

## The Value of *Sakinah Mawaddah wa Rohmah*: Islamic Family Law and Western Perspective on LGBT Narrative

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### Abstract:

This study presents a critical and philosophical examination of issues of identity and morality in Islamic law namely *sakinah mawaddah wa rohmah* value based on classical and contemporary legal books through the lens of LGBTQ stories. It critically approaches the concept of whether the modernist views of *sakinah mawaddah wa rohmah*, which disenfranchise LGBTQ people, correspond to the moral aims of Shariah, such as justice, dignity, and the avoidance of harm. Based on the foundations of *sakinah mawaddah wa rohmah* value, care ethics, and queer theory, this research explore on how Islamic law establishes gender identity, its ethical stand on LGBTQ matters, and its relationship with human rights, seeking internal interpretive resources to a more accommodating moral vision. This research method's strategy is normative. It uses primary legal materials such as Islamic books, Islamic Jurisprudence, and also secondary resources from academic books, Journal articles, UN agencies, and statistical records. The results of this study are first; the foundation of islamic family law ethics and morality; Muslim societies have received guidance from divine revelation and scholarly interpretations of ethical principles which originated from the foundations of Islamic doctrine. Second; Islamic Jurisprudence: *Fitrah* as Contemporary Interpretation and Identity; Progressive scholars study the Qur'an from a moral accountability perspective alongside the notion of diversity in human sexuality. Third; Western Philosophical Perspectives on LGBTQ Identity and Morality; queer theory aims to do is not to replace Islamic moral reasoning, but to widen its scope. It puts jurists, theologians, and scholars to the test whether the discrimination against LGBTQ individuals lies in the best ethical interest of Islamic law, i.e., justice (*Adl*), compassion (*Rahma*), and human dignity (*Karāmah*).

### Keywords:

*Sakinah Mawaddah wa Rohmah*, Islamic Family Law, Western Perspective, LGBT Narrative.



## Introduction

According to philosophy, identity is the fact or existence of something, and the distinction in values from other things.<sup>1</sup> Islamic law about LGBTQ+ identity remains under continuous arguments and discussion between Islamic scholars, religious leaders, as well as human rights advocates. The concept of Islamic law is still up for debate among LGBTQ+ activists and are challenging all of the traditional interpretations. Traditional Islamic jurisprudence relies predominantly on a heteronormative framework because it draws from classical interpretations of the Qur'anic text, Hadith, and Fiqh (Islamic jurisprudence).<sup>2</sup> However, contemporary debates regarding Islam express different viewpoints through the application of Maqasid al-Shariah (higher objectives of Islamic law),<sup>3</sup> and modern thinking about human dignity alongside gender and sexuality concepts. Muslim scholars from both classical and modern understandings agree about what Islamic principles teach about LGBTQ+ issues although the experts differ in their interpretation of religious texts to conform to contemporary civil rights principles.

Muslim nations have diverse approaches toward protecting the rights of LGBTQ people. Since the legal systems, cultural practices, and religious teachings vary greatly. For instance; Saudi Arabia, Iran, along Afghanistan enforce harsh Physical punishments on their people yet Turkey and Indonesia appear more accepting. The Islamic Penal Code of Iran makes homosexuality illegal because the country upholds an

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<sup>1</sup> Mohamad Zaidin Mohamad et al., "Personal Identity From an Islamic Perspective," *International Journal of Academic Research in Business and Social Sciences* 10, no. 10 (October 18, 2020): Pages 199-207, <https://doi.org/10.6007/IJARBS/v10-i10/7932>.

<sup>2</sup> Thomas McElwain, "Principles of Islamic Jurisprudence - By Muhammad Hashim Kamali and Western Muslims and the Future of Islam - By Tariq Ramadan," *The Muslim World* 97, no. 2 (April 2007): 367-71, <https://doi.org/10.1111/j.1478-1913.2007.00182.x>.

