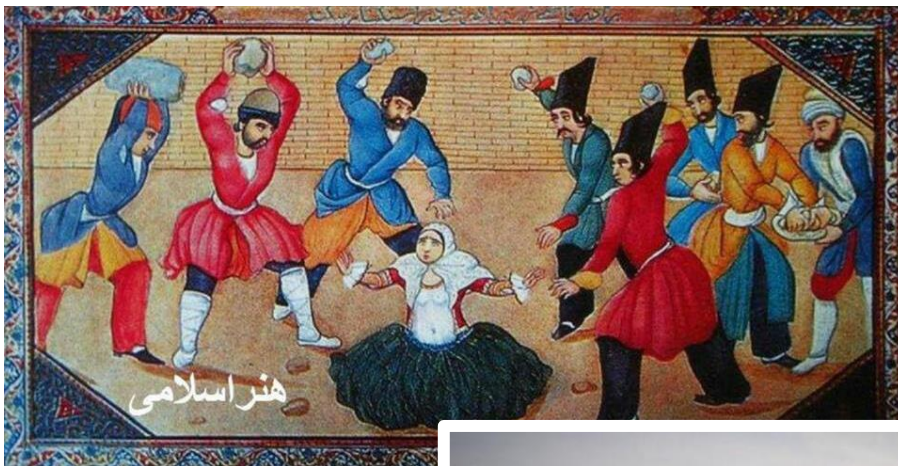




The Islam Research Group

*The Quran as Reportedly Practised and Preached
by Mohammed: Part 4*

Laws repressing an individual's sexual autonomy



Introductory notes

Structure

In this series of papers, ten instructions contained within the Qur'an are considered.

Over the centuries the instructions contained within the Qur'an have been the subject of a range of different applications by different Islamic traditions. Surveying the full range of such interpretations is outside the scope these papers. Rather the aim is to present clearly and accurately, on the best evidence available, what one might call 'true' or 'primitive' Islam: what the words of the Qur'an instruct, as it was intended to be understood at the time that it was announced. That is to say the instructions of the Qur'an as it was practised and preached by Mohammed.

To achieve this, and avoid any suggestion of 'cherry picking' or presenting verses out of their original context, in each case the verse or verses containing the instruction will be presented in full within the context of:

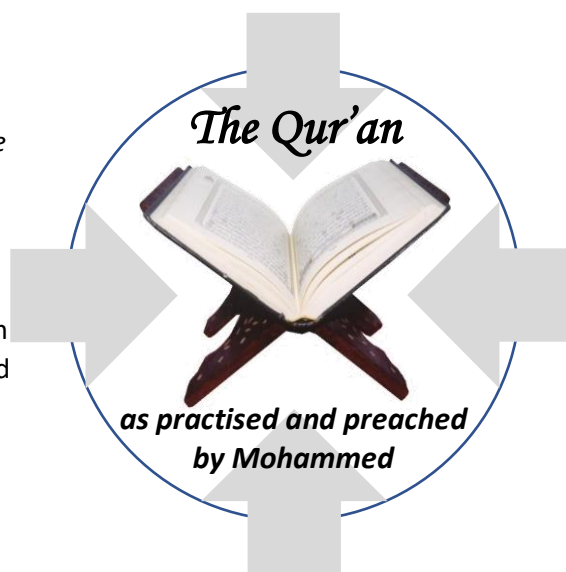
The circumstances in which the verse was said to have been announced

Any report describing the circumstances in which Mohammed came to announce a verse, the **Asbab al Nuzul** (principally those collected by **Ali ibn Ahmed al Wahidi (d. 1075)**) are given to give it its traditionally understood immediate context.

16 leading translations

The author principally uses *The Study Quran* (2015). However, this translation is cross-referenced with **fifteen other leading English translations** of the Qur'an from a wide variety of traditions, and compared with:

related verses of the Qur'an



The example of Mohammed

Incidents from the recorded life of Mohammed in the *sira* or *hadith* showing how Mohammed wished the verse to be understood, or how he himself applied it.

Sharia application

Rulings on the application of the verse by the founders of the **four major schools of Sharia jurisprudence** (**Hanifa, Maliki, Shafii and Hanbali**).

Tafsir commentary

Commentary from the major **Quranic commentaries**.

Sources

Information concerning the life, words and deeds of Mohammed comes chiefly from two sources:

The sira are the biographies written about Mohammed in the early centuries after his death. Of these the biography of Mohammed, ***Sirat Rasul Allah***, by **Ibn Ishaq**, written about 120 years following Mohammed's death for the Abbasid caliph, is by far the fullest extant source of historical information concerning the life of Mohammed and the establishment of Islam.

Although Ibn Ishaq's biography gives a relatively early and full account of Mohammed's life, Muslims traditionally afford greater prescriptive authority to the **hadith**: accounts of the words and actions of Mohammed, each with a proven chain of narration leading back to one of Mohammed's companions. These tend to be fragmentary, often written with little or no context. The first collections of hadith were collected by jurists to establish authority for their rulings on Sharia law. From the mid-ninth century (about a century after Ibn Ishaq completed *Sirat Rasul Allah*) larger collections were compiled. There are six major collections of hadith recognised by Sunni Islam. All Islamic scholars accept that some hadith are forgeries, and scholars and judges differ over which may be considered authentic. However most treat those contained in the two 'sahih' ('trusted') collections of **Bukhari** and **Muslim** as the most reliable evidence available to Muslims of Mohammed's words and actions.

In the eleventh century **Ali ibn Ahmed al Wahidi** (d. 1075) compiled a collection of hadith relating specifically to the circumstances in which individual verses of the Qur'an came to be announced, the **Asbab al Nuzul**. This is widely regarded within Islam as the most authoritative collection of narration hadiths.

