “sodomy” as a disorder (seen as harmful to the family, which was then regarded as an indispensable engine of national progress). When such vestigial Christian moralism came under fire, homosexuality became a new normal, an identity to which some people were simply biologically wired. Later on, Foucault established the relative novelty (and thus historical contingency) of both “the idea that our desires reveal a fundamental truth about who we are and the conviction that we have an obligation to seek out that truth and express it.”15

More broadly, postmodernist critique opposes not only sexual truths about oneself, but also truth in general. Religious truths or religious differentiation of gender roles are thus no less constructed than homosexuality. In other words, the postmodern case for homonormativity argues not that it is an essential part of one’s being, but that since there is no essential norm or truth or self, and thus no rational obligation to discipline the self, homonormativity is just as good or bad as any other option.16

Historians of Muslim societies tell a similar story about the wide attestation of homosexual behavior, but also the absence of anything like contemporary homosexual identity. Khaled al-Rouayheb shows that in the traditional Muslim world, lustful or romantic behavior toward beardless boys was quite common.17 He quotes countless testimonies to the spread of sodomy and pederasty, to which one may add the following from al-Aqhisari, a zealous seventeenth-century Ottoman reformer who wrote that

> In this time, sodomy [Michot translates this as “homosexuality”] has spread in this Muhammadan community and expanded among its Arabs and its non-Arabs, its learned ones and its ignorant ones, its elite and its commonality. It has reached such a point that they are proud of it and blame someone who has no beardless friend (amrad), speak evil of him, and say that he is not a human (adami) and has no taste (madhaq).18

Such accounts, even when corrected for some reformist exaggeration, serve to call into question the widespread pious romanticization of pre-modern Islamic societies. In particular, the reference to the “learned ones” among the pederasts is significant. Remarkably, despite all the incentives to do so and the
power of custom in Islamic law, the ulama never justified this practice. In fact, denying its prohibition was considered unbelief by consensus, and disagreements revolved only around such issues as whether someone who permitted sodomy with a male slave was a believer or should be excommunicated – not for practicing it, but for believing that it was permissible!!

Although pederasty was at times widespread, especially among the elite, those who engaged in such behavior never claimed to be a distinct type of individual with distinctive desires. The pious simply deemed them sinners. One might say that Muslims saw this behavior in the same way as drinking wine; there was never a question about its impermissibility, even as some or even many, indulged in it.

But what does this argument about the historicist construction of social categories entail for the Muslim present? Some use an exaggerated dichotomy between modern homosexuality and pre-modern sodomy to deny the applicability of the Qur’anic prohibition of homosexuality.

[Al-Rouayheb’s] seminal work and that of Dr. Scott Kugle clearly indicates that by excluding women and those who do not indulge [in?] the act of anal intercourse, the category of ma’bun does not define queer individuals. When will conservative Muslim leaders recognize that paraphrasing legal texts is not helpful today? Muslim academic Dr. Kecia Ali has indicated that past exegetes and jurists addressed superfluous desire that could be channeled towards women instead of the exclusive innate orientation towards member of the same sex.

Past exegetes and jurists operated in the context of age and status asymmetrical relationships between unequal partners. The 14th century exegete Ibn Kathir noted that Muslim leaders, jurists and memorizers of the Qur’an were complicit in liwat – anal intercourse inflicted on males that included youth, slaves, or those classified as ma’buns.20

Based on the conjecture that the Qur’an and medieval jurists were concerned with condemning the homosexual act primarily, if not exclusively, due to the absence of consent, in terms of its being an abuse of power between unequal partners, and given that contemporary homosexuals feel an “exclusive innate orientation toward member of the same sex,” this argument suggests that the divine judgment expressed in scripture from the Torah to the Qur’an and Hadith is simply outdated. The basis of this unusually harsh scriptural judgment, we are told, was the absence of consent and the subsequent humiliation attached to the inferior party. Vaid’s essay challenges, at great length, the speculation that truly felt inclination was precluded from the Islamic or Biblical classifications of crimes or acts. My concern is with the historical element of
the claim that the nature of pederasty condemned by pre-modern religious traditions is entirely different from the modern, consensual, or uniquely involuntary urges of a homosexual person. I have already pointed out the difficulty – if not the actual impossibility – of pinning down consent. We have every reason to think that consent is also socially constructed, and that a class or race of people can be conditioned to accept and even demand a particular kind of treatment that would be seen as denigrating in other cultures.

The politics of desire and consent remains complicated. For instance, some of those who self-identify as homosexual claim to choose to be who they are even when reprimanded by advocates of homonormativity that such admissions are politically inconvenient. The primacy of the desiring self and individualism that center the idea of consent are certainly modern; however, we have no way to preclude the possibility that some pre-modern individuals who served as passive partners enjoyed or felt naturally inclined toward such a relationship. More importantly, if scripture and tradition had so harshly condemned sodomy only because it meant degradation for the passive partner, or only because the latter’s consent was socially or structurally conditioned and hence not fully fledged, the same should have been said of concubinage or other heterosexual relationships that scripture did sanction. But clearly rape, which is universally condemned in all traditional law as an act of illegitimate intercourse, is categorically distinct from the case of legitimate but unequal relations, for both the Old Testament and the Qur’an permit sexual relations with one’s concubines. Whatever behavior or politics one wishes to endorse today, the Biblical and Qur’anic judgment on sodomy cannot be chalked up to the passive partner’s degradation or lack of consent.

We now turn to the class of arguments indebted to a hard Foucauldian (i.e., strong social constructivist) approach to conceptual history, one that postulates the social construction and hence the deconstructibility of all norms. When applied to this case, the argument effectively claims that the concept of male-male sex was identical enough through the 2,500 years that separated the prophets Lot and Muhammad, peace upon them, that the Qur’an, the Sunna, and the subsequent tradition clearly sustained the Torah’s judgment against it. Yet once early modern psychologists in Europe invented the category of “homosexuality” as social type several centuries ago, the divine judgment suddenly became ineffective, outdated, irrelevant, and/or inapplicable. According to this view, notions of sex changed significantly only once in recorded history: in early modern Europe.

Implausible as this may sound, the argument is of a piece with a larger category of claims concerning whether divine norms can survive significant conceptual change in history. The post-structuralist, historicist, or deconstructionist
trend in conceptual history popularized since Nietzsche and then Foucault is, in itself, quite useful as a partial tool, a lens through which one can interpret enormously complex developments in human history and that has successfully exposed the universalist pretensions of modernity and positivism. In this view, all concepts have histories or genealogies. But in its strong form this view leads not only to nihilism, but also undoes itself (i.e., every claim of construction is itself a construction). Even atheists are more attuned to truth and in agreement that it is worth searching for than pure constructionists, who, as existentialists, consider the idea of a true God too superfluous to even refute.

According to this strong version of social constructivism, all concepts are in flux and socially constructed: the afterlife, good and evil, and the very notion of the human being all have histories. But – and crucially – since nothing survives historical conceptual ruptures, no religion revealed in the past can affect any meaning or authority outside this historical flux. The notion of one omnipotent and omniscient God, in the historicists’ view, is the product of the so-called axial age.

A weaker version of social constructivism would hold that certain types of concepts (say, metaphysical ones) can perhaps survive historical discontinuities, but not social institutions. In other words, specific Qur’anic laws may be deemed outdated without invalidating its general imperatives. This view can yield a critique of the Islamic tradition that, in my view, requires careful and sustained attention by scholars.

Unless one believes that modernity is a unique and singular rupture in human history, an event of such magnitude that God’s scripture could not anticipate it, it is still difficult to justify the wholesale a priori rejection of Islamic norms and mores for which many modernists and progressivists argue. This is because the Qur’an offers its own history and philosophy of the secular world, just as the secular world wishes to historicize the Qur’an. Revealed in the seventh century, the Qur’an upholds many of the Torah’s central laws, including the prohibition of the homosexual act and usury (ribā), given over 1,500 years earlier to Moses, while relaxing some peripheral ones. Consider usury, for an analogy: The Qur’an explicitly chastises the Jews for “their consuming of usury, when they had been prohibited from it” (Q 4:161). One historian of the rabbinical prohibition of usury has chronicled how the Jews upheld and expanded the prohibition of Mosaic law for several centuries, but then started to rationalize it when confronted with the complex Roman commercial expansion in the name of what we might call “ijtihād.”

All of this happened before the sixth century, and so the Qur’anic chastisement can be understood as the divine judicial review of this “ijtihād,” so to speak. The point here is that the logic of historical, social, and conceptual
change to explain away the prohibition of usury did not serve our Jewish brethren well. Nor did God spare them, it would seem, on account of the “kullu mujtahid muṣīb” (i.e., the Islamic legal principle that every qualified legal reasoner is correct, so long as he or she does his best) principle. Some interdictions, the Qur’an seems to suggest, are meant to permanent.

The Imperative to Draw Reasoned Boundaries

Concepts as well as norms change over time and in a way that baffles as well as humbles systematic scholars and utterly eludes others. Many of our modern concepts, including homosexuality, did not even exist in the recent past. The Qur’an itself abrogated many of the previously revealed divine laws, and historical change may be offered as one explanation for this. But how adequate is historical change as a causal explanation and in what cases? Taking the premise upheld by all Islamic theological schools that God knows the future as well as the past and hence could not have failed to anticipate a changing world requires that the line between which norms or concepts can be discarded and which cannot has to be drawn from within Islamic tradition, based, if you will, on divine cues.

Not all advocates of an Islamic sexual revolution base themselves on scripture or tradition; however, those who believe that that guidance must be sought within divine scripture must grant that its systematic interpretation can only be carried in conversation with the tradition that has preserved it and made sense of it for over a millennium. We must recognize that Islam’s marvelous but imperfect (because human) tradition of legal and theological reflection has never seen such a dramatic change in its long and far-flung existence. Socio-economic conditions have indeed dramatically changed, as has our epistemology itself. And yet all that our belief in the continued guidance of divine scriptures requires, I believe, is that these changes must be traceable and comprehensible. This puts the onus on Islamic scholars and thinkers to document and calibrate both the changes and their implications. Those who deny the significance of this change or the rupture with the past are often excoriated, and deservedly so. What I think is less often appreciated and critiqued is the passive acceptance of certain developments as inevitable, rather than historicizing and hence resisting the necessity of changes that, if accepted, render Islam’s legal and ethical guidance utterly incoherent and meaningless.

If the terms, norms, and criteria imposed by late capitalism, the modern state, and their global transformations are accepted, then Islamic fiqh and ethical norms can only become progressively irrelevant. It is this passivity of the Muslim mainstream that I wish to question also in the case of the rise of homo-
normativity. In an overpopulated and over-stuffed late-capitalist world, pro-
creation is neither deemed terribly important nor is it exclusively dependent
upon a traditional male-female family. Most Muslims have welcomed the rise
of the nuclear family, which is “allergic” to cousins, uncles and aunts, parents
and in-laws, along with the modern need to be mobile and independent – a
lifestyle that both reflects and requires consumerist capitalism rather than the
thick, organic, mutually supportive, and extended families and communities
that so many Islamic norms, laws, and mores presuppose. Put differently, the
Sharia’s concern, comparable to that of Jewish Halakha and Christian ethics,
to protect family, lineage, and sexual virtue are steadily outdated if the terms
of capitalism and the modern welfare state are fully embraced. The more func-
tions a secular bureaucracy takes away from the family and organic commu-
nity, the less relevant the sexual ethics and laws preached by the Abrahamic
religions become (I use the qualifier organic not in the Durkheimian sense,
but rather to distinguish local, mosque-, and neighborhood-based community
from the global religious community).

What is at stake in late modernity is not only what Islam is (a private reli-
gion or something else), but whether Islamic norms make any sense. The so-
lution advanced by Muslims to many socioeconomic changes has often been
no more than piecemeal and reactionary *ijtihād*. Heroic, prophetic struggle
against fundamental wrongs and structural corruption is reserved only for the
radicals and crazies, as if Islam proper is only the religion of docile, middle-
class functionaries. Unless a larger alternative vision of prophetic resistance
and rebuilding makes Islam coherent and gives a proactive, visionary edge to
*fiqh*, this appears to be our foreseeable future.

Endnotes

Nation* (Sentinel, 2017), 9.
2. Ibid., 10.
3. One watershed event in LGBT history was the Stonewall protest of 1969.
5. Brian Leiter, an American philosopher and legal scholar at the University of
Chicago Law School, argues that despite what the people are told, the Supreme
Court judges’ personal moral and political judgment, rather than formal legal rea-
son, are of decisive importance in how they fulfill their role and how they are ap-
pointed. See idem., “Constitutional Law, Moral Judgment, and the Supreme Court


9. Islamic thought has historically oscillated between two poles: (1) reasoning that is primarily self-referential or inward-looking, based on the norms derives from revelation, and (2) reasoning that is primarily dialogical and outward-looking, accepting “reason” or “common sense” as the common-ground to persuade non-Muslims of Islam’s truth. In this case, I think it is dialogical reasoning that is called for: demonstrating not only what Islam says, but why it says so.

10. “Capitalism is the astounding belief that the most wickedest of men will do the most wickedest of things for the greatest good of everyone,” a statement widely attributed to the influential British economist John Maynard Keynes.


13. Consider, for instance, Bethany Moreton, To Serve God and Wal-Mart: The Making of Christian Free Enterprise (Harvard University Press, 2010), which shows how subjugating the self to the global corporation, the single most destructive force for the planet, the poor, and democracy, draws on a deeper set of ideals
about the supremacy of family, the morality of self-reliance, and the evangelical justification of free enterprise.

14. The seminal work of Mary Macintosh (1968), the British feminist sociologist and founder of the modern lesbian and gay movement in the United Kingdom, comes to mind.

15. A homosexual author (Jesi Egan) grapples with the problem that Foucault’s social constructivism argument, so ardently supported by feminists, cuts against the LGBT claim that their identity is biologically determined and hence not a choice that can be influenced. www.slate.com/blogs/outward/2014/03/04/sexuality_as_social_construct_foucault_is_misunderstood_by_conservatives.html.