<sup>3</sup> Ġāsir 'Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. Ġāsir 'Auda (London: The International Inst. of Islamic Thought, 2008).

absolute interpretation of Islamic moral standards. Also, in Afghanistan, the Taliban government members punish both the supporter and the identity of homo-sexual individuals and put them inside special jails. In Saudi Arabia, special police agents monitor gender norms through strict enforcement and hand out flogging or imprisonment or execute people found engaging in same-sex activities. Some political and religious factions routinely block LGBTQ rights through their growing limitations of Pride celebrations and civil organizations. The anti-gay laws of Muslim countries derive from traditional understanding of Prophet Lot's story in the Qur'an which classical scholars translate as God's condemnation of homosexuality (Qur'an 7:81).<sup>4</sup>

In contrast, Supporters of Islamic human rights base their reasoning on Qur'anic verse which states "There is no compulsion in religion"<sup>5</sup> (Qur'an 2:256), to demonstrate how LGBTQ identities should not be penalized since individual freedom and worth stand as essential prerequisites. According to the higher objectives of Islamic regulation known as Maqasid al-Shariah justice along with dignity and protection of individual rights stands as fundamental principles.<sup>6</sup> Islamic law needs to incorporate modern understandings of human rights according to scholars Khaled Abou El Fadl,<sup>7</sup> and Mohammad Hashim Kamali<sup>8</sup> to create an ethical model that combines religious heritage with contemporary justice principles.<sup>9</sup>

Finally, Islamic experts for human rights defend LGBTQ people against legal punishment by pointing out Quranic values that protect individuals from injustice while defending their dignity and intellectual autonomy. The current discussion proves why Islamic jurisprudence requires ongoing debate to achieve alignment between modern social circumstances and religious legal frameworks.

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<sup>4</sup>Australian National Imams Council (ANIC), *Islam's Clear Position on Homosexuality*, 2018.

<sup>5</sup>Qur'an 2:256, *The Clear Quran*, trans. Mustafa Khattab.

<sup>6</sup> 'Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

<sup>7</sup> Fadl, "Speaking in God's Name: Islamic Law, Authority and Women."

<sup>8</sup> McElwain, "Principles of Islamic Jurisprudence - By Muhammad Hashim Kamali and Western Muslims and the Future of Islam - By Tariq Ramadan."

<sup>9</sup> McElwain, *Principles of Islamic Jurisprudence*.

The purpose of this paper is to address the following questions: How does Islamic law namely *sakinah mawaddah wa rohmah* define gender identity, what ethical and philosophical principles govern the Islamic stance toward LGBTQ+ identities, and how does Islamic philosophy engage with contemporary human rights while maintaining the theological foundations related to human dignity.

This research paper evaluates Islamic ethical value and practices regarding accommodating LGBTQ stories while maintaining religion's fundamental principles. It also investigates the four main concepts of morality and identity in Islamic regulation: the Foundation of Islamic Ethics, the Islamic Jurisprudence of LGBTQ, the contemporary reinterpretations of LGBTQ, the Western Countries perspectives on LGBTQ+ identity, and the social realities of LGBTQ in Muslim societies.

### **Method**

This research method's strategy is normative. It uses primary legal materials such as Islamic books, Islamic Jurisprudence, and also secondary resources from academic books, Journal articles, UN agencies, and statistical records. This research examines the LGBTQ identity based on Islamic and western philosophy. It advances best recommendations for Islamic and western countries. The present research is based on a pluralistic theoretical framework with references to two conceptually and practically related branches, namely Maqasid ul-sharia, and Queer Theory. The combination of these theories makes it possible to critically and constructively analyse the moral foundations of Islamic law and its potential to support various manifestations of identity, especially the one of LGBTQ people.

### **Result and Discussion**

#### **The foundation of Islamic Family Law Ethics and Morality**

The foundations of Islamic moral philosophy exist within the Qur'an, Hadith, and scholarly consensus. The Qur'an asserts that Allah created human beings with the perfect form according to "Indeed, we

created man in the finest form"<sup>10</sup> (Qur'an 95:4). In this verse most interpreters establish the concept of fitra (natural disposition) by affirming human beings have an inherent moral framework. Various scholars hold different views regarding how LGBTQ identities relate to natural human moral tendencies described in Islamic teachings. To begin with, Islamic ethical teachings derive from the three foundational sources which include the Qur'an combined with Hadith together with scholarly consensus known as Ijma. The Qur'an delivers complete ethical guidance through its presentation of moral values that include fairness together with openness, mercy, and social duties. Primarily, Allah commands justice alongside good conduct and sharing with relatives after prohibiting immoral behavior, wicked conduct and unlawfulness according to the Qur'an 16:90.<sup>11</sup> Secondly, the Prophet Muhammad (PUH) through his Hadith expanded on ethical conduct after the Qur'an presented its teachings. According to (Sahih al-Bukhari 6029), the Prophet declared that greatness among believers depends on their excellent character and proper manners.<sup>12</sup>