Translation of the Quran

All quotations from the Quran are, unless otherwise indicated, taken from *The Study Quran* (2015). However, this translation is cross-referenced with the following fifteen other English translations of the Quran, representing secular scholarship and the full spectrum of Islamic traditions¹:

The Meaning of the Glorious Quran (1930) by Muhammad Marmaduke **Pickthall**, British convert to Islam;

The Holy Qur'an: Text, Translation and Commentary (1934) Abdullah **Yusuf Ali**, a civil servant of the British Raj, said to be the most used English translation;

The Koran Interpreted (1955) Arthur John **Arberry**, non-muslim scholar;

The Meaning of the Quran (1972) by Syed Abul A'la **Maududi**, the founder of *Jamaat-e-Islami*, the largest Islamic organisation in Asia;

The Glorious Qur'an by Abdul-Majid **Dariyabadi** (Indian, d.1977);

The Holy Quran (Koran), Muhammad Habib **Shakir** (the Ahmadiyya Community – a minority Islamic sect - have asserted that Shakir's translation was plagiarised from a translation by a member of their own community, Maulana Muhammad Ali);

The Holy Qur'an (1982) by Shaykh Muhammad **Sarwar**, US Shia;

Al-Quran, A Contemporary Translation (1984) by **Ahmad Ali**;

The Noble Qur'an (1985) by Muhammad Muhsin Khan and Muhammad Taqi-ud-Din al-Hilali (**Khan & Hilali**), said to be Saudi funded and reflecting Wahabi theology;

The Qur'an, English Meanings (1997) **Sahih International**, three US born female converts, Saudi published;

The Meaning of the Glorious Qur'an (2001) by Grand Shaykh Hasan Qaribullah and Shaykh Ahmad Darwish (**Qaribullah & Darwish**), of Umm Durman University, Cairo;

The Qur'an With a Phrase-by-Phrase English Translation (2005) by **Ali Qarai** of the Islamic College of Advanced Studies;

The Qur'an: A New Translation (2009) by Maulana **Wahihuddin Khan**, Indian, peace activist, a former member, later critic of *Jamaat-e-Islami*;

The Clear Quran (2012) by **Talal Itani**, Lebanese former engineer;

The Quranic Arabic Corpus, a collaborative online research project (corpus.quran.com) administered by the University of Leeds.

¹ All accessed via QuranX.com

Verses of the Quran in chronological order²

Principal verse considered in this paper

Meccan surahs	Medinan surahs	Historical context
96	2	The Hirah
73	8	The Battle of Badr
1	3	The Battle of Uhud
81	33	The Battle of The Trench
92	60	
93	4	4.15-16 Sentence of confinement till death for <i>fahishah</i> (indecenty)
103	99	
108	57	
107	47	
105	13	
114	55	
53	76	
97	65	
85	98	
85	59	
106	24	24.2-4 Sentences of whipping for:
75	22	<ul style="list-style-type: none"> • <i>zina</i> (adultery, 100 lashes), and • making an unsupported allegation of <i>zina</i> (80 lashes)
77	63	
90	58	
54	49	
7	66	
36	64	
35	61	
20	62	
26	48	The Treaty of Hdaybiyyah
28	5	Conquest of Mecca
10	9	
12	110	
6		
31		
39		
41		
42		
45		
51		
18		
71		
21		
32		
67		
70		
79		
84		
29		

² There is no consensus on the exact order of Quran verses. This is a simplified version adapted from *The History of the Quran* by Allamah Abu Abd Allah al-Zanjani.

Heterosexual acts

The Quran contains two verses imposing punishments for sexual immorality:



Surah 4 '*The Women*'

15. And as for those of you women who commit an indecency call four witnesses among you to bear witness against them. And if they bear witness, then **confine them to their houses until death takes them** or until God appoints for them another way.
16. And if two of those among you are guilty thererof punish them both, but if they make amends then let them be. Truly God is Relenting, Merciful.

Surah 24 '*The Light*'

2. As for the adulterer and the adulteress flog them each one hundred lashes and let not pity for them overcome you concerning God's Judgment, if you believe in God and the Last Day.
3. And let their punishment be witnessed by a group of the believers.
4. And as for those who accuse chaste women but then do not bring four witnesses flog them eighty lashes and never accept any testimony from them. And it is they who are the iniquitous. [5] save those who repent thereafter and make amends for truly God is Forgiving, Merciful.

Translation notes

Translations of 'fahishah' and 'zina'

The two extracts above are commonly thought to address similar misconduct although the Quran uses different Arabic words *الفاحشة* ('*fahishah*') in {4.15}, and *زنا* ('*zina*') in {24.2}. to describe the conduct that is to be punished.

{4.15} prescribes the death sentence for *fahishah*.

{24.2} prescribes a hundred lashes and restrictions on future marriage partners for the sin of being either a *zani* or *zaniyah*.

These terms has been translated in the various ways listed in the table below.

Translation	The sin of ' <i>fahishah</i> '	(Being a) ' <i>zani/zaniyah</i> '
<i>The Study Quran</i>	"commit an indecency".	"adulterer/adulteress" (but see note below)
Pickthall	"lewdness"	"adulteress/adulterer"
Yusuf Ali	"lewdness"	"the woman and the man guilty of adultery or fornication"
Arberry	"commit an indecency".	"fornicatress/fornicator"
Maududi	"immoral conduct"	"the woman and the man guilty of fornication"
Dariyabadi	"whoredom"	"adulteress/adulterer"
Shakir	"commit an indecency".	"fornicatress/fornicator"
Sarwar	"fornication"	"fornicatress/fornicator"
Ahmad Ali	"an unnatural offence"	"adulteress/adulterer"
Khan & Hilali	"unlawful sexual intercourse"	"the woman and the man guilty of illegal sexual intercourse"
Sahih International	"illegal sexual intercourse"	"the (unmarried) woman or (unmarried) man guilty of sexual intercourse"
Qaribullah & Darwish	"commit an indecency".	"fornicatress/fornicator"
Ali Qarai	"an indecent act"	"fornicatress/fornicator"
Wahihuddin Khan	"fornication"	"adulteress/adulterer"
Talal Itani	"lewdness"	"adulteress/adulterer"
Corpus	"immorality"	"fornicatress/fornicator"

Although *The Study Quran* translates *zina* as adultery, a footnote adds that in this context adultery may not necessarily involve either of the parties being married, by stating that these terms derive from the root *zani*:

*“meaning unlawful sexual intercourse (by both married and unmarried persons) ...
The text of the Quran does not distinguish between the categories of married or unmarried
as they relate to zina (‘adultery’)”.*³

Both terms - *fahishah* and *zina* - undoubtedly indicate illicit sexual activity. The majority of translations reflect the fact that the Qur’an uses two terms by rendering them in different ways. However the translations that are offered lack the precision one might wish for, especially considering the severity of the sanctions prescribed, and it is suggested that each term is sufficiently ambiguous to leave much scope for determining which conduct is included and where any distinction between them is intended to lie.