16. The questioning of the traditional norms against homosexual behavior need not come from a postmodernist or genealogical perspective, of course; liberal religious activists often couch their claims in terms that draw, often unwittingly, on some kind of moral positivism and human rights discourse that may be theoretically naïve but is often rhetorically powerful.


19. Ibid., 124.


22. Hillel Gamoran, Jewish Law in Transition (Hebrew Union College Press, 2008). As a rabbi for Beth Tikvah, I assume that the author belongs to reformed Judaism.

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A Pre-Modern Defense of the Hadiths on Sodomy: An Annotated Translation and Analysis of al-Suyuti’s *Attaining the Hoped-for in Service of the Messenger* (s)

Jonathan Brown

Abstract

This article provides an annotated translation of a treatise written by the famous scholar Jalal al-Din al-Suyuti (d. 911/1505) in defense of the hadiths condemning sodomy (*liwāṭ*). The article situates such a defense within the current discourse on Islam and homosexuality, summarizing the main arguments for and against the prohibition of *liwāṭ* as well as how the “traditionalist” and “Progressive” camps have constructed their arguments.

Introduction

The “act of the people of Lot” (*liwāṭ* or *lūṭīyah*) has long stood out among sins in Islamic thought, partly due to the Qur’ān’s singular condemnation for these people and their iniquities, what it calls “a gross indecency such as none in the world committed before you: Indeed you come with desire unto men instead of women” (Q. 8:80-81 and Q. 27:55), and to this fiercely condemned practice’s persistence in Muslim societies. The knot of issues making up the question of “Islam and Homosexuality” is complex indeed. This study focuses on the specific thread of sodomy (*liwāṭ*).2

While Muslim scholars compiled impressive lists of the different sins and obscenities indulged by Lot’s people, their juridical discourse on liwāṭ, which they classified as an action as opposed to an inclination or a desire, remained distinctly focused: “inserting the penis (dhakar, sometimes ḥashfah [glans]) into a man’s anus.” The Shafi’is, Hanbalis, and Hanafis included anal sex with women other than wives and concubines in this definition as well (anal sex with wives or concubines was impermissible, but it was not treated as seriously as liwāṭ). The discourse on liwāṭ thus differs significantly from most discussions surrounding LGBTQ issues, which focus far more on identity, relationships, and inclinations than on physical acts.

Like zinā (fornication or adultery), liwāṭ was a penetrative act of the penis. As with zinā, any act that did not involve this penetration fell into a lower category of offense. Sex acts between women (e.g., siḥāq) thus were lesser offenses. As in the case of heterosexual activity, other same-sex contact was condemned and could even be punished by a judge’s discretion. But nothing matched liwāṭ, “the greatest indecency” (al-fāḥishah al-kubrā), either in moral condemnation or in the severity of punishment.

The main Sunni opinions on the punishment are as follows, listed from the most to the least severe:

1) Both the active and passive partners are killed (on the basis of the Hadith of Killing the Active/Passive Partner, see below). This was an early position of al-Shafi’i (d. 204/820) and Ibn Hanbal (d. 241/855), and is the main Maliki position (death by stoning).

2) Liwāṭ is punished exactly like zinā: The married person (muḥṣan) is stoned to death; the never-married person is lashed 100 times and exiled for a year. This is the main opinion of the late Hanbali school and an opinion of the Shafi’i and Hanafi schools (held by al-Shaybani [d. 189/804], Abu Yusuf [d. 182/798], al-Tahawi [d. 321/932], and others).

3) Liwāṭ is punished similarly to zinā, but not exactly. The active partner is executed by a sword; the passive partner is punished with 100 lashes and exiled for one year. This is the dominant opinion in the later Shafi’i school.

4) Liwāṭ is punished by the judge’s discretionary punishment (taʿzīr). The judicial authority has the discretion (siyāsah) to execute a repeat offender to protect public order. This is the main historical Hanafi opinion, rooted in Abu Hanifah’s (d. 150/767) own opinion.

The evidence for the Shariah’s positions on liwāṭ and its punishment come from (1) the Qur’an’s clear condemnation of “going to men out of desire instead of women”; (2) numerous hadiths condemning and prescribing severe
punishments for it; (3) legal analogy on the basis of zinā; and (4) a variety of legal opinions from the Companions and Successors, presumably based on their understanding of the Qur’an, the Sunnah, and the proper deployment of legal reasoning. Their rulings range from treating liwāṭ like zinā to considering it distinct, and their prescribed punishments range from execution by stoning, burning, or throwing the perpetrator from tall buildings to corporal punishment (e.g., lashing).12

According to the leading Hanafi scholars, such as Ibn Humam (d. 861/1457), the tremendous disagreement among the Companions and Successors over this act’s punishment is evidence that the offense is not one of the hudūd crimes (offenses that infringe upon the “rights of God” and have set punishments in the Qur’an or Hadith). According to this perspective, those hadiths specifying the death penalty for liwāṭ must either be unreliable or they must not be interpreted as a general rule. If the Prophet had truly identified it as a hudūd crime and set a punishment for it, such variation in opinions would not have existed. So reasoned many Hanafis.

Doubt over the proper punishment was enhanced by the flaws that Muslim Hadith critics identified in the main hadiths on the topic. Even some non-Hanafis, such as the Shafiʿi hadith scholar Ibn Hajar al-ʿAsqalani (d. 852/1449), admitted that the principal hadiths used as evidence to classify liwāṭ as a hudūd offense were not sufficiently reliable for that task. But only the Hanafis rejected analogy as a means to include crimes under the rubric of hudūd offenses. Shafiʿis had no problem with doing this, so Ibn Hajar and others still insisted that both liwāṭ and bestiality were hudūd crimes on the basis of their analogy with zinā.13

The criticism of the hadiths surrounding these practices took place against the backdrop of this debate, which was – and remains – in essence, an intra-Sunni one over the nature of liwāṭ and its proper punishment. There has been no debate, to my knowledge, over the prohibited nature of anal sex between men. The Shafiʿi scholars Fakhr al-Din al-Razi (d. 606/1210), al-Nawawi (d. 676/1277), and al-Haytami (d. 974/1566) all list “Liwāṭ being ḥarām” as one of Islami’s axiomatic tenets (maʿlūm min al-dīn bi al-ḍarūrah), as do the Hanafi Badr al-Rashid (d. 767/1366), the Hanbali al-Buhuti (d. 1051/1641) and the Zahiri Ibn Hazm (d. 456/1064). Al-Bayhaqi (d. 458/1066), al-Qurtubi (d. 671/1272), al-Sanʿani (d. 1768), and others have stated that there is consensus on its prohibition.14

Attempts by Progressive scholars to reconceptualize how the Islamic tradition should view the knot of issues surrounding homosexuality (or, inverted, the problem of heteronormativity) have rested on four main pillars: (1) attempts to reinterpret the Qur’anic story of Lot’s people as a condemna-
tion of male rape instead of as a condemnation of sodomy; (2) illustrating how Sunni hadith scholars had dismissed the hadiths condemning *liwāṭ* as unreliable; (3) the claim that Muslim jurists built their whole structure of law regarding *liwāṭ* on a limited, patriarchal understanding of the Qur’anic story; and (4) that Muslim scholars were prisoners of a patriarchal and heteronormative narrative. Mobeen Vaid has already addressed the argument that this story should be reread (see his article in this volume).16 The present study examines the hadiths on *liwāṭ* primarily through a treatise devoted to defending them by the famous Cairean scholar Jalal al-Din al-Suyuti (d. 911/1505).

On one hand, the Hadith/Sunnah pillar of what can be termed “the Progressive argument” on homosexuality is redundant, for Muslim scholars have long held that scriptural texts must be interpreted according to their evident meaning unless some compelling external or internal evidence suggests otherwise.17 The plain language meaning of the Qur’an’s condemnation of men who “go unto men out of desire instead of women” does not readily afford any interpretations other than the obvious one, and the Qur’an provides no signs that would compel a reader to consider an alternative interpretation. Provided that the Hadith/Sunnah corpus or the first principles of reason do not provide such evidence, the evident reading of the Qur’an stands as is: a condemnation of men “going unto men out of desire instead of women.” Furthermore, while one might challenge the authenticity of the cited hadiths, there is certainly no hadith evidence that *liwāṭ* is anything but sodomy.

From another perspective, the Hadith/Sunnah pillar of the Progressive argument is crucial. Since the Islamic tradition has consistently rejected important elements of LGBTQ identities and lifestyles, many advocates of a Progressive revision have jettisoned that tradition and tried to elaborate a new interpretation based solely on a radical rereading of the Qur’an. More influential figures, however, have attempted to engage the tradition and show how it can be recast to support their argument.18 Scholars who have pursued this strategy have had to accept the traditional Muslim conception of the Sunnah as the authoritative lens through which the Qur’an is read. Since hadiths seem to make it clear that this unprecedented “gross indecency” condemned in the Qur’an is conventionally termed sodomy (see below), it is very difficult to promote a rereading that breaks with this understanding. For Progressive purposes, the hadiths thus either have to be shown to be unreliable according to Sunni hadith criticism, or their meaning must be recast. Otherwise, not only do these hadiths clearly condemn *liwāṭ* and prescribe punishments for it, but they also lock the traditional Muslim understanding of the whole “Sodom and Gomorrah” narrative in place. As early Muslim scholars recognized: “The Sunnah rules over the Book of God.”19
Ratings of Ibn ‘Abbas’ Hadith of Killing the Active/Passive Partner

The most famous hadith on liwāṭ, narrated from the Prophet by Ibn ‘Abbas, reads: “Whoever you have found committing the act of the people of Lot, kill the active and passive partner. And whoever you have found to have had sex with an animal, kill him and kill the animal.” (The italicized portion will be referred to as the “Bestiality Clause.”)

This hadith was declared ṣaḥīḥ by Ibn al-Jarud (d. 307/919-20), al-Tabari (d. 310/923), al-Hakim al-Naysaburi (d. 405/1014), Ibn al-Talla‘ (d. 497/1104), Diya’ al-Din al-Maqdisi (d. 643/1245), Zayn al-Din al-‘Iraqi (d. 806/1404) and al-Suyuti, all of whom are listed in the text of al-Suyuti’s treatise below. It was also judged ṣaḥīḥ or reliable by al-Ajurri (d. 360/970; in fact, it is one of the hadiths he presents as suitable for use “as proof”), Ibn ‘Abd al-Hadi of Damascus (d. 744/1343), al-Zarkashi al-Hanbali (d. 772/1370; the various narrations on the topic all compensate for each other’s weaknesses, he says), Ibn Qayyim al-Jawziyyah (d. 751/1350; it meets al-Bukhari’s standard, and Ibn Hanbal used it as proof, he says), Ibn Hajar al-Haytami (it has a ṣaḥīḥ sanad), Ibn al-Amir al-San‘ani (d. 1768), and Muhammad Nasir al-Din al-Albani (d. 1999). Even the early Hanafi hadith scholar Abu Ja‘far al-Tahawi (d. 321/932), who held that liwāṭ should be punished like a ḥudūd crime, uses this particular hadith as the last nail in the coffin of those who disagree with him.

Other Reliable Hadiths Condemning Liwāṭ

From the perspective of Sunni hadith criticism, the most reliable condemnation actually comes from another hadith narrated from the Prophet by Ibn ‘Abbas:

God has cursed those who slaughter to other than God, and God has cursed those who alter the signposts (or boundary markers) in the land,22 and God has cursed those who lead the blind off the path, and God has cursed those who curse their parents, and God has cursed those who take as patrons those who are not their patrons (tawallā ghayr mawālīhi), and God has cursed those who commit the act of the people of Lot, and God has cursed those who commit the act of the people of Lot, and God has cursed those who commit the act of the people of Lot. (Some versions contain a clause cursing those who commit bestiality as well).23

Another version contains almost the same content but is phrased as “Cursed are those who commit the act of the people of Lot…”24 Versions of this hadith are found in the Muṣannaf of ʿAbd al-Razzaq al-San‘ani (d. 211/827),24 the Musnad of ʿAbd b. Ḥumayd (d. 249/863),26 the Musnad of Ibn Hanbal,27 the Musnad of al-Harith b. Abi Usamah (d. 282/895-6),28 the Dhamm
al-Malāhī of Ibn Abi al-Dunya (d. 281/894), the Sunan al-Kubrā of al-Nasaʿi (d. 303/915), the Musnad of Abu Yaʿla al-Mawsili (d. 307/919-20), the Ṣaḥīḥ of Ibn Hibban (d. 354/965), the Masāwiʿ al-Akhlaq of al-Khoraʾi (d. 327/939), the Muʿjam al-Awṣat and the Muʿjam al-Kabīr of al-Tabarani (d. 360/971), the Mustadrak of al-Hakim, the Sunan al-Kubrā of his student al-Bayhaqi, the Hilyat al-Awliyāʿ of their contemporary Abu Nuʿaym al-Isbahabi (d. 430/1038), the Tārīkh Baghdād of his student al-Khatib al-Baghdadi (d. 463/1071), and the Mukhtārah of Diyaʾ al-Din al-Maqdisi (d. 643/1245).

This hadith has been judged ṣaḥīḥ by Ibn Hibban, al-Hakim, and Diyaʾ al-Din al-Maqdisi (by its inclusion in his Mukhtārah), Nur al-Din al-Haythami (d. 807/1405) (“its transmitters are used in the Ṣaḥīḥ”), as well as by al-Albani and Ahmad al-Ghumari (d. 1960).