Additionally, the ethical core of Islamic teachings consists of three main elements which include compassionate behavior, fair treatment, and seeking righteousness according to these religious sources. The interpretation methods regarding these principles have transformed throughout time specifically to address current ethical problems. For instance, Al-Ghazali and Ibn Taymiyyah together with other traditional Islamic scholars pushed for literal text interpretations which established strict moral rules in Islamic teaching.<sup>13</sup> |<sup>14</sup> According to Islamic theology, ethics and morality are the purification of the soul in the human body and are centered on treating people with respect and discipline. These two scholars concur that Islamic values and legal

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<sup>10</sup> Qur'an 95:04, The Clear Quran, trans. Mustafa Khattab.

<sup>11</sup> Qur'an 16:90, The Clear Quran, trans. Mustafa Khattab.

<sup>12</sup> Sahih al-Bukhari, Hadith no. 6029.

<sup>13</sup> Achmad Khudori Soleh, "Al-Ghazali's Concept of Happiness in The Alchemy of Happiness," *Journal of Islamic Thought and Civilization* 12, no. 2 (December 13, 2022): 196–211, <https://doi.org/10.32350/jitc.122.14>.

<sup>14</sup> Ibn Taymiyyah, "Diseases of the Hearts & Their Cures," *DAAR US-SUNNAH PUBLISHERS BIRMINGHAM*, n.d.

standards are immutable. Mohammad Hashim Kamali,<sup>15</sup> together with Khaled Abou El-Fadl advocate for *ijtihad* as a method to integrate ethical teachings into modern conditions according to contemporary scholars.<sup>16</sup> Since Islamic regulation acts as a guide for people, Muslims should balance their morals in society to respect and uphold human dignity and justice. Meanwhile, Islamic ethics are applicable while tackling contemporary society's human rights concerns. The ongoing development of Sharia demonstrates the ongoing dispute between those who support change and those who stick to traditional practices in human rights and individual identity conflicts. In short, throughout centuries Muslim societies have received guidance from divine revelation and scholarly interpretations of ethical principles which originated from the foundations of Islamic doctrine.

### **Islamic Jurisprudence: *Fitrah* as Contemporary Interpretation and Identity**

The construction of Islamic jurisprudence through *Fiqh* depends on the sacred Islamic scriptures including Qur'an along with Hadith alongside scholarly explanations. To clarify, traditional Islamic legal authorities view same-sex relationships as forbidden based on the Qur'anic story of Prophet Lut (Lot) which says "Alternatively to approaching women, do you seek males with desire? Instead, you are a transgressor." Although the text declares that humans possess a moral foundation it continues by stating "Instead, you are a transgressor people"<sup>17</sup> (Qur'an 7:81). According to numerous interpreters of religious scripture the divine message in this story expresses explicit opposition to homosexual behaviors. The dogma of classical Islamic scholars including Al-Ghazali,<sup>18</sup> and Ibn Taymiyyah confirms via written books that homosexual relationships create social instability in society.<sup>19</sup> Homosexual relationships alter a person's

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<sup>15</sup> McElwain, "Principles of Islamic Jurisprudence - By Muhammad Hashim Kamali and Western Muslims and the Future of Islam - By Tariq Ramadan."

<sup>16</sup> Khaled Abou El Fadl, *"Speaking in God's Name: Islamic Law, Authority and Women,"* n.d.

<sup>17</sup> Qur'an 7:81, *The Clear Quran*, trans. Mustafa Khattab.

<sup>18</sup> Achmad Khudori Soleh, "Al-Ghazali's Concept of Happiness in The Alchemy of Happiness."