³ *The Study Quran* links this note to the Quranic commentary (tafsir) of Ahmad al Quturbi. The use of the English word ‘adultery’ to refer to sexual contact between parties neither of whom is married is unusual but permitted. The Oxford English Dictionary gives one occasional meaning of adultery ‘*extended in biblical and theological use*’ as ‘*any irregular sexual intercourse or forbidden marriage*’. The word derives from the Latin ‘adulterare’ meaning to defile or corrupt, from which root is also derived the word ‘adulterate’

Narration circumstances

Al Wahidi contains no narration account for either {4.15} or {24.2}, but he does include the following note for the connected verse {24.3}: ⁴

ASBAB AL NUZUL

Narration Hadith

Compiled by
Ali ibn Ahmed
Al Wahidi
(d.1095)

“The commentators of the Qur’an said:

‘When the Emigrants, some of whom without any means, arrived at Medina, they found there prostitutes who sold pleasure for a price. These prostitutes were, at that time, amongst the most well-off people of Medina. Some poor Emigrants coveted their earnings, saying:

‘Why do we not marry them and live with them until Allah, exalted is He, suffices us from them?’

They asked permission from the Messenger of Allah, Allah bless him and give him peace, to marry them, but then this verse was revealed which states that it is forbidden to marry an adulteress in order to exonerate the believers from such acts’.“

Al Wahidi on 24.3

The prohibition contained in {24.4} against accusing a chaste woman of sexual impropriety without four witnesses is traditionally associated (although curiously not by Al Wahidi) with a story concerning Mohammed’s wife, Aisha. Aisha had, it is said, whilst returning with Mohammed following a raid on the Banu Mustaliq, left the group to search on her own for a lost necklace. Upon her returning in the company of a man who had come across her and escorted her back, she was accused (by three men and a woman) of having committed adultery with the man. In answer to the allegation against her, Mohammed announced the verse which required not less than four witnesses to prove a charge of *zina*.⁵

⁴ He includes two similar accounts in one of which nine of these prostitutes are named.

⁵ The story is contained in Ibn Ishaq’s *Sirat Rasul Allah* (the Life of Mohammed as it is translated by A Guillaume, at page 494-9) and hadiths from both of the most reliable *sahih* collections: Sahih al-Bukhari, 5:59:462 and Sahih Muslim: 37:6673.

Related verses in the Quran

4.15 and 24.2

The use in the Quran of the terms *fahishah* in {4.15} and *zani/zaniyah* in {24.2} suggest that the two sins have different meanings: the former of which is the more grave, meriting confinement until death or divine intervention; the latter, the lesser punishment of a hundred lashes. However, as may be seen from the sixteen English translations considered above, neither term appears to carry a sufficiently clear meaning to definitively distinguish one from the other. In fact, it may well be thought that the preponderance of translations render the sin of *zina*⁶ - a more grave meaning than *fahishah* which is generally translated as the less serious sounding 'indecenty'.

One reason to read the two words as relating to the same conduct is that Quran also contains two verses, {4.25} and {33.34}, varying the punishment for *fahishah* for prescribed classes of people: halving the punishment for married slaves, but doubling it for Mohammed own wives:



Related verses

Surah 4 'Women'

25. "And whosoever among you has not the means to marry free believing women, [then marry] the believing young women amongst those whom your rights hands possess; God knows best and your faith.

The one of you is as the other, so wed them by permission of their people, and give unto them their proper bridewealth, as married women not fornicators or paramours.

And when they are married, **should they commit an indecency, they shall be liable for half the punishment of free women.**

This is for the one among you who fears he will sin. But it is better for you to be patient. God is Forgiving, Merciful."

Surah 33 'The Parties'

30. "O wives of the prophet! **Whosoever among you commits a flagrant indecency, her punishment will be doubled;** and that is easy for God."

⁶ A suggestion strengthened by the association of the term *zina* in verse 24.4 with the account of the allegation against Aisha

I. Heterosexual acts

By halving or doubling the punishment for *fahishah*, these verses, necessarily imply that those guilty of *fahishah* should a non-fatal punishment with an even numerical factor (capable of being halved or doubled). This is inconsistent with the instruction in {4.15} that those guilty of *fahishah* should suffer confinement in their homes until death, since self-evidently such a punishment is incapable of being doubled or halved. However, it fits neatly with the sentence of a hundred lashes for *zina* in {24.2}.

The Example of Mohammed

There are several accounts of Mohammed ordering adulterers to be stoned to death - a method of execution (*al rajm*) that is mentioned nowhere in the Quran and which appears to contradict both the verses considered above.

One deals with some Jews who brought a man and a woman before Mohammed for punishment for either fornication or adultery. From this fact, it seems likely that this was an account set in the early years following the hijra.



[Isnad: (chain of transmission) "... from Abdullah bin Umar]

"The Jews brought to the Prophet a man and a woman from among them who had committed illegal sexual intercourse.

The Prophet said to them:

'How do you usually punish the one amongst you who has committed illegal sexual intercourse?'

They replied: 'We blacken their faces with coal and beat them'.

He said: 'Don't you find the order of Ar-Rajm (i.e. stoning to death) in the Torah?'

They replied: 'We do not find anything in it.'

Abdullah bin Salam (after hearing this conversation) said to them:

'You have told a lie! Bring here the Torah and recite it if you are truthful.'

(So the Jews brought the Torah). And the religious teacher who was teaching it to them, put his hand over the Verse of Ar-Rajm and started reading what was written above and below the place hidden with his hand, but he did not read the Verse of Ar-Rajm. Abdullah bin Salam removed his (i.e. the teacher's) hand from the Verse of Ar-Rajm and said: 'What is this?'

So when the Jews saw that Verse, they said: "This is the Verse of Ar-Rajm."

So the Prophet ordered the two adulterers to be stoned to death, and they were stoned to death near the place where biers used to be placed near the Mosque. I saw her companion (i.e. the adulterer) bowing over her so as to protect her from the stones.

Sahih Bukhari (6.60.79); also produced in **Al Muwatta** of Malik bin Anas, the earliest collection of hadith (1551).

I. Heterosexual acts

Sahih Muslim Book 17 contains two versions of an incident in which a man, and in one case a woman also, came to Mohammed and repeatedly voluntarily confessed to adultery.

[Isnad]

“...Ma'iz b. Malik al-Aslami came to Allah's Messenger... and said:

‘Allah's Messenger, I have wronged myself; I have committed adultery and I earnestly desire that you should purify me.’

He turned him away. On the following day, he (Ma'iz) again came to him and said:

‘Allah's Messenger, I have committed adultery.’

Allah's Messenger (may peace be upon him) turned him away for the second time, and sent him to his people saying:

‘Do you know if there is anything wrong with his mind?’