Summary of the Muslim Critiques of Ibn ʿAbbas’ Hadith

Pre-modern criticism of this hadith centers on the person of ʿAmr b. Abi ʿAmr (d. 144/761-62), a client of al-Muttalib b. ʿAbdallah and member of the Quraysh tribe from the Successors’ generation. A junior Successor, ʿAmr narrated hadiths mainly from the long-lived Companion Anas b. Malik and other Successors like Saʿid b. Abī Saʿid al-Maqburi (his occasional narrations from the Companion Jabir b. ʿAbdallah come through an intermediary, al-Muttalib, as he sometimes specifies). His narrations from ʿIkrimah are rare. Although criticized by some, he was generally held in high regard by critics. Al-Bukhari (d. 256/870) used him for ten narrations in the Ṣaḥīḥ, and Muslim (d. 260/875) used him for five in his collection. But neither used his narrations from ʿIkrimah ← Ibn ʿAbbas ← the Prophet (s), nor did al-Nasaʿi in his Mujtabā. Among the Six Books, ʿAmr’s narrations from ʿIkrimah appear in the three Sunans of al-Tirmidhi (d. 279/892), Abu Dawud (d. 275/889), and Ibn Majah (d. 273/886).

Abu Dawud uses the chain for a hadith on the obligation to perform the greater ablution (ghusl) on Fridays, for a hadith on reading the Qur’an during prayer, and for an unusual hadith about how to ask permission to enter homes (which Abu Dawud notes is contradicted by a better report from Ibn ʿAbbas). Ibn Majah uses the chain for a hadith on a debt issue. Along with al-Tirmidhi, their only other use of the ʿAmr ← ʿIkrimah chain is for the Hadith of Killing the Active/Passive Partner. ʿAmr b. Abī ʿAmr was thus a hadith transmitter in fairly good standing among early Sunni hadith critics. Ibn Hanbal and Abu Hatim al-Razi (d. 277/890) said: “There is nothing wrong with him (laysa bihi baʾs),” and Abu Zurʿa al-Razi (d. 264/878) said he was reliable (thiqah).
But ʿAmr was criticized, in particular, for his narrations from ʿIkrimah. Ibn Hanbal’s close colleague Ibn Maʿin (d. 233/848) said that ʿAmr’s hadiths were “not strong,” and al-Nasaʾi agreed. Al- ʿIjli (d. 261/875) said he was reliable but that scholars considered his narration of the Bestiality Clause to be unsubstantiated. Ibn Maʿin also noted that this hadith was considered unacceptable from him, including the report’s main liwāṭ clause. Al-Bukhari doubted whether he had heard the Bestiality Clause from ʿIkrimah. In fact, he was not convinced that ʿAmr had heard any hadiths directly from ʿIkrimah. Al-Juzajani (d. 259/873) declared him to be highly inconsistent in his narrations (muḍṭarib al-ḥadīth). Later scholars like al-Dhahabi (d. 748/1348) considered ʿAmr ṣadūq (honest), and Ibn Hajar al-ʿAsqalani noted that his hadiths were included in the Ṣaḥīḥayn.43 Ibn Dihya (d. 633/1235) used ʿAmr as the textbook example of a narrator of ḥasan hadiths.44

The vast majority of criticism surrounding ʿAmr b. Abi ʿAmr and his narration of this particular hadith only concerns the Bestiality Clause. The main objection stems from the fact that reliable narrators reported that Ibn ʿAbbas advocated a contradictory ruling, namely, that bestiality was not a ḥudūd crime. This is the main criticism raised by al-Bukhari, al-Tirmidhi, Abu Dawud, and the Hanafi al-Tahawi which they note when they bring up the opinion attributed to Ibn ʿAbbās’, via the narration of ʿAsim b. Bahdalah ← Abu Razin ← Ibn ʿAbbas, that the person who commits bestiality is not subject to the ḥudūd punishment.45 Beyond general questions of ʿAmr’s reliability or his having heard directly from ʿIkrimah, the only other criticism of the liwāṭ portion is al-Tirmidhi’s remark on conflicting evidence over the proper punishment for liwāṭ; that the hadith in which the Prophet names those who commit the act of Lot’s people as a “group cursed by God” does not ordain their execution.

Aside from these criticisms, the main focus of al-Suyuti’s treatise is to criticize Ibn Hajar al-ʿAsqalani, the leading hadith critic of the Mamluk period. Like al-Suyuti, he adhered to the Shafiʿi school and thus, in theory, supported categorizing liwāṭ as a ḥudūd crime. Al-Suyuti focuses on Ibn Hajar’s criticism that the Hadith of Killing the Active/Passive Partner is “disagreed upon in terms of its attestation,” and al-Suyuti’s defense of the hadith is premised entirely on the shape and form of this critical comment. But Ibn Hajar’s criticisms were more extensive. Certainly, at one point in his voluminous writings he seems to downplay the hadith’s flaws, noting that its transmitters are “deemed reliable” (mawṭūq) but that there is disagreement on it.46 But he states in his Fath al-Bārī that this hadith, as well as the one from ʿAli that specifies stoning (see below), are both weak (da ṭf). It is impossible to see how al-Suyuti’s attempt to clarify Ibn Hajar’s first comment, detailed in the treatise presented here, could apply to such an unambiguous criticism. This does not mean that Ibn
Hajar was conceding to the Hanafis on liwāṭ not being a ḥudūd crime, for he writes that the main evidence in this regard is not any hadiths, but rather that the act is analogous to adultery/fornication (zinā). At another point in the Fatḥ he states that both the liwāṭ and bestiality clauses are “not sound” (lam yaṣiḥ), but that both acts fall under zinā.

More recent criticism of this hadith has moved beyond the person of ʿAmr to that of ʿIkrimah himself. This is a major component of the most comprehensive critique of the hadiths on liwāṭ, namely, that offered by Scott Siraj al-Haqq Kugle in his Homosexuality in Islam. ʿIkrimah (d. 105/723-24), the freeman (mawlā) of Ibn ʿAbbas, was probably a North African Berber. He was given as a slave to Ibn ʿAbbas in Basra, but his owner quickly freed him. ʿIkrimah traveled widely in the entourage of leading early Muslims, including to Marv and Yemen, and was sought out as an authority on matters of religion.

Criticism of ʿIkrimah is not novel. Since the first centuries of Islam, his reliability as a scholar and hadith transmitter has been questioned due to his alleged espousal of Kharijite beliefs, accepting gifts from rulers, and transmitting false material (kadhib). Yet he had many, many advocates. Al-Tabari, Ibn Mandah (d. 395/1004-05), Ibn Hibban, and Ibn ʿAbd al-Barr (d. 473/1070), and others all defended him. The best summary of this discussion, as well as the best defense, can be found in Ibn Hajar’s Huda al-Sārī. A recent revival of the anti-ʿIkrimah line has come from the United Kingdom-based Hanafi scholar Atabek Shukurov, to which another United Kingdom Hanafi scholar, Mufti Zameel, has provided a comprehensive rebuttal.

The Progressive argument has generally reproduced the intra-Sunni polemics over the hadiths prescribing harsh punishments for liwāṭ. Kugle summarizes them well when he observes that those hadiths “that directly affect legal rulings on homosexuality” are “not forged reports that should be dismissed, but rather reports with solitary chains of transmission, the application of which should be assessed…..” They are not forgeries, but they also are not reliable enough to convince many Sunni scholars that liwāṭ should be treated as a ḥudūd crime. The Hanafi scholar al-Jassas (d. 370/981) made this same argument.

Progressive Contributions to Criticism of the Hadiths on Liwāṭ

Kugle introduces several novel criticisms as well. The first builds on existing accusations that ʿIkrimah was a Kharijite, contending that his Kharijism led him to treat sexual offenses with particular severity. But his only evidence is the Hadith of Killing the Active/Passive Partner and the overall uncompromis-
ing nature of Kharijite beliefs. Although he explains that this group believed that Muslims who committed grave sins like zinā ceased to be believers, Kugle does not investigate Ḥākim’s stance on this question. In a famous hadith of incredible relevance to Kugle’s argument, Ḥākim narrates from Ibn ʿAbbas, from the Prophet, that one who commits zinā, theft, drinks alcohol, or commits murder is not a believer when committing those acts. But this hadith can hardly be dismissed as a Kharijite invention, for the majority of its narrations come not through Ḥākim, but from the Prophet by Abu Hurayrah, who was not accused of Kharijism (they are included in all the Six Books). More importantly, Ḥākim’s version features striking tones of leniency. Unlike those who transmitted it from Abu Hurayrah, Ḥākim asks Ibn ʿAbbas to explain how committing such sins can erase a Muslim’s faith and, crucially, how repenting restores it. For from being a ruthless puritan on sexual sins, Ḥākim is our source for the teaching that any apostasy involved in committing these sins can be remedied by repentance.

The most significant objection to Kugle’s enhanced criticisms of Ḥākim is that it contradicts his overall strategy of constructing an acceptance of homosexuality within the Sunni legal tradition. Rejecting all evidence narrated by Ḥākim would contradict the agreed upon tenets of Sunni hadith criticism (since al-Bukhari considered him reliable and used him in his Ṣaḥīḥ) and Sunni law (he is relied upon as a transmitter of evidence in all Sunni schools). An argument based on excluding Ḥākim would thus hardly be Sunni.

A second element of Kugle’s criticism of hadiths on liwāṭ does not affect the hadiths examined in this study; however, it does merit examination. He claims that one of the features of a hadith’s text (matn) that revealed it as a forgery according to Muslim scholars was the Prophet’s supposed uses of the proper names of groups, sects, or schools of thought that emerged decades after his death. This would apply to hadiths that use sodomite (lūṭ) or sodomy (lūṭyāh, liwāṭ). While Kugle admits that this does not apply to the wording “the act of the people of Lot,” which is used in the main hadiths examined in this study. Moreover, Kugle provides no reference for this alleged rule of matn criticism. In fact, although Sunni hadith critics did at times cite anachronisms in a hadith’s wording as a factor for declaring them forged, many hadiths that Sunnis have long considered reliable contain what some might consider anachronistic references, such as the Prophet gesturing to Iraq (where the Kharijites first emerged) and fortelling that a group interpreted as being the Kharijites will “come out” (yakhruju) from there. This is in great part due to the fact that Muslims have believed that, as a prophet, Muhammad (s) was granted access to the unseen by God.
Aside from this, anachronism does not always entail forgery. Often, as in the case of the hadiths on liwāṭ, narrations with non-anachronistic wordings (e.g., the act of the people of Lot) are transmitted alongside counterparts with anachronistic wording (e.g., lūṭīyah). It may simply be that as the proper nouns for sects or certain acts became common, less fastidious narrators substituted them for their non-anachronistic counterparts. This would have been permitted by hadith scholars, who generally allowed narrating a hadith by its general meaning (al-riwāyah bi al-maʿnā) and not necessarily word for word, provided that the transmitter understood its meaning and kept it intact.

The example mentioned by Kugle, namely, hadiths in which the Prophet condemns the Qadariyyah (those who believe in human free will), perfectly demonstrates this. For every hadith in the main Sunni collections (and Ibn Hanbal’s Musnad) in which the Prophet condemns them by their proper name, there is a corresponding narration in which he refers to them as “the people of qadar” or “those who disbelieve in qadar.” In fact, Muslim scholars consider these latter narrations to be the most reliable ones.

One of Kugle’s main lines of argument is that “there is nothing intrinsic” in the cited hadiths “to encourage us to see the deed of Lot’s Tribe as involving sex.” In the case of the hadith that lists those whom God has cursed, he suggests that the common thread is that those deeds either infringe on God’s rights or injure others. He argues that, in the context of this hadith, same-sex rape makes more sense as the meaning of “the act of the people of Lot” than mere anal sex between men and that introducing the Bestiality Clause into these hadiths was intended to “deflect” the interpretation of this “act” of Lot’s people toward anal intercourse.

There are three flaws in this argument. First, the hadiths he discusses provide absolutely no evidence that this Qur’anic story should be read in any way other than the plain language meaning of general male-male sexual contact. Kugle’s decision to read the hadiths’ mention of this particular act in another light (i.e., that it was rape) simply imports a baseless interpretive choice from one text into another. The argument thus circles back to its anchorless point of departure: Muslim scholars misconstrued and “misapplied” hadiths mentioning the “act of the people of Lot” because they misread the Qur’an’s Lot pericope. But the only way to establish the Progressive reading of the Lot pericope in the first place is to provide some internal evidence from the Qur’an (lacking, as shown by Vaid) or external evidence from the Sunnah. But as laid out by Kugle, any mention of this act in the external hadith evidence can only be read to support the Progressive argument if one already assumes the Qur’an has been misread.
Second, the claim that male-male anal sex is out of place in a list of
cursed deeds due to the insult they cause to the Divine or injuries they cause
to others ignores the historical place that sodomy has occupied in human
norm making. As Kugle suggests, such a list has a common theme of dis-
rupting or inverting the proper order of human relations with each other and
with God. For him, this act could not constitute such a transgression, while
male rape could. But this betrays a parochial rootedness in the modern liberal
conviction that only the transgression of personal autonomy renders a sex
act morally wrong.

In fact, Kugle’s mistake is not following through on his insight. Ancient
law codes condemned sodomy precisely because it was understood as violating
the gender and property order established when humans settled into agricultural
communities. Far from being an addition intended to shift the narrative on the
act of Lot’s people, the Bestiality Clause might actually predate it. From the
world historical perspective, it is even more suited for this list because that par-
ticular taboo is one of humanity’s oldest, originating with the beginning of set-
tled agriculture.69 It is not surprising to find sodomy and bestiality paired
together, as in Leviticus 18:22-23. These two rules draw primal boundaries for
newly settled human communities with nascent societal gender divisions: A
taboo on same-sex acts emphasizes the primary distinction among humans,
whereas the taboo on bestiality reinforces the distinction between humans and
the animals surrounding them.

Finally, Kugle’s assertion that only the “patriarchal” interpretation of this
story leads us to read references to “the act of the people of Lot” in the Hadith
as primarily sexual70 ignores a manifest reality: If this reading was wrong, it
was wrong as far back as anyone can reliably date the intellectual artifacts of
the Islamic tradition (other than the Qur’an itself). Kugle admits that by the
time Hadith collection and compilation had begun and hadiths were being
“used in making legal decisions,” this act was clearly understood as male-male
sexual penetration.71 But the most recent, historical critical (i.e., non-Muslim)
scholarship on the hadith tradition and early Islamic law has shown that the
era referred to here by Kugle was none other than that of the late 600s, when
the junior Companions were still alive. Not only does this leave very little time
for Muslims to have totally misunderstood the story, but it also begs the ques-
tion of precisely what more authentic understanding of the Qur’an we could
hope to have than that of junior Companions and Successors.