<sup>19</sup> Taymiyyah, "Diseases of the Hearts & Their Cures."

biological identity and nature, which is unacceptable in Islam. Along with having a detrimental impact on society, it will increase bodily ailments and mental illnesses in both the present and future generations.

Moreover, classical Islamic jurisprudence views homosexual behavior as forbidden through both scriptural interpretation and traditional understanding of the law. The Qur'an and Hadith together with the agreement of scholars (ijma) establish this viewpoint. Throughout Islamic history, scholars understand Prophet Lut to represent divine judgment against those who practice same-sex sexual acts. According to medieval exegete Ibn Kathir the destruction of Lot's people functioned as a clear indication against their immoral actions.<sup>20</sup> To support this statement, the Hadith collection maintains authentic statements from Prophet Muhammad which uphold this interpretation. A Hadith authenticates that renegade practitioners of the Lut people must be executed: "Whoever you find engaging in the act of the people of Lut, execute them"<sup>21</sup> (Sunan Abu Dawud 4462). Muslim scholars continue to debate both the original authenticity along the interpretations of these traditional texts yet they have shaped Islamic legal rulings throughout numerous centuries. For example, homosexuality is prohibited in Afghanistan, and individuals who engage in it face punishment and criminalization under Islamic and Sharia law. Afghanistan adheres to Hanafi jurisprudence,<sup>22</sup> which views same-sex actions as a severe punishment and it's a taboo in Afghan culture. In Saudi Arabia, due to the government's adherence to Hanbali Fiqh,<sup>23</sup> homosexuality is considered a serious offense where it

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<sup>20</sup> Ismail Ibn Kathir, *Tafsir al-Qur'an al-Azim* (Beirut: Dar al-Kutub al-Ilmiyya, 2000),

<sup>21</sup> Sunan Abu Dawud no. 4462.

<sup>22</sup> Suud Sarim Karimullah and Arif Sugitanata, "The Hanafi School of Islamic Jurisprudence Literature: A Historical Account," *Journal of Islamic History and Manuscript* 2, no. 1 (May 9, 2023): 1–20, <https://doi.org/10.24090/jihm.v2i1.7788>.

<sup>23</sup> Ahwan Fanani, "The Hanbalite Theology: A Critical Study of The Hanbalite Theological Creeds and Polemical Adversaries," *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies* 17, no. 1 (July 8, 2021), <https://doi.org/10.18196/afkaruna.v17i1.11353>.

can result in the death penalty. Iran, which adheres to Shi'a law,<sup>24</sup> makes this practice illegal and imposes penalties based on traditional legal principles. LGBTQ+ activists suffer severe limitations and restrictions from the government in Malaysia, Turkey, and Indonesia, yet they are not punished by conventional jurisprudence.

The traditional perspectives of all four Islamic law schools labelled same-sex relations as forbidden (haram). This exclusion involved the Hanafi,<sup>25</sup> Maliki,<sup>26</sup> Shafi'i,<sup>27</sup> and Hanbali<sup>28</sup> schools. Islamic philosopher Al-Ghazali judged homosexual acts as immoral violations of religion and societal ethics that generate spiritual degeneration.<sup>29</sup> Ibn Taymiyyah affirmed the same position by expressing that homosexuality creates disharmony in society while disregarding the legal goals of Shariah.<sup>30</sup> It will damage the family unit and cause degeneration among people, as well as difficulties for others in interacting with such unwell people. To sum up, traditional Islamic court rulings understand this verse as an absolute refusal of homosexual relations because this activity distorts natural human conduct known as Fitra. According to different schools of Sharia law scholars, the punishment for homosexual behavior existed, but its implementation changed across various geographical locations throughout time.

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<sup>24</sup>Bahman Khodadadi, "The Development of Islamic Law in Iran," 2024, <https://doi.org/10.13140/RG.2.2.21563.43048/3>.

<sup>25</sup> Suud Sarim Karimullah and Arif Sugitanata, "The Hanafi School of Islamic Jurisprudence Literature."

<sup>26</sup> Nanda Arisqa Lapatantja and Muammar Bakry, "Comparative Analyses of Maliki and Hanbali Thought on Waqf Istibdāl," *Mazahibuna*, June 25, 2021, 49–60, <https://doi.org/10.24252/mh.v3i1.21129>.