They denied of any such thing in him and said: ‘We do not know him but as a wise good man among us, so far as we can judge’.

*He (Ma'iz) came for the third time, and he (the Holy Prophet) sent him as he had done before. He asked about him and they informed him that there was nothing wrong with him or with his mind. When it was the fourth time, **a ditch was dug for him and he (the Holy Prophet) pronounced judgment about him and he was stoned.***

‘There came to him (the Holy Prophet) a woman from Ghamid and said:

‘Allah's Messenger, I have committed adultery, so purify me.’

He (the Holy Prophet) turned her away. On the following day she said:

‘Allah's Messenger, Why do you turn me away? Perhaps, you turn me away as you turned away Ma'iz. By Allah, I have become pregnant.’

He said:

‘Well, if you insist upon it, then go away until you give birth to (the child).’

When she was delivered she came with the child (wrapped) in a rag and said:

‘Here is the child whom I have given birth to.

He said: ‘Go away and suckle him until you wean him’.

When she had weaned him, she came to him (the Holy Prophet) with the child who was holding a piece of bread in his hand. She said:

‘Allah's Apostle, here is he as I have weaned him and he eats food’.

[continued]

He (the Holy Prophet) entrusted the child to one of the Muslims and then pronounced punishment. And she was put in a ditch up to her chest and he commanded people and they stoned her.

Khalid b Walid came forward with a stone which he flung at her head and there spurted blood on the face of Khalid and so he abused her. Allah's Apostle (may peace be upon him) heard his (Khalid's) curse that he had hurled upon her. Thereupon he (the Holy Prophet) said:

'Khalid, be gentle. By Him in Whose Hand is my life, she has made such a repentance that even if a wrongful tax-collector were to repent, he would have been forgiven'. Then giving command regarding her, he prayed over her and she was buried."

Sahih Muslim: (17.4206)

A shorter version of this hadith is produced in ***Al Muwatta*** of **Malik bin Anas** (1553) and also the ***Musnad*** of **Ahmad bin Hanbal** (41), founders of two of the four main school of Islamic jurisprudence; and, in the case of Malik, the author of the earliest collection of hadith.

[Isnad]

"...a person from amongst the Muslims came to Allah's Messenger... while he was in the mosque. He called him saying:

'Allah's Messenger. I have committed adultery.'

He (the Holy Prophet) turned away from him.

He (again) came round facing him and said to him:

'Allah's Messenger, I have committed adultery'.

He (the Holy Prophet) turned away until he did that four times, and as he testified four times against his own self, Allah's Messenger... called him and said:

'Are you mad?'

He said: 'No.'

He (again) said:

'Are you married?'

He said: 'Yes.'

Thereupon Allah's Messenger (may peace be upon him) said:

'Take him and stone him.'

[continued]

I. Heterosexual acts

Ibn Shihab (one of the narrators) said:

One who had heard Jabir b. 'Abdullah saying this informed me thus:

I was one of those who stoned him. We stoned him at the place of prayer (either that of 'Id or a funeral). When the stones hurt him, he ran away. We caught him in the Harra and stoned him (to death).'

Sahih Muslim (17.4196) also produced in *The Muwatta* of Malik bin Anas [see previous hadith] (1552).

Book 17 of Sahih Muslim also contains two accounts of a hadith in which Mohammed more generally prescribes stoning to death as the punishment of adultery (by a married person), with the lighter penalty of a hundred lashes for fornication between unmarried parties:

[Isnad]

Ubada b. as-Samit reported that whenever Allah's Apostle... received revelation, he felt its rigour and the complexion of his face changed.

One day revelation descended upon him, he felt the same rigour. When it was over and he felt relief, he said:

'Take from me. Verily Allah has ordained a way for them (the women who commit fornication): (When) a married man (commits adultery) with a married woman, and an unmarried male with an unmarried woman, then in case of married (persons) there is (a punishment) of one hundred lashes and then stoning (to death). And in case of unmarried persons, (the punishment) is one hundred lashes and exile for one year.'

Sahih Muslim: (17.4209) (a very similar hadith is included at 4191)

The assumption that death (by stoning) was the normal punishment for adultery by a married man is also evident in a later hadith referring to a public discussion at the court of Umar bin Abdul Aziz, who ruled over the Umayyad Caliphate as Umar II between 717-20.

“Once 'Umar bin Abdul Aziz sat on his throne in the courtyard of his house so that the people might gather before him. Then he admitted them and (when they came in), he said, ‘What do you think of Al-Qasama [statements made on oath]?’

They said, ‘We say that it is lawful to depend on Al-Qasama in Qisas, as the previous Muslim Caliphs carried out Qisas depending on it.’

Then he said to me, ‘O Abu Qilaba! What do you say about it?’ He let me appear before the people and I said:

*‘O Chief of the Believers! You have the chiefs of the army staff and the nobles of the Arabs. **If fifty of them testified that a married man had committed illegal sexual intercourse in Damascus but they had not seen him (doing so), would you stone him?**’*

He said: ‘No.’

I said: ‘If fifty of them testified that a man had committed theft in Hums, would you cut off his hand though they did not see him?’

He replied: ‘No.’

I said:

*‘By Allah, **Allah's Apostle never killed anyone except in one of the following three situations:***

- (1) A person who killed somebody unjustly, was killed (in Qisas)*
- (2) **a married person who committed illegal sexual intercourse and***
- (3) **a man who fought against Allah and His Apostle and deserted Islam and became an apostate.”***

Sahih Muslim: (17.4194)

Ibn Ishaq includes the following account of a ruling said to have been made by Mohammed during his 'Farewell Pilgrimage' to Mecca:

SIRAT RASUL

ALLAH



Earliest
biography of
Mohammed,
c.760

"Layth bin Abu Syulaym ... told me: Attab bin Usayd sent me to the Apostle on a matter while the Apostle was standing on Arafat. I came to him and stood beneath his camel and its foam was falling on my head.

I heard him say:

*'God has assigned to everyone their due. Testamentary bequests to an heir are not lawful. The child belongs to the bed **and the adulterer must be stoned**. He who claims as his father him who is not his father, or a client a master who is not his master, on him rests the curse of God, the angels and men everywhere. God will not receive from him compensatory atonement however great'"*⁷

⁷ Paragraph 970; page 792 of the 29th OUP edition of Guillaume's translation of the *Life of Mohammed*.