According to the methods developed by the German Orientalist Joseph
Schacht (d. 1969), which Kugle tentatively embraces, the most historically re-
liable reports are those attributed to the Muslims living during the mid-eighth
century (atbāʿ al-tābiʿīn), like Ibn Jurayj (d. 150/767) and Malik b. Anas (179/795). According to Schacht, their legal opinions were later pushed back to various Companions, attributions to whom are thus less historically reliable. Finally, these opinions had been pushed back into the Prophet’s mouth by the early- and mid-ninth century.72

Although the main hadiths dealing with the subject refer to it as “the act of the people of Lot” or sodomy without providing any description of what that meant, some do offer details. One quotes the Prophet as saying: “Whoever has sex with (waqaʿ a) a man, kill him.” Another has: “Concerning the person who commits the act of the people of Lot, and concerning the man who is had sex with (yuʿṭā fi nafsihi), [the Prophet] said: ‘He is killed.”’73 Another hadith reads: “A woman does not engage directly with (tubāshiru) another woman except that they are committing fornication (zāniyatān), nor does a man engage directly with another man except that they are committing fornication.” 74 A Companion’s ruling that, all things being equal, Schacht would consider as more historically reliable than a hadith, describes Caliph Abu Bakr and other Companions discussing how to punish a man “who is screwed like a woman” (yunkaḥu kamā tunkaḥu al-marʿah).75

These hadiths appear in later sources during the tenth and eleventh centuries, so they could well have been forged after the early period of Hadith collection. Turning away from Schacht’s outdated methodology to the most recent Western scholarship on dating reports, we find that reports circulating as early as the late 600s and early 700s clearly understood “the act of the people of Lot” as male-male anal sex. Reports appearing in the earliest surviving sources, such as the Muṣannaf of ‘Abd al-Razzaq al-Sanʿani (d. 211/827), offer no graphic details, but they all address it as a direct analog to zinā. ‘Abd al-Razzaq quotes his teacher Ibn Jurayj as describing how its punishment is exactly that as specified for zinā in the Qur’an and well-known hadiths (i.e., a married partner is stoned; a never-married partner is lashed 100 times and exiled for a year).76 In the Muṣannaf of Ibn Abi Shaybah (d. 235/849), Ibn Jurayj reports from his teacher, ‘Ata’ b. Abi Rabah of Makkah (d. 114/732): “Concerning a man who comes sexually (yaʿīn) to a man, his proper treatment (sunnatuhu) is that of a woman.”77 These reports offer no hint that the act was understood as anything other than the male-male counterpart of heterosexual fornication.

As the German scholar Harald Motzki has demonstrated using his combined isnād/matl analysis, there is little reason to presume that reports narrated by ‘Abd al-Razzaq ← Ibn Jurayj ← ‘Ata’ were forged by anyone in that chain. As a result, states Motzki, this material can be seen as authentic representations of Muslim legal scholarship in Makkah during the late seventh and early eighth
centuries. For our purposes, this means that even during the lifetime of the longest living Companions, this act was understood as sodomy.

Jalal al-Din al-Suyuti: Author of Bulugh al-Ma’mūl

Jalal al-Din ʿAbd al-Rahman b. Abi Bakr al-Suyuti was born in 849/1445 in Cairo. His father, the first one in his family to pursue the life of scholar, was from Asyut (Upper Egypt) and served as a judge there; his mother was a Circassian slave. Al-Suyuti eventually voyaged down the Nile to settle in Cairo. Although his father died when he was only five, the boy received an excellent education under the supervision of prominent scholars close to the family and, at the age of seventeen, received permission to issue fatwas from the Shafiʿi school by the noted scholar ʿAlam al-Din Salih al-Bulqini (d. 868/1464), chief judge of Egypt. He studied with other leading scholars in Cairo as well, including the Shafiʿi jurist Sharaf al-Din Yahya al-Munawi (d. 871/1467) (whose great-grandson ʿAbd al-Ra’uf would write a commentary on al-Suyuti’s Jāmiʿ al-Ṣaghīr) and the famous Jalal al-Din al-Mahalli (d. 864/1459) (whose Tafsīr al-Suyūṭī would complete, thereby producing the well-known Tafsīr al-Jalālayn). Although al-Suyuti was a Shafiʿi in law, he also studied Hanafi law. As part of the regular curriculum, he studied Ashʿari/Maturidi theology and logic with Shams al-Din Muhammad al-Marzubani (d. 867/1463) and others.

At the age of eighteen, al-Suyuti inherited his father’s position of teaching law at the Shaykhuniyyah Mosque. Later on, he taught Hadith there as well; was appointed administrator of the Baybarsiyyah and the Barquq Nasiri Sufi lodges; and was initiated, at least symbolically, into the Shadhili, Qadiri, and Suhrawardi Sufi orders. He also spent a great deal of time teaching Hadith in the Great Mosque of Ibn Tulun.

Other than travelling to Makkah in 1464 and again in 1468-69 for hajj and some internal travel in Egypt, there is no evidence that al-Suyuti voyaged elsewhere. There is also no evidence that he married, although he did write a panegyric poem for one Ghusun, who seems to have been a concubine who died while pregnant. The fact that upon his death his books were left as a trust under his mother’s supervision suggests that he had no surviving children.

In terms of his scholarly and ideological inclinations, al-Suyuti felt contempt for the science of speculative theology (kalām) and advocated fideistic submission (tafwīḍ) to scriptural references to God’s nature and the unseen. Famously, he opposed the use of logic in the Islamic sciences. Al-Suyuti’s early career was marked by involvement in numerous scholarly disputes, such as the
permissibility of reading the books of Ibn ʿArabi and other controversial mystics (they were pious saints, but their books should not be allowed to laymen), the permissibility of studying logic, the possibility of unrestricted *ijtihād* (see below), as well as social conflicts among Cairo’s elite.

Al-Suyuti was heavily criticized for allegedly claiming that he had attained the rank of unrestricted mujtahid (*mujtahid muṭlaq*), which was widely understood as meaning a scholar capable of deriving law and theology directly from Islam’s sources without adherence to any existing tradition or school. As he explained to his student al-Shaʿrani (d. 973/1565) as well as in his writings, this description was actually that of an independent mujtahid (*mujtahid mustaqqill*). He agreed with most scholars that this latter rank had not been possible since around 1000 CE. Al-Suyuti acknowledged that he had claimed to have reached this rare level of *mujtahid muṭlaq*, but he insisted that this rank, the highest possible one in his latter days, consisted of deriving rulings independently but within an affiliation to a certain school of law (*mujtahid muntasib*). In this, he argued, he was like such earlier leading Shafiʿi jurists as al-Muzani (d. 264/878), al-Juwayni (d. 478/1085), and Taqi al-Din al-Subki (d. 756/1356). Al-Shaʿrani reports that his teacher never gave a fatwa outside the Shafiʿi school of law.  

Al-Suyuti redefines the adjective *prolific*. Scholars have come up with various final tallies of his books and treatises, but the median count of his works is over 600, 392 of which have been published. The fields of Qur’anic sciences, Arabic grammar and rhetoric, as well as history were certainly some of his more pronounced passions. But the collection and discussion of hadiths dominated his oeuvre perhaps more than any other subject. His student al-Dawudi says that he was the most knowledgeable of his time in Hadith and its sciences, and al-Suyuti himself claimed to have memorized 200,000 hadiths, adding that there might not be more than that in the world.

His effort to compile all of the extant hadiths in one massive compendium, the *Jāmiʿ al-Kabīr*, was cut short by his death. What survived is published in thirty large volumes, covering around nine-tenths of an alphabetized ordering of Prophetic sayings (he never began the section on Prophetic actions). While working on this massive project, al-Suyuti seemingly extracted all of the hadiths that quoted the Prophet’s speech, as opposed to his actions, and compiled them in a smaller work entitled *Jāmiʿ al-Ṣaghīr* (10,031 hadiths in the published version). He himself wrote an addendum with hadiths that he had missed (*Al-Ziyādah*), but did not incorporate them into the original.

In the late 1480s, by then in his forties, al-Suyuti began withdrawing from public life. When he argued with the Sufis of the Baybarsiyyah lodge (he disputed their claim to be Sufis because they were not adopting the saints’ manners
and ethics), he was dismissed. Reports exist that the Mamluk sultan then sought to have him killed. Al-Suyuti went into hiding for several months until the sultan died, whereupon he retired permanently to his house on Rawḍa Island in the Nile (today part of Cairo) to write in seclusion, perhaps leaving home only to access books. He stayed there until his death in 911/1505, aged sixty-one.

In addition to the controversy over his claims of *ijtihād*, al-Suyuti was heavily criticized (and is still scoffed at) for claiming to be the renewer (*mujaddid*) of the tenth Islamic century. Yet his claim was not as arrogant as is often portrayed, for he writes in his autobiography: “This poor soul in need of God’s bounty hopes that God would bestow upon him the blessing of being the *mujaddid* at the start of the century.” This could be seen as a sign of egotism, but few contemporaneous scholars could hope for this mantle with a more reasonable expectation of receiving it. His admirers wrote that al-Suyuti’s writings had spread as far as India during his own lifetime. His learning and, even more, his astoundingly prolific output were quickly seen by many as miraculous signs from God of his worthiness. But al-Suyuti was an abrasive man who was confident of his abilities and quick to point out other’s shortcomings. As Saleh writes: “His arrogance and combative personality made it virtually impossible for other scholars to appreciate his undeniable accomplishments.”

We know little of where the treatise presented here, *Bulūgh al-Ma’mūl*, stood in al-Suyuti’s career. The text includes no hints as to when or exactly why it was composed, other than as part of the longrunning “Hanafis v. Other Schools” debate over the criminal rating of *liwāṭ*. At one point in his life, al-Suyuti became very exercised over the continued operation of a certain house of ill repute in Cairo, where “all sorts of corruption occurred, like fornication, sodomy, drinking, and playing music….” But there is nothing remarkable here, for few Muslim scholars would have reacted differently.

**The Structure of *Attaining the Hoped-for in Service of the Messenger***

The outline of al-Suyuti’s treatise is as follows:

1. Presentation of the Hadith of Killing the Active/Passive Partner and related hadiths via Ibn ‘Abbas, Abu Hurayrah, and Jabir, along with critical approval of their reliability.
2. Discussion of the criticisms of ’Amr b. Abi ‘Amr’s narration and responses mitigating them, adding that other narrations compensate for his flaws. Thus ’Amr’s hadith should be considered *ṣāḥīh*.
3. Presentation of other hadiths attesting to the content of ’Amr b. Abi ‘Amr’s narration of the Hadith of Killing the Active/Passive Partner.
4. Presentation of supporting Companion reports.
5. Contextualization of criticisms of Āmīr b. Abī ʿAmr and the argument that he is reliable.
6. Response to Ibn Hajar’s comment that the hadith is “disagreed on in terms of its attestation.”
7. Conclusion: People should be wary of speaking about hadiths without knowledge of the Hadith sciences.

The Text of Bulūgh al-Maʾmūl Relied on for this Translation

There are two published editions of Al-Ḥāwī li al-Fatāwī, a collection of al-Suyūṭī’s fatwas that he compiled himself. The Dar al-Kutub al-ʿIlmiyyah edition (henceforth, DKI), edited by a team of scholars, relied on a selection of manuscripts and includes a limited critical apparatus. The Dar al-Kitab al-ʿArabi edition (henceforth, DKA), which lacks any mention of the sources relied on, seems to have relied on only one manuscript. Unfortunately, that manuscript also seems to be an outlier. As such, this translation is based on the DKI edition of the Ḥāwī.88

Endnotes


4. Khaled El-Rouayheb, Before Homosexuality in the Arabic-Islamic World, 1500-1800 (Chicago: University of Chicago Press, 2005), 124, 136-39. The definition of liwāṭ in the late Shafi’ī school included the clause “… in the anus, whether of a man or a woman.” A hadith in Ibn Hanbal’s Musnad refers to anal sex with one’s wife as “the lesser liwāṭ” (al-lūṭīyah al-ṣughrā), and this wording is attested
even earlier in the *Kitāb al-Taḥrīsh* of Dirar b. `Amr (d. 200/815). In the Hanafi, Shafi`i, and Maliki schools, anal sex with one’s wife or slavegirl is only punished by discretionary punishment (*taʿzīr*) (in the Shafi`i school, one opinion is that this is only done if the man repeats the act after a warning). Al-Sha`rani (d. 973/1565) states that some scholars allowed anal sex with male slaves, but he provides no name or reference. The Hanafi scholar al-Kawakibi (d. 1096/1685) also reported that “there are those” who consider anal sex with male slaves to be permissible on the basis of the Quran’s permission of sex with slaves (normally read as slave women), but again with no mention of who these scholars were. These may be references to the early Shafi`i scholar Abu Sahl Ahmad al-Abiwardi (d. 385/995), who held that a man who commits *liwāṭ* with his male slave should only receive a discretionary punishment, since the slave was his property, and this introduced an ambiguity (*shubhah*), which drops the offense from the realm of the *ḥudūd*. Ibn Hajar al-Haytami states that the ulama had come to consensus that *liwāṭ* with one’s male slave was the same as with a free man; Muhammad Nawawi b. `Umar al-Jawi, *Qūt al-Ḥabīb al-Gharīb* (Cairo: Matba`at Mustafa al-Babi al-Halabi, 1938), 246; *Musnad* of Ibn Hanbal (Maymaniyyah print), 2:182; Dirar b. `Amr, *Kitāb al-Taḥrīsh*, ed. Hüseyin Hansu and Mehmet Keskin (Istanbul: Shārīkat Dar al-Irshad; Beirut: Dar Ibn Hazm, 2014), 132; Muhammad Anwar Shah Kashmiri and Ahmad ‘Ali al-Saharanpuri, *Jāmiʿ al-Tirmidhī al-Muḥashshā* (Karachi: Qadimi Kutubkhane, n.d.), 338; Salih `Abd al-Salam al-Abi, *Al-Thamar al-Dānī fī Taqrīb al-Maʿānī Ḥāshiyat Risālat Ibn Abī Zayd al-Qayrawānī*, 2d ed. (Cairo: Mustafa al-Babi al-Halabi, 1944), 438; al-Suyuti, *Al-Ashbāh wa al-Naẓā'ir*, ed. Muhammad al-Mu`tasim al-Baghdadi (Beirut: Dar al-Kitab al-`Arabi, 1414/1993), 746; Taj al-Din al-Subki, *Ṭabaqāt al-Shāfiʿīyah al-Kubrā*, ed. ʿAbd al-Fattah Muhammad al-Huluw and Mahmud Muhammad al-Tanahi, 2d ed. (Cairo: Hujr, 1413/1992), 4:45-46; al-Haytami, *Al-Zawājir*, 2:299; Muhammad b. Hasan al-Kawakibi, *Al-Fawā'id al-Samīyah Sharḥ al-Fawā'id al-Saniyyah*, 2 vols. (Cairo: al-Matba`ah al-Amiriyyah, 1322 AH), 2:355.

