



# The Position of LGBT in the Hadith Perspective: Between Normative Rigidity and Human Rights Challenges in Indonesia

Risna Mosiba<sup>1\*</sup>, La Ode Ismail Ahmad<sup>2</sup>, Abdul Rahman Sakka<sup>3</sup>, Muh. Taufan Djafri<sup>4</sup>, Abd. Bashir Fatmal<sup>5</sup>

<sup>1</sup> Universitas Islam Negeri Alauddin Makassar, Indonesia; [risna.mosibah@uin-alauddin.ac.id](mailto:risna.mosibah@uin-alauddin.ac.id)

<sup>2</sup> Universitas Islam Negeri Alauddin Makassar, Indonesia; [laodeismailahmad@uin-alauddin.ac.id](mailto:laodeismailahmad@uin-alauddin.ac.id)

<sup>3</sup> Universitas Islam Negeri Alauddin Makassar, Indonesia; [abdrsakka@gmail.com](mailto:abdrsakka@gmail.com)

<sup>4</sup> Universitas Islam Negeri Alauddin Makassar, Indonesia; [muhammadtaufandjafri2568@gmail.com](mailto:muhammadtaufandjafri2568@gmail.com)

<sup>5</sup> Universitas Islam Negeri Alauddin Makassar, Indonesia; [abdbashirfatmal@gmail.com](mailto:abdbashirfatmal@gmail.com)

\* Correspondence: [risna.mosibah@uin-alauddin.ac.id](mailto:risna.mosibah@uin-alauddin.ac.id)

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**Abstract:** From an Islamic perspective, the phenomenon of Lesbian, Gay, Bisexual, and Transgender (LGBT) has become a controversial issue in social and religious studies. In Islamic history, LGBT behaviour is often associated with the story of the Prophet Luth people who were punished for their actions. On the other hand, modern human rights emphasise the importance of non-discrimination against LGBT people. This study examines hadiths related to LGBT and their relevance in the social and legal context in Indonesia. This study used a qualitative approach with a *library research* method, collecting data from primary sources such as prophetic traditions, and secondary sources such as books of interpretation, academic journals, and scientific articles. The results show that the traditions related to LGBT have variations in Sanad and Matan, which shows differences in opinion regarding its validity among hadith scholars, causing differences in the interpretation of Islamic law. Many scholars classify LGBT behaviour as prohibited, although there are differences in the punishments given. The novelty of this research lies in the in-depth analysis of LGBT-related traditions by considering aspects of Islamic law and human rights in the Indonesian context. The academic implication of this study is that it provides new insights into thematic hadith studies, particularly in response to contemporary social issues, particularly LGBT with Islamic law.

Keywords: Hadith; Human Rights; Islamic Law; LGBT.

Abstract: Fenomena LGBT (Lesbian, Gay, Biseksual, dan Transgender) menjadi isu kontroversial da-lam kajian sosial dan agama, termasuk dalam perspektif Islam. Dalam sejarah Islam, per-ilaku LGBT sering dikaitkan dengan kisah kaum Nabi Luth yang mendapatkan hukuman atas tindakan mereka. Di sisi lain, hak asasi manusia modern menekankan pentingnya non-diskriminasi terhadap kelompok LGBT. Penelitian ini bertujuan untuk mengkaji hadis-hadis yang berkaitan dengan LGBT serta relevansinya dalam konteks sosial dan hukum di Indonesia. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi Pustaka (*library research*), mengumpulkan data dari sumber primer seperti

hadis Nabi dan sumber sekunder berupa kitab tafsir, jurnal akademik, dan artikel ilmiah. Hasil penelitian menunjukkan bahwa hadis-hadis yang berkaitan dengan LGBT memiliki variasi dalam sanad dan matan, ini menunjukkan perbedaan pendapat mengenai keabsahannya di kalangan ulama hadis yang menyebabkan perbedaan dalam interpretasi hukum Islam. Mayoritas ulama menggolongkan perilaku LGBT sebagai tindakan yang dilarang, meskipun terdapat perbedaan dalam hukuman yang diberikan. Kebaruan dari penelitian ini terletak pada analisis mendalam terhadap hadis-hadis terkait LGBT dengan mempertimbangkan aspek hukum Islam dan hak asasi manusia dalam konteks Indonesia. Implikasi akademik dari penelitian ini adalah memberikan wawasan baru dalam kajian hadis tematik, terutama dalam merespons isu-isu sosial kontemporer khususnya LGBT dengan hukum Islam.