Reconciling 4.15, 24.2 and the hadith

The fact that Mohammed is repeatedly recorded in the sira and hadith as prescribing stoning to death for illicit sexual acts is in conflict with both of the verses of the Quran 4.15 and 24.2 that each, as described above, prescribes a different punishment (confinement till death and lashing respectively) for sexual offences.

One possible explanation for this discrepancy is provided by a hadith recorded in Sahih Bukhari, recording that following the death of Mohammed, Umar, the second caliph of the Muslim community, asserted that Mohammed had announced a verse prescribing stoning as a punishment for married adultery, that he anxious the people did not forget.

“Abdullah b. Abbas reported that Umar b. Khattab sat on the pulpit of Allah's Messenger (may peace be upon him) and said:

*‘Verily Allah sent Muhammad (may peace be upon him) with truth and He sent down the Book upon him, and **the verse of stoning was included in what was sent down to him.***

We recited it, retained it in our memory and understood it. Allah's Messenger (may peace be upon him) awarded the punishment of stoning to death (to the married adulterer and adulteress) and, after him, we also awarded the punishment of stoning,

*I am afraid that with the lapse of time, the people (may forget it) and may say: **We do not find the punishment of stoning in the Book of Allah**, and thus go astray by abandoning this duty prescribed by Allah. Stoning is a duty laid down in Allah's Book for married men and women who commit adultery when proof is established, or it there is pregnancy, or a confession.”*

Sahih Bukhari: (9.83.37)

A similar hadith is produced in *The Muwatta* of Malik bin Anas, the earliest collection of hadith (1552)

According to Islamic tradition the Quran was compiled into its final canonical form in the reign of Uthman, Umar's successor. Therefore it is possible that the above hadith was written to suggest that the verse was still in written form when Umar is reported to have spoken the words in the above hadith: although his emphasis upon it existing in people's memory may be an indicator that the hadith was written for to reassure a people who knew that such a verse was not to be found in the final canon of the Quran.

It would appear that one way in which Islamic scholars have reconciled all these authorities has been:

- i. to treat both *fahishah* and *zina* as terms broad enough to encompass either fornication or adultery; but
- ii. to treat {24.2} as having been revealed after {4.15} and having mitigated its sanction from capital to corporal punishment - but for unmarried offenders only; and
- iii. replacing confinement with stoning for married offenders based upon the hadith.

However this interpretation is not a straightforward one. It relies upon either:

- a very creative approach to translating the Quran;
- the possibility that a verse from the original Quran narration – that varied the means of execution for adultery from confinement to lapidation - may have been lost (as asserted in Bukhari 89:83:37); or
- Mohammed having abrogated the words of the Quran by his example as recorded in the hadith.

All three of these lines of argument are highly controversial to orthodox Islamic principles however, and for some the contradictions remain unsatisfactorily resolved.

Homosexuality

The story of Lot that appears in the Book of Genesis in the Torah, and consequently is also included within the Old Testament, is mentioned 27 times in the Quran.

The story as it is written in Genesis tells of Lot showing hospitality to two strangers who are angels of the Lord, sent to warn him of the imminent destruction of the nearby cities of Sodom and Gomorrah. The men of Sodom surround his house intending to commit homosexual rape of the strangers, although the angels defend themselves and permit Lot and his family to leave before the two cities are destroyed by divine wrath.

In none of the occasions that the story is referenced in the Quran is a full narrative account of the story given. Rather the Quran references the story to reinforce warnings of God's wrath, assuming the listener's familiarity with it.

The story has often been used by Christian authorities to condemn homosexuality as sinful, although, within the narrative of the story, the only reference to homosexuality occurs within the context of attempted homosexual rape.⁸ However, in none of the accounts in the Quran refer to the issue of rape, and in four similarly worded verses it is explicitly asserted that the moral of Lot's story is to condemn homosexuality *per se*:



Surah 7 '*The Heights*'

80. And Lot, when he said to his people:

"What! Do you commit an indecency such as none in the world committed before you? [81] **Verily you come with desire unto men instead of women. Indeed you are a prodigal people!**"

82. And the reply of his people was but to say "Expel them from your town! Truly they are a people that keep themselves pure!" [83] So We saved him and his family except for his wife; she was among those who lagged behind.

84. And We sent down a rain upon them; so behold how the guilty fared in the end.

⁸ Homosexuality is undoubtedly condemned by the Mosaic Law elsewhere in the Old Testament. For a discussion of the different ways in which Christians read the Bible and Muslims read the Quran see *Violence in the Bible and the Quran: A Fundamental Difference*.

Surah 26 '*The Poets*'

160. The people of Lot denied the messengers [161] when their brother Lot said unto them:

'Will you not be reverent? [162] Truly, I am a trustworthy messenger sent unto you [163] so reverence God and obey me. [164] And I ask not for any reward for it: my reward lies only with the Lord of the worlds.

[165] **Among all creatures do you come unto males [166] leaving your spouses you Lord created for you? Nay but you are a transgressing people'.**

167. They said:

'If you cease not, O Lot, you will be among those who are expelled'.

168. He said:

'Truly I am among those who detest what you do.'

...

172. Then We destroyed the others. [173] And We rained a rain upon them. Evil was the rain of the warned!

Surah 27 '*The Ants*'

54. And [We sent] Lot, when he said to his people:

'Do you commit indecency though you see? [55] **Do you really come with desire unto men instead of women? Nay, but you are an ignorant people!**' ...

58. So we poured down a rain. Evil is the rain of those who were warned!

Surah 29 ‘*The Spider*’

28. And [We sent] Lot, when he said to his people:

‘Do you commit indecency such as none in the worlds has committed before you. [29] **What! Do you come unto men, cut off the way and commit reprehensible deeds in your gatherings’**

Related verses in the Quran

Verse {4.16} (“*And if two of those among you are guilty thererof punish them both, but if they make amends then let them be. Truly God is Relenting, Merciful.*”) which is produced with the verse that precedes it above has been interpreted by some commentators, including the most widely used Quranic commentary the tafsir of Ibn Kathir as referring to male homosexuality. Part of the reasoning behind this opinion, is that “*the pronoun and the verb are in the masculine dual form*”.⁹ Also it assumed that, like most verses in the Qur’an this was addressed to men.

⁹ *The Study Quran* footnote to **4.16**.

The Example of Mohammed

There are several hadith recording Mohammed ordering death for homosexuality, although none are contained within the two 'sahih' (most reliable) collections:



[Isnad]

"The Prophet said:

'If you find anyone doing as Lot's people did, kill the one who does it, and the one to whom it is done.'