5. Ibn al-Hajj (d. 737/1336) of Cairo, who was famously conservative, divided sodomy (*liwāṭ*) into three levels: (1) pleasure from looking at other men/boys, which was *harām*; 2) sexual contact short of anal sex, which was as bad as the latter if repeated; and 3) anal sex (i.e., *al-fāḥishah al-kubrā*); Ibn al-Hajj al-Maliki, *Al-Madkhal*, 2 vols. (Beirut: Dar al-Fikr, [1990]), 2:8. This tripartite division might come from Abu Bakr Ibn Abi al-Dunya (d. 281/894), who cites one Abu Sahl as describing how there will be three types of *liwāṭ* folk: one that gazes, one that “clasps hands,” and one that does “that act.” See Abu Bakr Ibn Abi al-Dunya, *Dhamm al-Malāhī*, ed. `Amr `Abd al-Mun`im Salim (Cairo: Dar Ibn Taymiyyah, 1416/1996), 98. I thank Muntasir Zaman for this citation. See also Abu Bakr Muhammad b. al-Husayn al-Ajurri (d. 360/970), *Dhamm al-Liwāṭ*, ed. Majdi al-Sayyid Ibrahim (Cairo: Maktabat al-Qur`an, n.d.), 72.


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23. The narrations through ’Abd al-Rahman b. Abī al-Zīnad – ’Amr b. Abī ’Amr are highly inconsistent in their wording, as are the narrations through Sulayman b. Bilal – ’Amr b. Abī ’Amr, though they all contain mention of bestiality. By contrast, the narrations through Zuhayr b. Muhammad – ’Amr b. Abī ’Amr and through Muhammad b. Ishaq – ’Amr b. Abī ’Amr are extremely consistent in their wording (those through Zuhayr never include bestiality; those through Ibn Ishaq always do).

24. In the *Musnad* of Ibn Hanbal there is a similar hadith narrated from ’Ali in which he reads from his *ṣaḥīfah* that the Prophet said: “God has cursed those who slaughter to other than God, God has cursed those who steal signposts in the land, and God has cursed those who curse their fathers, and God has cursed those who give refuge to a murderer” (*la’ ana Allāh man dhabaḥa li ghayr Allāh la’ ana Allāh man saraqa manār al-ard wa la’ ana Allāh man la’ ana wālidahu wa la’ ana Allāh man avā muḥdithan*); *Musnad* of Ibn Hanbal, 1:108, 118, 152.


is: … ‘Abd al-‘Aziz b. Muhammad – ‘Amr b. Abi ‘Amr – ‘Ikrimah – Ibn ‘Abbas – the Prophet, with the wording: la ‘ana Allāh man ‘amīla ‘amal qawm lūṭ la ‘ana Allāh man ‘amīla ‘amal qawm lūṭ; la ‘ana Allāh man ‘amīla ‘amal qawm lūṭ.” Al-Nasa’i must have omitted the earlier part of the list of things God has cursed, as the whole matn by this isnād is in al-Bayhaqi, Sunan, 8:403. Al-Ajurri includes the narration by this isnād with only the wording: la ‘ana Allāh man waqa’ a ‘alā bahīma wa la ‘ana Allāh man ‘amīla ‘amal qawm lūṭ; as well as once with the full list; al-Ajurri, Dhamm al-Liwāt, 46-47.


ghayr mawālīhi laʿana Allāh man ghayyara tukhūm al-arḍ laʿana Allāh man kammaha aʾmāʾan al-ṭariq wa laʿana Allāh man laʿana wālidayhi wa la ana Allāh man dhabāha li ghayr Allāh wa laʿana Allāh man waqaʾaʾalā bahīma wa laʿana Allāh manʾamilāʾamāl qawm lūṭ wa laʿana Allāh manʾamilāʾamāl qawm lūṭ. See also, for almost identical chains, al-Kharaʾī, Masāwiʾ al-Akhlaq, 201.


47. Ibn Hajar, Fath al-Bārī, 12:139.


49. Kugle, Homosexuality in Islam, 105-10.


52. See http://ahlussunnah.boards.net/thread/499/response-atabek-ikrimah-mawl-ibn
60. Ṣaḥīḥ al-Bukhari: kitāb istītābat al-murtaddīn...; bāb man taraka qitāl al-khawārīj.
61. The Qurʾan states that God only makes knowledge of the unseen (al-ghayb) available to those whom He chooses (Q. 72:26). In another verse the Prophet is made to say: “I do not know what will be done with me or with you all” (Q. 46:9), and in another: “I do not tell you all that mine are the treasures of the world, nor do I know the unseen” (Q. 6:50). Aishah is reported to have said that anyone who claimed that the Prophet knew what would happen tomorrow was lying against God; Ṣaḥīḥ al-Bukhari: kitāb al-tawḥīd, bāb qawl Allāh taʿālā ʿālim al-ghayb...). But numerous hadiths describe the Prophet knowing future events, such as one in which God teaches him “all that is in the heavens and the earth”; Jāmiʿ al-Tirmidhī: kitāb al-tafsīr; bāb min sūrat ṣād. Muslim scholars have thus concluded that the Prophet either had qualified knowledge of the unseen or that God granted him this knowledge at a particular time in his life, often thought to be during his Ascension to Heaven from Jerusalem. See, for example, Ibn ʿAsakir, *Tārīkh Madīnat Dimashq*, ed. ʿUmar al-ʿAmrawi, 80 vols. (Beirut: Dar al-Fikr, 1995-97), 11:5. Debate over the Prophet’s knowledge of the unseen has proven tempestuous between the Deobandi and Barelwi schools of thought in South Asia. See Usha Sanyal, “Are Wahhabis Kafirs? Ahmad Riza Khan Barelwi and His Sword of the Haramayn,” in *Islamic Legal Interpretation*, ed. Muhammad Khalid Masud, BrinkleyMessick and David S. Powers (Cambridge, MA: Harvard University Press, 1996), 210-12.
62. Al-Khatīb al-Baghdadi, *Al-Jamiʿ li Ikhtilāf al-Rāwī wa Ādāb al-Sāmiʿ*, ed. Muhammad Raʿfat Saʿid, 2 vols. (Mansoura: Egypt: Dar al-Wafa’, 1422/2002), 2:81. The practice of transmitting the general meaning a hadith (al-riwāyah biʿ al-ma nā) was widely accepted among hadith transmitters of the second/eighth and third/ninth centuries. It was eventually accepted unanimously, as noted by leading scholars like al-Khatib al-Baghdadi (d. 463/1071) and Ibn al-Salah (d. 643/1245). Some early Muslim scholars insisted on repeating hadiths exactly as they had heard them. Ibn Sirin (d. 110/728) even reportedly repeated grammatical errors in hadiths they had heard; al-Khatib, *Al-Jamiʿ*, 2:71, 78-79; cf. Jāmiʿ al-


64. For the versions of these hadiths with the non-anachronistic wordings, see *Sunan Ibn Mājah*: introduction, bāb fī al-qadar; *Musnad Ibn Ḥanbal*, 2:125.


66. Ibid., 120.

67. Ibid., 122.

68. Ibid., 121.


71. Ibid.


82. Saleh, “Al-Suyuti and His Works,” 83, 89.

83. Here al-Suyuti may have been following in the footsteps of his exemplar, Ibn Hajar, who, according to al-Suyuti, wrote a book called *Al-Jāmiʿ al-Kabīr min
Sunan al-Bāshīr al-Nadhīr. Many scholars have pointed out al-Suyuti’s failure to exhaust all the extant hadiths in his Jāmiʿ al-Kabīr. The Egyptian al-Munawi (d. 1031/1622) estimated that al-Suyuti had captured no more than two thirds of the extant Prophetic sayings in his Jāmiʿ al-Kabīr, and he compiled his Jāmiʿ al-Azhār min Ḥadīth al-Nabī al-Anwar to include additional material that al-Suyuti had missed in the part of his work that he had completed. Al-Munawi then also picked up where had al-Suyuti left off (around the hadith “man taraka…”). The Moroccan hadith scholar Abu al-ʿAla’ al-Fasi (d. 1769) wrote in over 5,000 hadiths in the margins of his copy of the Jāmiʿ al-Kabīr. Meanwhile, the Indian scholar ʿAli b. ʿAbd al-Malik al-Muttaqi al-Hindi (d. 975/1567) built on al-Suyuti’s Jāmiʿ al-Ṣaghīr. He added more hadiths, including those describing the Prophet’s actions, and then arranged all the material according to topic in his huge Kanz al-ʿUmmāl fī Sunan al-Aqūdāl wa al-Afʿāl; Muhammad b. Jaʿfar al-Kattani, Salwat al-Anfās wa Muḥādathat al-Akūyās mimman Uqbārumin al-ʿUlamā’ wa al-Ṣulāhāʾ bi Fās, ed. Abdallah al-Kamil al-Kattani et al., 4 vols. (Casablanca: Dar al-Thaqāfah, 2004), 1:150; al-Suyuti, ʿAbd al-Ra‘uf al-Munawī, Al-Jāmiʿ al-Azhār min Ḥadīth al-Nabī al-Anwar (Cairo: al-Markaz al-ʿArabi li al-Bahth wa al-Nashr, 1980), 1:1-10.

84. This task was performed in the twentieth century by Yusuf al-Nabhani (d. 1932), who titled the resulting work Al-Fatḥ al-Kabīr fī Ḍamm al-Ziyādah ilā al-Jāmiʿ al-Ṣaghīr.


86. Saleh, “Al-Suyuti and His Works,” 78.

87. Al-Suyuti, Al-Taḥadduth bi Niʿmat Allāh, 175.


Attaining the Hoped-for in Service of the Messenger (may God’s peace and blessings be upon him)

{In the name of God, the Most Gracious, the Most Merciful. And praise be to God, and peace be upon His elect servants.) 1

Question: The hadith “Whomever you all have found committing the action of the people of Lot, kill the active and the passive partners” 2 appears among the hadiths of Ibn ʿAbbas, Abu Hurayrah, and Jabir.

The hadith of Ibn ʿAbbas was included by Abu Dawūd,3 al-Tirmidhi,4 al-Nasāʾi [in his Sunan al-Kubrā],5 Ibn Majah,6 Ibn Abi al-Dunya in the Dhamm al-Malāḥi (The Condemnation of Distractions),7 Abu Ya’la [al-Mawsili]8 and

A group of the leading hadith scholars (aʾimmat al-ḥuffāẓ) have declared the hadith *ṣaḥīḥ*, [among them] al-Hakim, as we have already mentioned; Ibn al-Jarud, since he included it in his *Muntaqā* and restricted himself in that book to what is *ṣaḥīḥ*; and al-Diya’, since he included it in his *Mukhtārah* and restricted himself in that book to what is *ṣaḥīḥ* but did not appear in the *Ṣaḥīḥayn*. And it has been said that what is *ṣaḥīḥ* in that book is stronger than what is [declared] *ṣaḥīḥ* in the *Mustadrak*. Ibn al-Talla’ also declared it *ṣaḥīḥ* in his *Aḥkām*, as quoted from him by the hadith master Ibn Hajar in his work documenting the hadiths used by al-Rafiʿi in his *Muharrar* in Shafiʿi law.

The hadith of Abu Hurayrah was included by Ibn Majah, al-Bazzar, Ibn Jarir [al-Tabari] and al-Hakim, who rated it as *ṣaḥīḥ* as well, and also by Ibn al-Talla’ (NB: It is also included in al-Tirmidhi’s *Jāmiʿ*). But the hadith master Ibn Hajar added a corrective comment to Ibn al-Talla’s rating of *ṣaḥīḥ* for the hadith: “The hadith of Abu Hurayrah is not reliable (*lam yaṣiḥḥa*).” I say, however, that Ibn Jarir [al-Tabari] rated as *ṣaḥīḥ* both the hadith of Abu Hurayrah and that of Ibn ʿAbbas in his *Tahdhīb al-Āthār*, and perhaps this is what led al-Hakim to rate the hadith of Abu Hurayrah as *ṣaḥīḥ*. But Ibn ʿAbbas’ hadith has been established [as sufficiently reliable] (*thabata*), and al-Dhahabi noted, regarding al-Hakim’s *ṣaḥīḥ* rating for Abu Hurayrah’s hadith: “In its chain is ʿAsim b. ʿUmar al-ʿUmari, and he is weak (*ḍaʿīf*).” And the hadith master al-ʿIraqi apologized on behalf of [al-Hakim] by saying that he included it only as an attestation (*shāhid*) for the hadith of Ibn ʿAbbas.