Keywords: Hadith; Human Rights; Islamic Law; LGBT.

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## 1. Introduction

LGBT (Lesbian, Gay, Bisexual, and Transgender) is a growing issue in academic and social discourse in Indonesia. Society still debates the existence and legality of LGBT behaviour from various perspectives, including religion, law, and human rights. In Islamic teachings, LGBT behaviour is often associated with the story of the people of Prophet Luth, who received punishment for their actions. However, on the other hand, LGBT issues have also received attention in the context of human rights, where there are those who seek to fight for the recognition and protection of LGBT people. Against this background, this study explores how prophetic traditions view the LGBT people.

The basic concept of Islam is *the rahmatan lil alamin*, which means mercy for the universe. This shows that Islamic teachings are not only intended for Muslims but also provide goodness for all creations. (Syakhrani & Rivaldi, 2022). Islam covers all aspects of life, from smallest to largest, and provides guidelines on living life with order and balance, including provisions for regulating relationships between the opposite sex (men and women) through marriage (Zaini, 2017). These principles are taken from the main sources of Islamic teachings, namely the Quran and the Hadith (Fajrin & Taufikurrahman, 2023).

In Islam, marriage is the foundation of sexual relationships. The purpose of marriage in Islam is to get closer to Allah, prevent adultery, form a sakinah family and develop offspring (Budi, 2023). Through marriage, human nature can be properly maintained because marriage regulates sexual relations between men and women (Niswati, 2011). Allah created humans in two types, namely, men and women, and made them in pairs. The creation of men and women is followed by the provision of sexual desire. On the other hand, there is a group of people who like the same sex (homosexual) and want to legalise their actions to the level of marriage.

Homosexual acts are never justified under any circumstances and are considered abominable in Islam, as affirmed by the Quran and the Hadith (Ermayani, 2017). The

term refers to sexual or romantic relationships between individuals of the same sex, either lesbians (homosexual women) or *gays* (homosexual men) (Yanggo, 2018). In addition, other terms such as bisexual and *transgender* have become topics of discussion. Bisexual refers to an attraction to two genders simultaneously, whereas *transgender* refers to a person's gender identity that is not as created. Then the term is better known as LGBT (Devina, Toe Labina, Paparang, Ristia, & Febriyanti, 2024).

Previous research regarding LGBT behavior and hadith has been discussed Mafaza, M. A., & Royyani, I. (2020). "LGBT in the Perspective of Prophetic Hadith", *Al Iman: Journal of Islamic and Society*. According to the study, one of the issues that has become a conversation in contemporary discussions today is about Lesbian, Gay, Bisexual, and Transgender (LGBT), which is related to sexual behaviour. This term refers to someone's tendency to attract the same sex. Some factors thought to be the cause of this tendency include innate aspects of birth and environmental influences. The existence of LGBT people is still difficult for most people to accept because it is considered deviant and contrary to moral values and religious teaching. Many also criticise LGBT individuals as perpetrators of grave sins that deserve punishment.

In Islamic history, this phenomenon has existed since the time of the Prophet Luth, where his people committed an act that was considered taboo, namely, channelling sexual desires to the same sex. This behavior is known as "Sodomy." Islam strictly prohibits this behaviour, as evidenced by the punishment of the people of Prophet Luth. Islam's view of LGBT can be found explicitly in the explanation of hadith. Therefore, it is important to study hadiths that discuss this phenomenon. This study of hadith is intended as a basis for addressing the rise of the LGBT phenomenon in Indonesia. However, applying a comprehensive understanding of hadith is certainly difficult, considering that Indonesia is not a country that uses Islam as a state system. Indonesia has its own perspective of the LGBT phenomenon, especially in the context of respecting human rights. Therefore, a more in-depth study of the hadiths that discuss LGBT people is needed to understand the social and legal conditions that apply to Indonesia (Mafaza & Royyani, 2020).

Of course, previous and current studies have identical discussions on LGBT and hadith. This research helps the hadith review, but still needs discussion based on novel ideas, especially fiqh and Islamic law. Therefore, the current study explores relevant hadith findings along with ideas about LGBT. It is hoped that offering novel ideas through hadith will help provide ideas related to Islamic law.

Lesbian, Gay, Bisexual, and *Transgender* (LGBT) issues, as reported by the *Republika* website, have become an intensive discussion in recent decades and will continue to be a global concern (Asrianti, 2024). This issue has caused controversy regarding these two different views. LGBT supporters emphasize the importance of non-discrimination and respect for human rights in undergoing sexual orientation (Azmi, Muhammad, & Rizanizarli, 2020). Conversely, opposing LGBT groups as a sexual deviation can harm future generations (Putri, 2018). In some religious

interpretations, especially in the traditional views of some religions, including Islam, Christianity, Hinduism, Buddhism and other sects consider LGBT as a violation of moral norms and religious ethics (Safitri, Harahap, & Paralihan, 2023).