Abu Dawud 4462 (**Abu Dawud** adds a note that the same hadith has come to him through three other chains of narration which he provides. The same hadith also appears in **Sunan al Tirmidhi** at 1:152)

The only possible reference to Mohammed's view of homosexuality contained within the sahih collection is contained in a hadith addressing effeminate men:

"The Prophet cursed effeminate men (those men who are in the similitude (assume the manners of women) and those women who assume the manners of men, and he said,

"Turn them out of your houses."

The Prophet turned out such-and-such man, and 'Umar turned out such-and-such woman.

Sahih Bukhari (7.72.774)

Islam After Mohammed

The century after Mohammed's reported traditional death in 632 saw Arab armies conquer large parts of the Byzantine Empire in the Middle East and North Africa, most of Spain, the whole of the Sassanian Empire (Persia), large tracts of central Asia and as far east as Sindh (in modern Pakistan). .

It is debatable how 'Islamic' these armies were. For sixty years until the building of the mysterious Dome of the Rock in Jerusalem they left no identifiably Islamic monuments and continued to mint coins with crosses on. Up to the Abbasid revolution in 750 there was no Islamic book written and the words Muslim, and Qur'an were not mentioned in the chronicles of the people they conquered: other than a contemptuous account of four books of the Qur'an by a Christian official, John of Damascus.

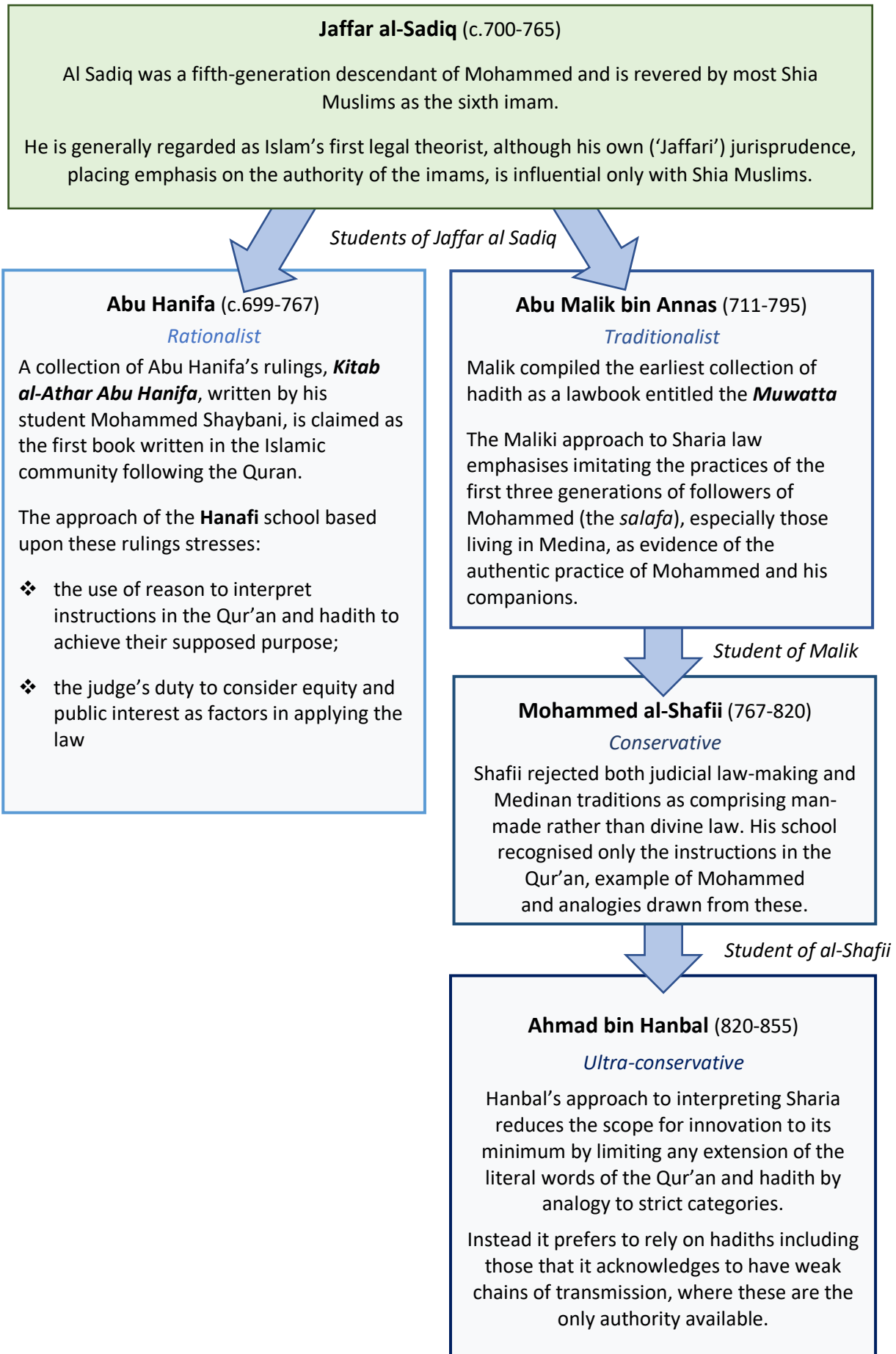
According to the traditional Islamic narrative this was a period of brutal and bloody power struggles amongst Mohamed's most followers that commenced even as Mohammed was being buried and included his closest companions. Later doctrinal differences would emerge between the parties that would become Sunni and Shia Muslims, but in the beginning there was no sign that the differences were driven by any issue of any doctrine beyond the issue of who possessed the authority to lead the community.

See ***Who Wrote the Qur'an?*** On the IRG website

The four great Sunni *Sharia* jurists

Following the establishment of the Abbasid Caliphate the earliest known attempts to arrange the Quran's instructions into a legal framework were made. Today the vast majority of Muslims follow one of the four schools of *Sharia* law (*fiqh*) that developed from the approaches of Abu Hanifa, Abu Malik ibn Anas, Mohammed ibn Idris al Shafii, and Ahmad ibn Hanbal

The four great Sunni Sharia jurists



The four great Sunni jurists and sexual autonomy

Heterosexual conduct

All four schools of *Sharia* jurisprudence confirm the essential code of whipping for sex outside marriage (other than with one's captives) and stoning to death for adultery.