As for the hadith of Jabir, al-Tirmidhi alluded to it when he said, after [presenting] the hadith of Ibn ʿAbbas: “And on this subject there are also [hadiths] from Jabir and Abu Hurayrah.” And al-ʿIraqi said in his commentary [on al-Tirmidhi’s *Jāmiʿ*]: Ibn Hazm transmitted it from a path via Muhammad b. al-Qasim, from Yahya b. Ayyub, from ʿAbbad b. Kathir, from [ʿAbdallah b. Muhammad b. ʿAqil, from Jabir, that the Messenger of God, may God’s peace and blessings be upon him, said: “Whoever has committed the action of the people of Lot, kill him”]. Ibn Wahb transmitted it from Yahya b. Ayyub, from a man, from Ibn ʿAqil.

Al-Harith b. Abi Usamah also included the hadith of Jabir in his *Musnad*, as did Ibn Jarir [al-Tabari] in his *Tahdhīb al-Āthār*, from the path of ʿAbbad b.
Kathir, from ʿAbdallah b. Muhammad b. ʿAqil, from Jabir, that: “I heard the Messenger of God (s) say, while on the pulpit: ‘Whoever has committed the act of the people of Lot, kill him.’ And I saw another path for that hadith from the hadiths of ʿAli, which escaped both the masters al-ʿIraqi and Ibn Hajar. Ibn Jarir [al-Tabari] said, in his Tahdhīb al-Āthār: Muhammad b. Maʿmar al-Bahrani narrated to me, saying: Yahya b. ʿAbdallah b. Bakr narrated to us, saying: Husayn b. Zayd narrated to us, from Jaʿfar b. Muhammad, from his father, from his grandfather, from ʿAli, who said: The Messenger of God (s) said: ‘The person who has committed the act of the people of Lot is stoned, whether he is muḥṣan32 or not (yurjamu man ʿamila ʿamal qawm Lūṭ uḥṣina aw lam yuḥṣan).’

NOTE: Al-Hakim only needed to resort to an attesting text for his ṣaḥīḥ rating of this hadith because of its transmitter from ʿIkrimah, from Ibn ʿAbbas, [namely] ʿAmr b. Abi ʿAmr, the freeman (mawlā) of al-Muttalib. The majority (jumhūr) has deemed him reliable (thiqah), including Malik, al-Bukhari, and Muslim, who included his hadiths in the main hadiths of the Ṣaḥīḥayn (i.e., as opposed to corroborating narrations). Abu Dawud and al-Nasaʿi considered him weak (daʿʿah), and because of that al-Nasaʿi rejected this hadith. Yahya33 said: “He was weakened.” Al-Dhahabi said in his Mīzān, after reporting all of this, that “he was not at all weakened, nor was he weak. Yes, he is not as reliable as al-Zuhri and the like.” He continued: “And Ahmad b. Abi Maryam transmitted from Ibn Maʿin that he said: ʿAmr b. Abi ʿAmr is reliable, but he is criticized for the hadith of ʿIkrimah, from Ibn ʿAbbas that the Prophet (s) said: ‘Kill the active and passive partner.’” Al-Dhahabi commented on that: “His hadith is sāliḥ hasan,34 falling short of the highest levels of ṣaḥīḥ.”

What is established in the hadith sciences is that [a transmitter] of that description, if a parallel36 or attesting [transmission] if found for him, his hadith is rated as sound. For this reason, al-Hakim needed to provide the hadith of Abu Hurayrah so that it could serve as an attestation for the hadith of Ibn ʿAbbas. Although Abu Hurayrah’s hadith did not meet the condition of ṣaḥīḥ, he only cited it as an attestation and not as a primary hadith (asl) to complete the rating of Ibn ʿAbbas’s hadith as ṣaḥīḥ. The hadith master Abu al-Fadl al-ʿIraqi produced numerous paths for Ibn ʿAbbas’ hadith to bolster al-Hakim’s ṣaḥīḥ rating of it. He said:

It has also appeared via the transmission of Dawud b. al-Husayn,37 ʿAbbad b. Mansur and Husayn b. ʿAbdallah, [all] from ʿIkrimah.38 So these three corroborate ʿAmr b. Abi ʿAmr. Ahmad [Ibn Hanbal] included Dawud’s narration in his Musnad39 with the aforementioned wording, and it was included by Ibn Jarir [al-Tabari]40 and al-Bayhaqi in his Sunan,41 with the wording: “Whoever has sex with (waqaʿa) a man, kill him.” And the narration of ʿAbbad was included by al-Bayhaqi with the wording: “Concerning the person who
commits the act of the people of Lot, and concerning the man who is had sex
with (yuʾūṭā fī nafsihi), [the Prophet] said: ‘He is killed.’42 And Ibn Jarir [al-
Tabari] included it in his Tahdhīb al-Āthār43 with the wording: “The Prophet
(s) said, ‘Kill the active and the passive partner in the act of Lot (al-lūṭīyah).’”
Al-Tabarani included Husayn’s narration in the Muʾjam al-Kabīr44 with the
previous wording.

Al-ʿIraqi also produced two other paths for Abu Hurayrah’s hadith, one of
them in the Mustadrak [of al-Hakim]45 and the Muʾjam al-Awsaṭ46 of al-
Tabarani, and the second in al-Tabarani’s Muʾjam al-Awsaṭ. But these two have
wordings that differ with the previous wording. He then produced the hadith
of Jabir, as discussed earlier, and then said: “And on this topic, [there are ha-
diths] from Abu Musa al-Ashʿari in al-Bayhaqi’s [books]47 and from Ayyub in
al-Tabarani’s Muʾjam al-Kabīr.”48 This is the sum of the attesting texts that al-
ʿIraqi presented to authenticate the hadith of Ibn ʿAbbas.

I have said: I have found another attestation in addition to those. Abu Nuʿaym
said in his Hilyat:

Abu Muhammad Talhah and Abu Ishaq Saʿd narrated to us: “Muhammad b.
Ishaq al-Naqid reported to us, both (sic) saying: Muhammad b. ʿUthman b.
Abi Shaybah narrated to us: My father narrated to us: Wakiʿ narrated to us:
Muhammad b. Qays narrated to us, from Abu Hasin (ʿUthman b. ʿAsim al-
Asadi), from Abu ʿAbd al-Rahman, that ʿUthman looked out over the people
(ashrāfa ʿalā) on the day he was attacked in his house (yawm al-dār) and
said: ‘Have you all not come to know that killing is not due except for four
cases: A man who has apostatized after having entered Islam, who has com-
mitted adultery after having married, who took a life without right, or who
has committed the act of the people of Lot?’”49

[Abu Bakr] Ibn Abi Shaybah said in his Muṣannaf,50 “Wakiʿ narrated to
us: Muhammad b. Qays narrated to us, from Abu Hasin, from Abu ʿAbd al-
Rahman that ʿUthman looked out over the people on the day he was attacked
in his house and said: ‘Have you all not come to know that the blood of a Mus-
lim person does not become licit except for four things: a man who has com-
mitted the act of the people of Lot (sic)?’ This isnād is sāḥīh, and ʿUthman’s,
may God be pleased with him, statement to the people ‘Have you all not come
to know’ is evidence for that [fact] being well known among them, just as the
first three reasons mentioned with it. And Ibn Abi Shaybah said: “Ghassan b.
Mudar narrated to us, from Saʿid b. Yazid, from Abu Nadra: Ibn ʿAbbas was
asked what the punishment (ḥadd) of the sodomite (lūṭ), and he said: ‘The
highest building in the town is sought out, and he is thrown from it backwards,
and then this is followed by stoning.’” And ʿAbd al-Razzaq said in his
Muṣannaf\(^{51}\) : from Ibn Jurayj (taḥwīl\(^{52}\)) ; and Ibn Abi Shaybah\(^{53}\) said: Muhammad b. Bakr narrated to us, from Ibn Jurayj, who said: ‘Abdallah b. ‘Uthman b. Khūthaym reported to me that he heard Mujahid and Sa‘īd b. Jubayr narrate from Ibn ‘Abbās that he said, concerning the virgin who is found committing sodomy (lūṭīyah), that he is stoned. And Ibn Abi Shaybah said:

Wākī narrated to us from Ibn Abī Layla, from al-Qasim Abū al-Walīd, from Ya‘ṣīd b. Qays, that ‘A‘lī stoned a sodomite. He also said: Wākī narrated to us, from Sufyān, from Jabīr, from Mujahīd, concerning the sodomite: He is stoned whether he was married (uḥṣāna) or not. He said: Ya‘ṣīd narrated to us: Hammad b. Salāma reported to us, from Hammad b. Abī Sulayman, from Ibrahim [al-Nakha‘ī], concerning the sodomite: If anyone were to be stoned twice, it would be this person. And [Ibn Abi Shaybah] said: ‘Abd al-A‘la narrated to us, from Sa‘īd, from Qatada‘h, from ‘Ubayd Allah b. ‘Abdallāh b. Ma‘mar concerning the sodomite: Stoning is the requirement for him, the death of the people of Lot. And he said: ‘Abd al-A‘la narrated to us, from Sa‘īd, from Qatada‘h, from Jabīr b. Zayd, who said: The prohibition/inviolability (ḥurma) of the buttocks (al-dubur) is greater than the prohibition/inviolability of the vagina (farj). And Qatada‘h said: We understand it as [requiring] stoning.

[Al-Suyūṭi concludes], all of these reports (āthār) are attestations for bolstering the Hadith of Ibn ‘Abbās.

And how could Yahyā,\(^{54}\) Abu Dawūd, and al-Nāsā‘ī be relied upon regarding the weakness of the hadith’s narrator (i.e., ‘Amr b. Abī ‘Amr), assuming he alone had narrated it, when the leading imams had declared him reliable, among them Malik, al-Bukhari, and Muslim, all of whom are considered superior to every hadith master in their own age and the ages after? And they included hadiths through him in the primary (uṣūl) hadiths [in their books]. Al-Dhahabi said in his Mūqīẓah:

Those who were used for hadiths by the two Shaykhs (i.e., al-Bukhari and Muslim) or by one of them fall into two groups: (1) those that the two of them used as proof in their primary hadiths and (2) those they used for parallel narrations or for attestation texts to be taken into consideration. As for a transmitter used as proof by both [imams] or only by one of them, but who was neither deemed reliable [by other critics] nor found fault with,\(^{55}\) he is reliable and his hadiths [are] strong. As for a transmitter who was used by both as proof or only by one and who had been criticized, sometimes that criticism [is characterized by bad-faith or bias (ta‘ānmut), while the majority agrees on him being reliable. In this case, that transmitter’s hadiths are strong as well. And sometimes the criticism\(^{56}\) of that transmitter’s laxity or inaccurate retention (ḥifẓihī) merits consideration. This transmitter’s hadiths do not fall
below the level of hasan, which can be called among the lower levels of sahih. And there is not in the two books, by God’s praise, a man who was used as proof by al-Bukhari or Muslim in their primary hadiths whose transmissions were weak. Rather, they are either hasan or sahih. And among those whom al-Bukhari or Muslim used for their attesting or parallel [corroborating] narrations are some with some problem [in] their retention (hifz) and some hesitation in declaring them reliable. So everyone whose hadiths were used in the Sahihayn has passed the test (qafaza al-qantarah, literally “jumped over the viaduct”), so there is no turning away from him except with clear proof (burhan). Yes, [the category of] sahih consists of levels, and reliable transmitters fall into classes.

Thus ends al-Dhahabi’s discussion in the Muqizah. He also mentioned in his Mizan that ‘Amr b. Abi ‘Amr’s hadiths “were included in the Sahihayn among the primary hadiths.” So how can his hadiths be ruled weak, as you see in al-Dhahabi’s discussion here, when he was not even alone in narrating the hadith? Indeed, there are corroborating narrations from Ikrimah, and his hadith also has attesting texts from the transmission of a number of Companions. So it was for this reason that those hadith masters who declared it sahih did so, and they did not pay heed to the weak rating of those who declared its narrator weak. Al-Hakim needed to produce an attesting text for the hadith because, [taken] at their lowest level, ‘Amr’s hadiths are hasan, so they require attestation to raise them up to the level of sahih. And God knows best.

ANOTHER NOTE: The hadith master Ibn Hajar mentioned in his indexing (takhrir) of the hadiths of al-Rafi’i’s Muharrar that the above-mentioned hadith of Ibn `Abbas is “disagreed on in terms of its attestation (mukhtalaf fi thubuthihi),” and in this he draws attention to an important point of knowledge in the field of the technical terms of Hadith study (istilah al-hadith). I wanted to clarify this point, since those with no awareness of the science of Hadith will not understand Ibn Hajar’s intention in that, and one might misunderstand it as impugning the Hadith, as those with no knowledge of the science concluded from al-Tirmidhi’s statement regarding the Hadith “I am the abode of wisdom and `Ali is its gate,” in some of the recensions (nusakh) [of his Jami] that “This hadith is munkar.”

Such people thought, based on that, that al-Tirmidhi meant that the hadith is false (batiil) or forged, [this being due to] their lack of knowledge regarding the technical terms of Hadith and their ignorance that munkar is one of the types of weak hadiths that appear. It is not from among the categories of false or forged hadiths. Rather, scholars adopted that phrase as a technical term, making it a label for a defined type of weak hadith, just as grammarians made “mawsul” (relative pronoun) a technical label for one type of definite nouns
(al-ma‘rifah). And it occurred in the case of al-Khatib al-Baghdadi in his History [of Baghdad] that he transmitted a false hadith and said after it, “This hadith is munkar.” So al-Dhahabi took issue with him in the Mizān: “What a shock from al-Khatib,” how he used the phrase munkar on this false report. Rather, munkar is used for [hadiths like] the Hadith of the Two Great Buckets (qullatayn). And in his Mizān, he described as munkar a number of hadiths from the Musnad of Ahmad [Ibn Hanbal], the Sunan of Abu Dawud and other relied-upon books, indeed, even from the Ṣaḥīḥayn as well.