<sup>27</sup> Syed Masood Jamali, "Shafi School of Thought: An Analytic Study of Its Revival," in *RCSSHIS-2016, PLBE-16, Dec. 16-17, 2016 Pattaya (Thailand)* (Dec. 16-17, 2016 Pattaya (Thailand), Dignified Researchers Publication, 2016), <https://doi.org/10.15242/dirpub.dirh1216009>.

<sup>28</sup> Fanani, "The Hanbalite Theology."

<sup>29</sup> Suad Al-Hakim, "Al-Ghazali's *The Revival of the Religious Sciences* (Ihya Ulum al-Din) for the 21st Century," n.d.

<sup>30</sup> Taymiyyah, "Diseases of the Hearts & Their Cures."



The evolution of Islamic law over the centuries has resulted from multiple ways people interpret Qur'anic doctrine together with Hadith along with jurisprudential approaches. According to scholars including Al-Shatibi,<sup>31</sup> and Ibn Ashur Maqasid al-Shariah provides a framework to safeguard five basic human life aspects which are religion (din), life (nafs), intellect (aql), lineage (nasl), and property (mal).<sup>32</sup> Modern scholars make the case that human dignity and justice line up with the Maqasid al-Shariah<sup>33</sup> objectives thus requiring a new approach to strict legal interpretations about LGBTQ+ identities.

In contrast, the contemporary scholar Scott Kugle (2010), leads the opposition against rigid interpretation through his view that Maqasid al-Shariah should maintain human dignity as its top priority.<sup>34</sup> According to Kugle (2010), the Qur'an demonstrates that Islam's ethics never reject multiple sexual orientations through a modern interpretation.<sup>35</sup> Reformist scholars support independent reasoning known as *ijtihad* because it helps create expanded Islamic viewpoints. According to Scott Kugle (2010) the Qur'an provides foundational principles about compassion and inclusion which should replace strict punishment-based legal methods.<sup>36</sup> Scholars contend that Muslim nations must amend their anti-LGBTQ+ legislation, reduce the severity of the penalties, and refrain from using the death penalty or other severe penalties. The scholar argues that social norms and customs from the past altered interpretations of Prophet Lot's story instead of following God's exact commands. Therefore, Modern society engages in heated discussions about how Islamic law views LGBTQ+ identities.

The process of *ijtihad* remains essential because it enables Islamic law to adjust properly to new social circumstances. Reformist scholars support contextual research of scripture through their belief that

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<sup>31</sup> Ammar Fadzil, Ahmed el-Mogtaba Bannga, and Afandi Awang Hamat, "Shatibi's Theories of Knowledge as Seen in His al-Muwafaqat: A Preliminary Study," *The International Journal of the Humanities: Annual Review* 6, no. 1 (2008): 231-38, <https://doi.org/10.18848/1447-9508/CGP/v06i01/42350>.

<sup>32</sup> Abu Ishaq Al-Shatibi, *Al-Muwafaqat fi Usul al-Shariah*. (Dar Ibn Affan, 1997).

<sup>33</sup> 'Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

<sup>34</sup> Scott Siraj al-Haqq Kugle, *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims* (Oxford: Oneworld Publications, 2010).

<sup>35</sup> Kugle, *Homosexuality in Islam*, 56.

<sup>36</sup> Kugle, *Homosexuality in Islam*, 60.

original rulings have shifted substantially since the contemporary era. The exclusive punishments according to classical Fiqh for same-sex relations derived from larger concerns about social order and tribal stability between communities. Today's interpretive framework focuses on individual freedom and justice principles because these concepts adapt to the way people change in response to social development.

Progressive scholars study the Qur'an from a moral accountability perspective alongside the notion of diversity in human sexuality. Interpretations that support heteronormativity point to the verse "We have created you in pairs"<sup>37</sup> as their foundation even though opposing scholars suggest this text does not prevent various sexual expressions between human beings. The reformist view asserts LGBTQ people ought to receive the exact moral acceptance that normal members of the Muslim community obtain. All in all, the Qur'an specifies non-coercive faith practices through its essential principle (Qur'an 2:256) to establish discussions focused on understanding and compassion instead of punishment.