The ***Kitab al-Athar Abu Hanifa***, offers three rulings detailing those marriages which would render a Muslim *muhsan* (liable to be stoned if he thereafter committed adultery):



"Muhammad [Shaybani] said:

Abu Hanifa informed us saying

'Hammad narrated to us from Ibrahim who said:

A Muslim man is not made muhsan [a footnote reads: such that if he committed adultery he would be stoned] by (marriage to) a Jewish woman nor a Christian woman. He is only made muhsan by (marriage to) a free Muslim woman."

Muhammad [Shaybani] said:

*'We adhere to this and it is the verdict of Abu Hanifa' "*¹⁰

Muhammad [Shaybani] said Abu Hanifa informed us from Hammad that Ibrahim said concerning a person who marries while associating partners with Allah [ie before he became a Muslim] and consummates the marriage with his wife and then accepts Islam after that, and then later commits adultery then he is not to be stoned until he is rendered muhsan by marriage to a Muslim woman'

Muhammad [Shaybani] said

*'We adhere to this and it is the verdict of Abu Hanifa. "*¹¹

¹⁰ 416

¹¹ 417

Muhammad [Shaybani] said:

Abu Hanifa informed us from Hammad that Ibrahim said that Ali ibn Abi Talib said:

*'If a man married a woman but had not yet consummated the marriage when he subsequently committed adultery, he is to be flogged and he retains his wife. If she committed and he had not consummated the marriage so that the hadd punishment [flogging] be inflicted on her, they are separated.'*¹²

The ***Al-Muwatta*** of Malik Bin Anas includes the following hadith that have been reproduced above:



- the hadith from Abdullah bin Umar in which Mohammed was said to have shown a group of Jews the penalty for fornication as it was written in the Torah.¹³
- the hadith containing the story of Ma'iz bin Malik who sought out Mohammed to confess to the sin of adultery, whom Mohammed, upon learning that the man was married, sentenced to death by stoning.¹⁴
- The hadith in which sentence of stoning against a woman for adultery was delayed until after she had given birth to and suckled the child.
- The account of Umar referring to 'the verse of stoning' prior to the compilation of the Quran without such a verse contained within it.

He also describes the sentence as having been applied by Umar, the second caliph:

"Malik narrated from Ibn Shihab on the authority of Ubaidullah bin Abdullah bin Utba bin Masud from Abdullah bin Abbas that he said:

'I heard Umar bin Khattab saying:

'Any man or any woman who commits adultery is to be stoned (to death) if they are to be married and if there is a proof that the woman is pregnant or if there is a confession by any of them.'¹⁵

and

"Malik narrated on the authority of Yahia bi Sa'id from Sulaiman bin Yasar from Abu Waqid Al Laithi that a man came to Umar bin Al Khattab while being in Ash Sham (the Levant) and told him that he found a man with his wife.

¹² 430

¹³ 1551

¹⁴ 1552

¹⁵ 1558

Then Umar sent him to his wife to ask her about that.

*Then he came to her while being visited by some women. So he told her what her husband told Umar and told her that she wouldn't be punished by his words. Also he told her words to retract. But she refused to retract and confessed. **Then Umar ordered her to be stoned.**"¹⁶*

The pre-eminent Shafi'i legal text is ***Umdat al Salik*** (the ***Reliance of the Traveller***) by Ahmad ibn Naqib al-Misri (completed 1368) deals with fornication and homosexuality together and imposes both flogging and exile for a fornicator who does not attract the death penalty.



"The legal penalty is obligatorily imposed upon anyone who fornicates or commits sodomy when they:

have reached puberty,

are sane,

and commit the act voluntarily.

No matter whether the person is a Muslim, a non-Muslim subject of the Islamic state or someone who has left Islam.

If the offender is someone with the capacity to remain chaste then he or she is stoned to death. *A person is not considered to have the capacity to remain chaste if he or she has only had intercourse in a marriage that is invalid or is prepubescent at the time of the marital intercourse or is someone insane at the time of the marital intercourse who subsequently regains their sanity prior to committing adultery.*

If the offender is not someone with the capacity to remain chaste then the penalty consists of being scourged one hundred stripes and banished to a distance of at least [fifty miles] for one year. "¹⁷

¹⁶ 1559

¹⁷ O 12.1-2

However in the *Kitab al-Athar* Abu Hanifa offers the opinion that exile in addition to flogging is excessive:

Muhammad [Shaybani] said:

Abu Hanifa informed us from Hammad that Ibrahim from Ibn Masud who said concerning a virgin man who fornicated with a virgin woman:

‘They are both to be flogged and exiled for a year.’

Ali ibn Abi Talib said:

‘Exiling them for a year is an ordeal’.

Muhammad [Shaybani] said:

Abu Hanifa informed us from Hammad that Ibrahim said:

‘Exile is sufficient ordeal’

Muhammad said:

‘So I asked Abu Hanifa:

‘What did Ibrahim mean by saying ‘Exile is sufficient ordeal’? That he should not be exiled?’

He said: ‘Yes’

Muhammad [Shaybani] said:

‘This is the verdict of Abu Hanifa and our verdict. We adhere to the verdict of Ali Ibn Abi Talib’”¹⁸

The *Reliance of the Traveller* also provides detailed advice as to how the punishments are to be carried out:

“Someone who commits fornication is not punished if he says that he did not know it is unlawful provided he is a new Muslim or grew up in a remote wilderness. Though if neither of these is the case such a person is punished.

*An offender is not scourged in intense heat or bitter cold, or when he is ill and recovery is expected or in a mosque or, when the offender is a woman who is pregnant, until she has given birth and has recovered from childbed pains. **The whip used should be neither new nor old and worn out but something in between. The offender is not stretched out when scourged, not bound or undressed and the scourge does not lay striped on hard. The scourge distributes blows over various parts of the body avoiding vital points and the face. A man is scourged standing; a***

¹⁸ 614,615. A footnote explains that this contrasts with the Shafi'i authority that a flogging for fornication should be followed by exile.

woman sitting and covered. *If the offender is emaciated or sick from an illness and not expected to recover then he or she is scourged with a single date palm or with the edge or a garment.*

If the penalty is stoning the offender is stoned even in severe heat or cold and even if he has an illness from which he is expected to recover. *A pregnant woman is not stoned until she gives birth and the child can suffice with the milk of another.*¹⁹

The **Musnad of Ahmad bin Hanbal** contains the hadith concerning Ma'iz bin Malik given above²⁰

Homosexual conduct

The ***Kitab al-Athar Abu Hanifa***, includes a ruling that homosexuality should be treated as analogous to heterosexual acts outside marriage: namely that a married man should be stoned, and single man flogged.