But this only means what is understood by the hadith masters, namely, that the property of munkar (nakāra) stems from being an isolated transmission (fardīyah). And being an isolated transmission does not entail that the hadith’s matn is weak, let alone false. One school of thought, such as [that of] Ibn al-Salah, views the terms munkar and anomalous (shādhdh) as synonyms [in describing reports]. How many hadiths are there in the Ṣaḥīḥayn that have been described as anomalous, such as Muslim’s hadith denying the reading of the basmalah [aloud] in prayer? For indeed Imam al-Shafi’i, may God be pleased with him, ruled that it was anomalous. And it is not for you to say that they (i.e., al-Bukhari and Muslim) required as a condition for the ṣaḥīḥ rating that the hadith not be anomalous, for how would that be correct if it is included in the Ṣaḥīḥ while it is ruled anomalous?

This is also due to your lack of knowledge regarding weakness [in hadiths]. For, indeed, Ibn al-Salah, when he mentioned the definition (ḏābiṭ) of the ṣaḥīḥ category and set as a condition that it not be shādhdh, said at the end of his discussion: “This is the [condition] for the hadith that is judged to be ṣaḥīḥ without any disagreement among the people of Hadith.” So he alluded to this being the definition for the level of ṣaḥīḥ by agreement (al-ṣaḥīḥ al-muttafaq ʿalayhi). But another type of ṣaḥīḥ does fit into that definition, namely, the disagreed-upon ṣaḥīḥ (al-ṣaḥīḥ al-mukhtalaf fīhi). For this reason al-Zarkashi said in his commentary on the Mukhtaṣar of Ibn al-Salah: “[The category of] disagreed-upon ṣaḥīḥ falls outside this definition.” Then Ibn al-Salah mentioned other important points of knowledge, among them that the [category of] ṣaḥīḥ subdivides into agreed upon and disagreed upon and as well known (mashhūr) and rare (gharīb), and he clarified all that.

Al-Zarkashi said in his commentary and the hadith master Ibn Hajar said in his Remarks [on Ibn al-Salah] at that point that al-Hakim mentioned in his Introduction (Madkhal) that ṣaḥīḥ hadiths are divided into ten categories, five agreed upon and five disagreed upon. The first type of the first [category] is what both al-Bukhari and Muslim chose, and that is the first level of the ṣaḥīḥ, which is narrated by a well-known Companion who has two transmitters [narrating] from him. And the hadiths transmitted by this criterion do not number
ten thousand. The second: the ṣaḥīḥ hadith narrated by an upstanding, accurate (dābit) transmitter from the upstanding, accurate (dābit) transmitter, back to the Companions, but who only has one transmitter [who narrates] from him. Third: reports from a group among the Successors that only have one transmitter [narrating] from each of them. Fourth: those solitary narrations of limited attestation that are transmitted by reliable, upstanding narrators and narrated by one of the reliable transmitters alone without other paths recorded in the books [of Hadith]. Fifth: hadiths from a group of the imams, from their fathers and from their grandfathers, but the transmission of these hadiths only became widespread from their fathers, from their grandfathers through them.

As for the five categories whose soundness is disagreed on, the first is the cast (mursal) hadith, which is considered ṣaḥīḥ by the scholars of Kufa. Second: the transmission of obfuscators (mudallisīn) when they do not specify hearing transmissions directly. In other words, they do not specify their direct audition (samā'). This type is sahīḥ according to a number of scholars. Third: a report narrated by a reliable transmitter from an imam of the Muslims, who then provides an isnād [back to the Prophet] for that report, and then a group of reliable transmitters narrate it from him but via casting (irsāl). Fourth: the transmission by a hadith scholar (muḥaddith) with sound audition and sound writing, whose upstanding character seems evident, except that he neither understands what he narrates nor retains it exactly (lā yaḥfaẓuhu). Indeed, this category is sahīḥ according to most scholars of Hadith, although some of them do not see that as proof (ḥujjah). Fifth: transmissions from heretics (mubtadi‘ah) and people with various agendas, for their transmissions are accepted according to the people of knowledge if they are truthful (ṣādiqīn). Al-Hakim said: “I mentioned these categories so that no one would mistake that only what al-Bukhari and Muslim included [in their books] is ṣaḥīḥ.”

Once you have understood this, [you will see that, concerning] the statement of the hadith master Ibn Hajar that “the hadith of Ibn ʿAbbas is disagreed on in terms of its attestation,” he wanted to show that it fell into the category of disagreed upon ṣaḥīḥ and not agreed upon ṣaḥīḥ. His intention was to complete the point of knowledge, since his method in that book is that, if a hadith fell into the first category, he noted it as being well attested, and if it was from the second category, he drew attention to that. And there are in that noble book precious gems from the craft of Hadith that only one with in-depth knowledge of that science, like its author, would recognize.

So let the person be wary of daring to speak about the hadiths of the Messenger of God (s) without knowledge, and let him apply himself assiduously to attain that science until he becomes competent, his feet become firm, and he delves deeply into it so that he not fall under the hadith: “Whoever speaks
without knowledge, he is cursed by the angels of the heavens and Earth.”

And let him not be deluded just because no one repudiated him in this earthly life, for after death the message will come to him either in the grave or on the Bridge, where the Prophet (s) will dispute with him, saying:

How do you speculate about my hadiths and speak about that which you have no knowledge? For either you reject something that I said or you attribute to me what I have not said. Have you not read what was revealed to me: “And pursue not that of which you have no knowledge; hearing, sight and the heart, all of these shall be questioned.” (Q. 17:36)

O what an embarrassment for him on that day! O what a scandal for him, this, if he dies a Muslim, and otherwise he will be punished! And refuge be sought with God from a vile finale (sūrā’al-khātimah) [to the affairs of this world]. As the preachers say in the pulpits in some of their sermons: “And sins, how many sins a servant [of God] is punished for because of a vile end.” As Shaykh Muhyi al-Din al-Qurashi al-Hanafi quoted in his Tadhkirah, from Imam Abu Hanifah, may God be pleased with him: “What strips people most of faith upon death, or the greatest cause of this, is injustice (ẓulm),” and what injustice is greater than the insolence of delving into the hadiths of the Messenger of God (s) without knowledge?

We ask God for safety and well-being.

Endnotes

1. { } not in the ms. relied upon by the Dar al-Kitab al-’Arabi (DKA) edition. The Dar al-Kitab al-’Ilmiyyah (DKI) edition says it is missing from some mss.
5. This particular matn is not found in either of al-Nasaʿi’s Sunans. What the Sunan al-Kubrā actually contains is the hadith laʿana Allāh man ʿamila ’amal qawm


9. Abu ʿAbdallah Muhammad b. Yahya al-ʿAdani (d. 243/858) was a hadith scholar who lived for a long time in Makkah. He was a teacher of al-Tirmidhi, Muslim, and Ibn Majah and was one of al-Nasaʾi’s sources. His Sunan appears not to have survived. I have found no record of the isnād.


yaʾmalu ʿamal qawm lūṭ ʿaqṭulū al-fāʾ il wa al-mafʿūl bihi. Al-Bayhaqi also gives the isnād: … Dawud b. al-Husayn – ʿIkrimah, etc., with the wording man waqaʿaʾ al-rajul faʾaqtulū al-aqṭulū al-lūṭ.


17. This is not stated explicitly by al-Maqdisi in his short introduction, but it can be safely inferred. See ibid., 1:69-70.

18. Ibn al-Tallaʾ (d. 497/1104) states that the Hadith of Ibn ʿAbbas “has been established” (ṭabata); Muhammad b. Faraj al-Qurtubi Ibn al-Tallaʾ, Aqḍiyat Rasūl Allāh (often known as Al-Aḥkām), ed. Faris Fathi Ibrahim (Cairo: Dar Ibn al-Haytham, 1426/2006), 24.

19. This ḥāfiẓ is Shihab al-Din Ahmad Ibn Hajar al-ʾAsqalani (d. 852/1449) of Cairo.

20. ʿAbd al-Karim b. Muhammad al-Rafiʿi (d. 623/1226) of Qazvin is a leading Shafiʿi figure. His Muḥarrar is a major source for Shafiʿi law.

21. Zayn al-Din ʿAbd al-Rahim b. al-Husayn al-ʿIraqi (d. 806/1404), the great hadith scholar of Cairo and an important teacher of Ibn Hajar. His commentary on Jāmiʿ al-Tirmidhī has survived at least in part and has been edited (but not published) by students at the Islamic University of Madinah. See www.ahlalhdeeth.com/vb/showthread.php?t=34839.

22. There are several variations, but the main text is: “The Prophet (s) said, concerning the one who commits the act of the people of Lot, ‘Stone both the top and the bottom partner’ (ʿfī alladhī yaʾmalu ʿamal qawm lūṭ qala urjumū al-aʿlā wa al-asfal urjumūhumā jamīʿan.”


25. Al-Hakim, Al-Mustadrak, 4:355. The key part of the isnād is: … ʿAbd al-Rahman b.ʾAbdallah b. ʿUmar al-ʿUmari – Sahl [sic] – his father – Abu Hurayrah – the Prophet: man ʿamila ʿamal qawm lūṭ faʾaqtulū al-fāʾ il wa al-mafʿūl bihi. This narration is inconsistent (muḍṭarib), in my opinion, for it clashes in both isnād and matn wording with the other narrations through Suhayl – his father – Abu Hurayrah. Cf. al-Ajurri, Dhamm al-Liwāṭ, 59. For further confusion regarding the wording, see also al-Kharaʾiti, Masāwiʿ al-Akhlāq, 202.

26. Al-Tirmidhī, Jāmiʿ al-Tirmidhī. The isnād is the same as Ibn Majah’s above, but with the wording: qaṭūlū al-fāʾ il wa al-mafʿūl bihi. Al-Tirmidhī notes that only ʿAsim b. ʿUmar narrates it from Suhayl and that ʿAsim is considered weak due to his retention (ḥifẓ).
27. Al-Tabari states that the narration from ʿIkrimah – Ibn ʿAbbas “has a ṣaḥīḥ sanad in our opinion,” but that others find flaws (ʿilal) in it, namely, the controversy surrounding ʿIkrimah. Al-Tabari, Tahdīhib al-Āthār: Musnad Ibn ʿAbbās, 1:550-51.

28. A shāhid (lit. witness) report provides attestation for a hadith’s meaning. Unlike parallel transmissions (mutābaʿah), which corroborate a particular narration from a source, attestations/attesting reports are often separate hadiths but share a similar meaning. Thus, Muslim scholars often said that “Mutābaʿah strengthens a narration, while a shāhid strengthens a Hadith.” See Jonathan Brown, Hadith: Muhammad’s Legacy in the Medieval and Modern World (Oxford: Oneworld, 2009), 92-93.


31. Al-Harith b. Abi Usama (d. 282/895-6) wrote a Musnad that has not survived. It has been reconstructed by relying on the work of a scholar who had access to the book, Nur al-Din al-Haythami’s (d. 807/1405) Bughyat al-Bāḥith ʿan Zawāʿid Musnad al-Ḥārith. See al-Haythami, Bughyat al-Bāḥith ʿan Zawāʿid Musnad al-Harith, ed. Husayn Ahmad al-Bakiri, 2 vols. (Madinah: al-Jamiʿah al-Islamiyyah, 1992), 1:565-66 (via the same isnād as above Hadith of Jabir, with the same wording: man ʿamila ʿamal qawm lūṭ fa aqtulūhu). This hadith is also found via the same isnād cited by Ibn Hazm in al-Kharaʾiti, Masāwiʿ al-Akhlāq, 301.

32. Muḥṣan is a legal term that denotes a Muslim who has at some point consummated a marriage.


34. Sāliḥ (suitable) is generally used to mean that the hadith is fit either for consideration or for direct use as evidence in matters of law. See ‘Abd al-Fattah Abu Ghuddah’s comments on Abu Dawud’s letter to Makkah in Abu Ghuddah, ed., Thalāth Rasāʾil fī ʿIlm Mustalah al-Ḥadīth (Beirut: Dar al-Bashaʾir al-Islamiyyah, 1997), 38. Though the term ḥasan was used to describe hadiths occasionally by earlier critics like ‘Ali b. al-Madini (d. 234/849), it did not become a defined technical term until the work of al-Tirmidhi. He defines ḥasan as a hadith that “does
not have in its *isnād* someone who is accused of lying or forgery, is not anomalous (*shādhdh*), and is narrated via more than one chain of transmission.” In other words, its *isnād* was not seriously flawed, and it enjoyed corroboration through other narrations, which mitigated the chances of a serious error creeping into the text of the report. Later, the Shafi‘i jurist and hadith scholar al-Khattabi (d. 388/998) described *hasan* hadiths as those “with an established basis and whose transmitters were well-known”; Jāmi‘ al-Tirmidhī: *kitāb* al-ʿīlāl; Abu Sulayman Hamd al-Khattabi, *Maʿālim al-Sunan*, 3d ed., 4 vols. (Beirut: al-Maktabah al-ʿIlmiyyah, 1981), 1:6.


37. Interestingly, al-Dhahabi says Dawud b. al-Husayn’s narrations from ʿIkrimah are not accepted; al-Dhahabi, *Mīzān*, 2:5.


39. Dawud’s narration is inconsistent (*muḍṭarib*), in my opinion, due to erratic differences in the *matns*; see the following note as well. Ibn Hanbal, *Musnad Ibn Ḥanbal* (Maymaniyah printing), 1:300. The key part of the *isnād* is: … Ibn Abī Habībah ʿIbrahīm b. Ṣūlāh – Dawud b. al-Husayn – ʿIkrīmah – Ibn ʿAbbas – Prophet: *uqtulū al-fāʿ il wa al-mafʿūl bihi fi qawm lūṭ wa al-bahīma wa al-wāqiʿ* ‘alā al-bahīma wa man waqaʿa *aʿlā mahram fa aqtulūhu.*

40. Al-Tabarī, *Tahdīb al-Āthār – Musnad Ibn ʿAbbas*, ed Mahmūd Muhammad Shakir, 2 vols. (Cairo: Matba‘at al-Madanī, n.d.), 1:554-55. The key part of the *isnād* is: … Ibrahīm b. Ṣūlāh – Dawud b. al-Husayn… with the wording: *man waqaʿa aʿlā rajul fa aqtulūhu yaʿni ʿamal qawm lūṭ* and also: … Ibrahīm b. Muḥammada – Dawud b. Ḥusayn – ʿIkrīmah…, with the wording: *uqtulū al-fāʿ il wa al-mafʿūl bihi fi al-lūṭīyah wa aqtulū kull mawāqīʿ dhāt maḥram.* This is also found in the *Musnad* of Ibn Hanbal, 1:300 (with the inclusion of the Bestiality Clause as well).