### **Western Philosophical Perspectives on LGBTQ Identity and Morality**

Understanding current identity, morality, and rights has been guided by Western philosophical and legal traditions. Within these philosophies, it has become clear that LGBTQ inclusion is required by principles such as personal freedom, dignity, and respect. To start, the only way to stop people from hurting others is a proper reason to restrict liberty. The progress has been made in allowing equal rights for LGBTQ people, mainly through decriminalizing same-sex relationships and recognizing many different sexual identities.<sup>38</sup> While respecting different beliefs, the principal marks what is not allowed when someone else's Charter rights are threatened. Additionally,

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<sup>37</sup> Al Qur'an, 2:256.

<sup>38</sup> C. L. Ten, ed., *Mill's On Liberty: A Critical Guide*, Cambridge Critical Guides (Cambridge: Cambridge University Press, 2009), <https://doi.org/10.1017/CBO9780511575181>.

sexuality comes from social dialogues and dominating forces. Organizations such as religious groups and the states need to set standards for right and wrong behaviour, managing what people do and what they desire.<sup>39</sup> The morality, and sexual morality in particular, is formed by social rules rather than because it is true for everyone all the time. Sacrificing personal morality is never justified for the sake of group harmony or what most people like.<sup>40</sup> This western perspective can be seen in the Islamic idea known as Maqasid al-Shariah which puts justice, dignity, and the public good first.

On the other hand, the traditional study of ethics uses abstract rules and cannot account for how personal relationships influence decisions, the new concept of care ethics focused on empathy, personal connections, and judging cases carefully.<sup>41</sup> This model opposes Western and Islamic legal rules by focusing on how marginalized individuals experience and feel in society. The fact that gender is formed by what to do repeatedly opens space to challenge beliefs that only two genders are allowed.<sup>42</sup> For instance, Europe and North America have further recognized and respected the rights of LGBTQ people. The right to same-sex marriage is included in the Constitution of U.S and based on values such as dignity, liberty, and equal

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<sup>39</sup> Michel Foucault, *The History of Sexuality*, 1st American ed (New York: Pantheon Books, 1978), [https://monoskop.org/images/4/40/Foucault\\_Michel\\_The\\_History\\_of\\_Sexuality\\_1\\_An\\_Introduction.pdf](https://monoskop.org/images/4/40/Foucault_Michel_The_History_of_Sexuality_1_An_Introduction.pdf).

<sup>40</sup> Ronald Myles Dworkin, *Justice for Hedgehogs* (Harvard University Press, 2011), 528 <https://doi.org/10.2307/j.ctvjf9vkt>.

<sup>41</sup> Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, Mass: Harvard University Press, 1993), <https://syllabus.pirate.care/library/Carol%20Gilligan.pdf>.

<sup>42</sup> Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1999), <https://selforganizedseminar.wordpress.com/wp-content/uploads/2011/07/butler-gender-trouble.pdf>.

protection.<sup>43</sup> The purpose of these decisions is to make clear that sexual orientation and gender identity are key to human dignity and should be protected from government and discrimination.

There are arguments made against Western frameworks. Western values into cultures are very different from Muslim countries. Postcolonial academics point out that sending Western ideas of rights to other countries, without careful thought, may just install more imperialist ways of thinking in different places. Western theories can strengthen Islamic norms instead of ousting them. Since both Western and Islamic perspectives value minimizing harm, respect for dignity, and justice, there is much they can learn together. In short, there are many helpful tools from Western law and philosophy to assist LGBTQ individuals with their ethical and legal issues. These frameworks focus on the main values autonomy, dignity, non-maleficence, and justice that apply worldwide, not only in the West. If people approach these ideas with respect and interest, they can guide a fairer and more inclusive discussion in Islamic law.

Queer theory is a largely compelling tool of analysis when applied in cases that puzzle rigid ideas about sexuality and gender, especially the ones that occur in law and religion. This strand of thought emerged in the post-structuralist thinking and aimed to challenge the devious weighing of identities and preconceived norms, which form the basis of law and culture. Equipped with a queer theory-based critique of the systematic issue of heteronormativity in Islamic law, LGBTQ narratives provide an alternative way to explore and criticize that which is heteronormative by promoting the dehumanization and/or criminalization of the non-binary and LGBTQ.