“Muhammad [Shaybani] said:

‘Abu Hanifa informed us from Hammad from Ibrahim who said:

‘The luti [a footnote explains that the word, relating to the story of Lot for an inhabitant of Lot is used for a ‘sodomite’ – a homosexual – although Lot himself in the Biblical/Quranic story is not a homosexual] has the same status as the adulterer’.

Muhammad [Shaybani] said:

*‘This is our verdict. **If he is or has been married he is stoned. If he is not or has not been married he is flogged one hundred times as a hadd punishment.**’*²¹

¹⁹ O 12.4-6

²⁰ 41

²¹ 616

The **Reliance of the Traveller** by Ahmad ibn Naqib al-Misri also treats homosexuality with the sentences for fornication considered above [see *previous section*]. It contains a further explanation, that includes lesbianism.

*"In more than one place in the Holy Qu'ran Allah recounts to us the story of Lot's people and how he destroyed them for their wicked practice. There is a consensus amongst both Muslims and the followers of all other religions that **sodomy is an enormity It is even viler and uglier than adultery.***

Allah Most High says

'Do you approach the males of humanity, leaving the wives that Allah has created for you? But you are a people who transgress [26.165-166]

The Prophet ... said:

'Kill the one who sodomizes and the one who lets it be done to them';

'May Allah curse him who does what Lot's people did'; and

*'Lesbianism by women is adultery between them'.*²²

The **Al-Muwatta** of Malik Bin Anas cites authority that homosexuality *per se* attracts stoning:

Malik narrated that he asked Ibn Shihab about the one who committed sodomy. Ibn Shihab said:

*'he has to be **stoned** (to death) whether he is married or not.'*

The **Musnad** of Ahmad bin Hanbal merely reads

"It was narrated that Ibn Abbas said: The Prophet said :

*Cursed be the one who reviles his father,
cursed be the one who offers a sacrifice to anyone but Allah,
cursed be the one who changes boundary markers,
cursed be the one who misleads a blind from the road,
cursed be the one who commits bestiality,
cursed be the one who does the deed of the people of Lot."*

Tafsir (Commentaries on the Quran)

Of the two earliest tafsir, the author has been unable to source a complete English translation of **Tafsir al Tabari** and the tafsir of **Tustari** (a ninth century sufi) contains no commentary upon these verses.

Ibn Kathir's classical Quranic commentary offers commentary on the aforesaid verses which all stress a natural law based interpretation of the story of Lot. That is to say that the inhabitants of Sodom were killed for their homosexual behaviour because such conduct contravenes 'natural' behaviour:



(c.1360)

Most widely
used Qur'an
commentary

7.81-2:

"[Do you commit lewdness such as none preceding you has committed in all of the nations Verily, you practice your lusts on men instead of women.] meaning, you left women whom Allah created for you and instead had sex with men. Indeed, this behaviour is evil and ignorant because you have placed things in their improper places."

26.161-2:

"Here Allah tells us about His servant and Messenger Lut ... They lived in Sadum [Sodom] and its environs, where Allah destroyed them and turned the area into a putrid, stinking lake, which is well-known in the land of Al-Ghur the Jordan Valley, bordering the mountains of Jerusalem, between the mountains and the land of Al-Karak and Ash-Shawbak. He called them to Allah, to worship Him alone with no partner or associate, and to obey the Messenger whom Allah sent to them. He forbade from disobeying Allah and committing the sin that they had invented which was unknown on earth before their time; intercourse with males instead of with females."

27:54:

"Allah tells us about His servant and Messenger Lut, peace be upon him, and how he warned his people of Allah's punishment for committing an act of immorality which no human ever committed before them -- intercourse with males instead of females. This is a major sin, whereby men are satisfied with men and women are with women (i.e., homosexuality) ...

[Do you practice your lusts on men instead of women Nay, but you are a people who behave senselessly] means, you do not know anything of what is natural or what is prescribed by Allah."

29:29:

“Allah tells us that His Prophet Lut, peace be upon him, denounced his people for their evil deeds and their immoral actions in having intercourse with males, a deed which none of the sons of Adam had ever committed before them. As well as doing this, they also disbelieved in Allah and rejected and opposed His Messenger, they robbed wayfarers, they would lie in wait on the road, kill people and loot their possessions.

[And practice Al-Munkar in your meetings]: this means, ‘in your gatherings you do and say things that are not befitting, and you do not denounce one another for doing such things.’ Some said that they used to have intercourse with one another in public; this was the view of Mujahid. Some said that they used to compete in passing gas and laughing. This was the view of Aisha, may Allah be pleased with her, and Al-Qasim. Some of them said that they used to make rams fight one another, or organize cockfights.

They used to do all of these things, and they were even eviler than that.”

Conclusion and Comment

Muslims believe that the Qur'an:

- contains the verbatim words of God,
- is intended to be prescriptive, to guide mankind as to the social order that God wishes; and
- may never be reviewed or amended.

The details as to how Qur'an verses {4.15} and {24.4}, as modified by {2.25} and {33.30}, should be applied in practice are disputed within the Muslim world. On the face of it the verses prescribing punishment for *fahishah/zina* are inconsistent with one another and with the example of Mohammed as it is recorded in the sira and the hadith.

However, two things all four of the above verses and every record of Mohammed's practise on the issue agree on, is that:

- individuals are not to be permitted to have sexual intercourse that has not been sanctioned by sharia law (effectively occurring either within a marriage or between a man and 'those his right hand possesses'); and that
- any person who can be shown to engages in sexual intercourse outside these situations must receive a severe physical punishment.

It will be noted that {24.4} lays down an extremely high burden of proof (four witnesses) to prove an allegation of illicit sex by testimony. A practical result of this is that the person who is most likely to be caught out for such an offence will be women who either fall pregnant or who admit that sex has occurred (which may be necessary if they intend to make a complaint about the man).

It is also quite clear from the various accounts of the story of Lot as it is presented in the Quran, that homosexuality is presented as a grave and unnatural offence. Although no punishment for homosexual conduct is prescribed in the Quran itself, it is unrealistic, given the Quran's prescription of severe physical punishments for heterosexual misconduct, that a society based upon applying sharia law will not require a similar punishment for homosexual behaviour.

With both heterosexual misconduct (as understood from the Quran) and homosexual conduct the only guidance that a Muslim is offered from the recorded life of Mohammed is that such people should be killed.

Consequently, the Quran, given its plain and originally intended meaning and as practised and preached by Mohammed, is inconsistent with modern standards of individual sexual autonomy.