45. Al-Hakim, *Al-Mustadrak*, 4:356. The *isnād* comes via Abu Hurayrah – the Prophet, with the wording: *la’ana Allāh sab’a min khalqihi... mal’un mal’ūn mal’un man ‘amila ‘amal qawm lūṭ*….
47. This is probably Abu Musa al-As’ari’s hadith from the Prophet, with the wording: *idhā atā al-rajul al-rajul fa-humā zāniyān*…, which al-Bayhaqi calls “munkar by that *isnād*”; al-Bayhaqi, *Sunan al-Kubrā*, 8:406. See also al-Ajurri, *Dhamm al-Liwāt*, 51.
52. Pausing the narration here, al-Suyuti adds another source for the narration from Ibn Jurayj.
53. For the next series of opinions recorded by Ibn Abi Shaybah, see his *Muṣannaf*, 5:497.
54. The ms. used in the DKA edition has *mawlā Yahyā*. The editors of the DKI edition noted that they only saw this in one ms.
55. The one ms. of al-Suyuti’s text relied on for the DKA edition has *wa lā ‘m-r*. The editors of the DKI edition say this appears in some copies. Abu Ghuddah’s edition of the *Mūqiẓah*, by contrast, has *wa lā ghumiza*, which makes far more sense in this context. See Shams al-Din al-Dhahabi, *Al-Mūqiẓah fī ʿIlm Muṣṭalaḥ al-Ḥadīth*, ed. ʿAbd al-Fattah Abu Ghuddah, 4th ed. (Cairo: Dar al-Salam, 1421/2000), 79.
56. What appears between the braces {} is not found in al-Suyuti’s quotation from al-Dhahabi; however, it does appear in Abu Ghuddah’s edition of the *Mūqiẓah*. 
See ibid., 80. This was probably a haplographic error due to the repeated word tāratan; al-Suyuti skipped to the second instance of tāratan, omitting the text in between.


59. The term munkar (unknown or unfamiliar) was etymologically the converse of maʿrūf (accepted or known) See Jāmiʿ al-Tirmidhī: kitāb al-ṣiyām, bāb mā jāʾa fi man nazala bi qawm fa lā yasūmu illā bi idhnihim and Zayn al-Dīn Abū Bakr Ahmad al-Barkhārī, Sharḥ Ḥalāl al-Tirmidhī, ed. Nur al-Dīn ʿItr (n.p.: n.p., 1398/1978), 1:409. One of the earliest definitions of munkar comes from Abu Bakr Ahmad al-Bardijī (d. 301/914), who defined it as a hadith known through only one narration; Ibn al-Salah, Muqaddimat Ibn al-Ṣalāḥ wa Maḥāsin al-Iṣṭilāḥ, ed. ʿAʾishah ʿAbd al-Rahman (Cairo: Dar al-Maʿarif, 1989), 244. After Ibn al-Salah (d. 643/1245), the term generally denoted a hadith narrated through only one chain of transmission, but one of whose narrators was not reliable enough (i.e., termed ṣadiq or less) to establish it as reliable. See al-Dhahabi, Mīzān al-Iʿtidāl, 3:140-1. Transmitters who were prolific and respected for their accuracy could transmit uncorroborated material, but with limits. Their reputation was originally earned, in great part, by being corroborated by other leading transmitters. Thus al-Bardijī says that al-Ḥasan b. ʿAlī b. Shabīb can narrate solitary (munfarid) hadiths because he is so prolific. Centuries later, Ibn al-Qattān al-Fasī says a reliable (thiqāt) narrator can transmit such material as long as he does not do so too much; al-Dhahabī, Mīzān, 1:365, 504. Ibn ʿAdi reveals the flexibility of munkar during the early period when he describes the material narrated by Jaʿfar b. ʿUmar al-Ibli as “all munkar in either their isnād or their matn”; al-Dhahabi, Mīzān, 1:561. Particularly in the first four centuries of Islam, munkar was often used to indicate that a particular transmission of a hadith was unacceptable, with no necessary bearing on the overall authenticity of the tradition in question. For example, Abu Ḥatim al-Razi (d. 277/890) calls one narration of the famous hadith “Deeds are [judged] only by intentions” (inmāmā al-aʿmāl bi al-niyyāt) munkar even though that Prophetic tradition is considered ṣaḥīḥ; Ibn Abī Ḥatim al-Razi, Ḥadīth, 2 vols. (Beirut: Dar al-Maʿrifah, 1405/1985), 1:131. In other circumstances, munkar seems to indicate forged or baseless. Some reports that
al-Bukhari describes as munkar, Ibn Hibban and al-Hakim call mawḍūʿāt; al-Dhahabi, Mīzān, 2:160. As shown in note 63 below, munkar could also be used to show that one was clearly objecting to the hadith’s meaning.

61. One of the most influential hadith scholars of the late-early period, Abu Bakr Ahmad b. ʿAli al-Khatib (d. 463/1071) of Baghdad.

62. The hadith in question is “ʿAli is the best of mankind, and whoever denies this has disbelieved” (ʿAli khayr al-bashar fa man abā fa qad kafara), which al-Dhahabi considers an extremist Shiite (rāfiḍī) report. See al-Khatib al-Baghdadi, Tārīkh Baghdād, ed. Mustafa ʿAbd al-Qadir ʿAta, 14 vols. (Beirut: Dar al-Kutub al-ʿIlmiyyah, 1417/1997), 7:433 (in the text of the Tārīkh Baghdād, the hadith is ‘Ali khayr al-bashar fa man imtarā fa qad kafara. Al-Dhahabi goes on to say that hadith scholars use munkar for hadiths that suffer from relatively minor flaws in their transmission, such as the hadith “If water reaches two large pitcher’s full (qullatayn) it does not bear ritual filth” (idhā kāna al-māʾ gullatayn...), which appears in the Sunans of Abu Dawud, al-Nasaʾi, and al-Tirmidhi. It lacked ṣaḥīḥ isnāds, but was widely considered reliable. He says the term should not be used for “the likes of this plainly false hadith,” meaning the pro-ʿAli hadith of al-Khatib; al-Dhahabi, Mīzān al-Iʿtidāl, 1:521. As with earlier scholars, al-Dhahabi often uses munkar to denote that a particular transmission of a hadith might be uncorroborated or anomalous. For example, he notes the munkar aspect of one scholar’s transmissions but affirms that the texts (mutūn) of those hadiths are fine; al-Dhahabi, Mīzān, 2:358. But examining the hadiths from the Six Books and the Musnad of Ibn Hanbal that al-Dhahabi criticizes as munkar (or gharīb, i.e., rare) in his Mīzān, we find that sometimes munkar is used to object to unacceptable meanings in the matn of the hadith as well. This is affirmed by ʿAbd al-Fattah Abu Ghuddah, who says that munkar is often used to mean forged, referring to the unknown or unacceptable matn of a hadith as well as its isnād. See Abu Ghuddah’s edition of Mulla ʿAli al-Qari’, Al-Maṣnūʿ fī Maʿrifat al-Ḥadīth al-Mawḍūʿ (Beirut: Dar al-Basha’ir al-Islamiyyah, 1984), 20. The following is a list of hadiths that al-Dhahabi rated as munkar from the Six Books and Ibn Hanbal’s Musnad:

1. Mīzān, 3:93: munkar as an objection to meaning. From Ṣaḥīḥ Muslim. Here al-Dhahabi says that the hadith of the Prophet marrying Umm Habibah after the conversion of her father Abu Sufyan is “unacceptable” in its meaning (aṣl munkar), since it was reliably established that the Prophet had married her years earlier (see Ṣaḥīḥ Muslim: kitāb faḍāʾil al-ṣaḥābah, bāb min faḍāʾil Abī Sufyān b. Ḥarb).

2. Mīzān, 2:18: munkar as an objection to meaning. From Sunan Abī Dāwūd: al-Dhahabi calls a hadith munkar, probably because it contradicts the other narrations in which the Prophet instructs Muslims not to eat any part of the game from which a hunting dog has already eaten (see Sunan Abī Dāwūd: kitāb al-ṣayd, bāb fī al-ṣayd). Other scholars, such as al-Khattabi (d. 386/996),
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sought to reconcile this hadith with the conflicting material; al-Khattabi, *Ma‘ālim al-Sunan*, 4:298-94.

3. *Mīzān*, 2:213: *munkar* as an objection to meaning. From *Jāmi‘ al-Tirmidhī*: al-Dhahabi says that he feels in his heart that a hadith in which the Prophet tells his Companion to pray four *rak‘ah* on Friday, reading certain chapters of the Qur’an, in order to remember the Qur’an, is “very *munkar*,” even though he admits that its *isnād* seems fine (see *Jāmi‘ al-Tirmidhī*: *kitāb al-da‘wāt, bāb fī du‘ā’ al-ḥifẓ*).

4. *Mīzān*, 1:641-2: *munkar* as an objection to meaning. From *Ṣaḥīḥ al-Bukhārī*: al-Dhahabi says that he feels in his heart that a hadith in which the Prophet experienced the Night Journey as a child, rather than after his prophethood had begun, was so *gharīb* that if it were not in *Ṣaḥīḥ al-Bukhārī* he would call it *munkar*. Al-Dhahabi also calls this narration “one of the *gharīb* hadiths of the *Ṣaḥīḥ*”; idem, *Mīzān*, 2:270.

5. *Mīzān*, 1:278 and 4:498: *munkar* possibly an objection to meaning. From *Musnad Ibn Ḥanbal*: al-Dhahabi calls one hadith on the virtues of Marv *munkar* (see *Musnad*, 5:357), and another one on the virtues of Horns (see *Musnad*, 1:19).

6. *Mīzān*, 2:312: *gharīb* as an objection to meaning. From *Ṣaḥīḥ Muslim*: al-Dhahabi calls the hadith of the Prophet’s telling the Companions to fast ‘Ashura’ like the Jews of Khaybar one of the *gharīb* hadiths of Muslim’s book (see *Ṣaḥīḥ Muslim*: *kitāb al-ṣiyām, bāb ṣawm ʿāshūrā’*).

63. This hadith appears in the *Sunans* of Abu Dawud, al-Tirmidhi, and Ibn Majah. As described by al-Khattabi, its *isnāds* have been criticized for a variety of minor flaws. However, “It is testimony enough for its soundness that the stars of the world from amongst the scholars of Hadith have declared it *ṣaḥīḥ* and acted on it. And they are the example to be followed, and upon them should we reply on this matter”; al-Khattabi, *Ma‘ālim al-Sunan*, 1:36. The great Syrian Shafi‘i scholar and hadith master Salah al-Din al-‘Ala‘i (d. 761/1359) wrote a small book arguing that the hadith was *ṣaḥīḥ*; al-‘Ala‘i, *Juz‘ fī Taṣḥīḥ Ḥadīth al-Qullatayn wa al-Kalām ʿalā Asānīdihi*, ed. Abu Ishaq al-Huwayni (Cairo: Maktabat al-Tarbiyah al-Islamiyyah, 1992).

64. See note 63 above.

65. The definition used by al-Shafi‘i, and implied strongly by al-Tirmidhi, became the established definition for *shādhdh* by the fourteenth century: a transmission that disagrees with something more reliable than it (*yukhālifu mā huwa awthāq minhu*). See al-Dhahabi, *Mūqiẓah*, 42. Al-Khalili (d. 446/1054) and his teacher al-Hakim, however, defined *shādhdh* as merely that which “has only one *isnād*” (*laysa lahu illā isnād wāḥid*); al-Hakim, *Ma‘rifat ʿUlūm al-Ḥadīth*, ed. Mu‘azzin al-Husayn (Hyderabad: Da’irat al-Ma‘arif al-ʿUthmaniyyah, 1966), 148; al-Khalil b. ‘Abdallah al-Khalili, *Al-Irshād fī Ma‘rifat ʿUlamā‘ al-Ḥadīth*, ed. ‘Amir Ahmad Haydar (Makkah: Dar al-Fikr, 1993), 13. For more on this debate, see


72. In other words, the *ismāʿ* is a single chain for the first two links.

73. The example that al-Hakim gives for this type is the *ṣaḥīfah* of ‘Amr b. Shuʿayb, from his father, from his grandfather, from the Prophet, which contains crucial rulings on compensation for injuries and manslaughter/homicide; al-Hakim, *Maddkhal*, 101. For the hadith, see *Sunan Abī Dāwūd*: *kitāb al-diyāt*, bāb al-diya kam ḥiya and *Sunan Ibn Majah*: *kitāb al-farāʾ iḍ, bāb mīrāth al-qātil*.

74. Through the eleventh century, *mursal* was used to mean a hadith in which a transmitter cited the Prophet without actually having met him. By the thirteenth century, it had come to mean a hadith in which a Successor quoted the Prophet, omitting the Companion from the chain of transmission. Until the mid-ninth century, many jurists, particularly the Hanafis, did not consider *mursal* hadiths to be flawed in any way, and thus they served as a major source of evidence. Although he used *mursal* hadiths selectively, al-Shafiʿi’s incorporation of hadith transmitter criticism into his evaluation of evidence meant that *mursal* hadiths would be seen as suspect due to the break in their chain.

75. Transmitters who engage in *tadlīs* (obfuscation in transmission) phrase a transmission or many transmissions in such a way that it seems they heard it directly from a source when they actually heard it via some intermediary.

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