One of the basic assumptions of queer theory is that terms like male, female, heterosexual, and homosexual are not biological

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<sup>43</sup> Obergefell Hodges, BRIEF OF AMICUS CURIAE THE FREEDOM AND JUSTICE FOUNDATION, INC. IN SUPPORT OF PETITIONERS (SUPREME COURT OF THE UNITED STATES 2015).

absolutes, but are forms of social construction which are conditioned by power infused discourse and which change over time. This observation is particularly relevant in the case of the Islamic tradition of jurisprudence, in which determinations of *Liwat* (sodomy) and gender norms have often been discussed as logically absolute rather than as a contingent discourse of the history that was developed on the terms of juristic thought, policy by the state, and patriarchy.

Foucault asserts that in modern societies, sexuality has emerged as a major location of power of discipline, and some of the processes that have made this a subject of discourse include confession, surveillance, and classification. Even today, other societies in the same or other countries that have large Muslim populations still maintain such systems of policing of sexual conduct and identity in the name of religious morality. Such control systems impose such queer Muslim subjectivities as already invisible and therefore illegitimate. Butler argues that gender is an ever-hoisted identity and is constructed through repetitive social performances. This theory challenges Islamic legal assumptions about gender being binary and fixed at the moment of birth, and juridical provisions of commitments and prohibitions based on them. Assuming, following Butler, that gender is performative, legal systems, including Islamic law, need to rethink their epistemological foundation on which they separate and regulate bodies.

It does not necessarily imply the uncritical importation of Western identities into the Islamic discourse. Instead, queer theory proposes to look more carefully into the moral validity of not belonging. It wonders whether the Islamic law categories are absolute truths or fields of interpretation vulnerable to reform. Queer theory encourages Islamic legal thinking to take the issue of heterogeneity more seriously through the lived experience, embodiment, and plurality. After all, what queer theory aims to do is not to replace Islamic moral reasoning, but to widen its scope. It puts jurists, theologians, and scholars to the test whether the discrimination against

LGBTQ individuals lies in the best ethical interest of Islamic law, i.e., justice ('*adl*), compassion (*rahma*), and human dignity (*karāmah*).

### Conclusion

In conclusion, this study reviewed traditional and modern Islamic perspectives while analyzing the moral, legal, and communal dimensions of LGBTQ identities within Islamic philosophy especially the value of *sakina mawaddah wa rohmah*. The terms "love" "equality" and "human rights" are limited to the types of sexual acts that the LGBTQ community promotes, and polygamous marriages are excluded from this.<sup>44</sup> According to some scholars, if it were legal, Allah could have created two people of the same sex instead of Adam and Eve, who were created for natural order and balance. The significance of human rights, gender equality, and how to love are all discussed in the Quran. Each of these topics has specific guidelines that believers should abide by. According to particular conservative scholars and scientists, individuals must comprehend and rationally consider the detrimental impacts of homosexuality and LGBTQ issues on society and people's perspectives.

Ultimately, as technology advances, experts have also found that homosexuality can lead to a rise in social disorders. Islam forbids homosexual behavior in all contexts, the scientists and contemporary scholars agree that it will increase the frequency of sexually transmitted illnesses, including HIV, mental illness, immorality, and degeneration in society, as well as reduce the continuity of human generations.<sup>45</sup> While classical viewpoints continue to follow the classic interpretations, Western and contemporary Islamic scholarly discourse emphasizes justice, flexibility, and human dignity. Scholarly research and interfaith cooperation are needed to examine how Islamic ethics

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<sup>44</sup> Why Islam, *Islam & the LGBTQ Movement*, 2022.

<sup>45</sup> Peter Aggleton and Richard Parker, *Culture, Society And Sexuality* (London: Routledge, 2002), <https://www.taylorfrancis.com/books/edit/10.4324/9780203020173/culture-society-sexuality-richard-parker-peter-aggleton>.

might contribute to western and contemporary discussions about gender identity without sacrificing religious beliefs.

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