The LGBT community is on the rise, including in Indonesia, which is one of the most populous countries in the world. The majority of the Muslim community in Indonesia rejects LGBT, considering it a deviant behavior that goes against the teachings of Islam (Azizah & Fatimah, 2023). Some countries and societies do not fully recognize human rights for the LGBT community, especially rights related to same-sex marriage or protection from discrimination based on sexual orientation (Verdianto, Ferdianti, Liem, Nabila, & Pramono, 2023). On the other hand, countries and societies take steps to recognise and protect human rights to the LGBT community (Dhamayanti, 2022). This reflects a shift in views in some societies that increasingly value the principles of equality and justice regardless of sexual orientation.

Discussions about homosexuality always lead to threats or punishments for the perpetrators by referring to several traditions, including the story of the people of Prophet Lot in the Quran (Safitri et al., 2023). The interpretation of hadiths depicts a rejection of homosexual practices, especially from the viewpoint of some Muslims. Therefore, the imams of the madhhab, except Hanafi, prescribed death penalties for homosexuals. While Hanafi is of the view that this sin has not been definitively determined by Allah, it is punished by *ta'zir* (teaching a lesson), because it is not part of adultery (Zaini, 2017). Some Islamic scholars have cited hadith as the basis for opposing LGBT practices. An example of a frequently cited hadith is the prohibition of sexual relations among individuals of the same sex. Islamic scholars and society believe that LGBT people go against Islamic religious values and norms.

Based on the explanation given, the problem formulation of this research includes how the prophet's hadith views the LGBT phenomenon. What is the relevance of hadiths regarding LGBT in the social and legal context in Indonesia? What is the role of hadith interpretation in shaping Islamic law regarding LGBT? This study aims to examine traditions related to LGBT people and understand how they can be interpreted in the social and legal context of Indonesia. Theoretically, this research is expected to add to the scholarly repertoire of hadith studies, especially those related to contemporary social phenomena, such as LGBT. In addition, this research provides a new perspective on how hadith can be contextualised in modern life. Practically, the results of this study can serve as reference material for academics and scholars to understand and formulate policies related to LGBT in Indonesia. In addition, this research can help the public to understand LGBT issues from the perspectives of Islam and human rights.

Departing from this, this research discusses LGBT in a *maudhu'i/thematic* hadith study, which also includes an overview of LGBT in view of human rights and Islamic law against LGBT perpetrators. This paper is expected to provide study material to understand LGBT people as a whole to create real happiness in social life.

This study employed a qualitative approach using a *library research* method. The data used in this study consisted of primary sources, namely the prophetic traditions related to the LGBT phenomenon, as well as secondary sources in the form of commentaries, books, academic journals, and articles relevant to the research topic. The data collection technique was performed through library observation by tracing various sources of literature related to hadith and LGBT. The data obtained were then analysed using the interpretation method by understanding the meaning of the hadith text based on the social, cultural, and legal context in Indonesia. Through this approach, this study is expected to provide a more in-depth and proportional understanding of the LGBT phenomenon from an Islamic perspective.

## 2. Results and Discussion

### *Hadiths about LGBT*

#### Takhrij al-Hadis

Tracing the hadith on LGBT (Lesbian, Gay, Bisexual and Transgender) to its source book begins by quickly identifying the existence of the hadith using the Jawami al-Kalim software with the keywords: من وجدتموه يعمل

- a. The deeds of the people of Lot are the deeds that the Prophet is most concerned about

حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ حَدَّثَنَا هَمَّامٌ عَنِ الْقَاسِمِ بْنِ عَبْدِ الْوَاحِدِ الْمَكِّيِّ عَنِ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ بْنِ عَقِيلٍ أَنَّهُ سَمِعَ جَابِرًا يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّ أَخَوْفَ مَا أَخَافُ عَلَى أُمَّتِي عَمَلُ قَوْمِ لُوطٍ قَالَ أَبُو عِيسَى هَذَا حَدِيثٌ حَسَنٌ غَيْبٌ إِنَّمَا نَعْرِفُهُ مِنْ هَذَا الْوَجْهِ عَنِ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ بْنِ عَقِيلٍ بْنِ أَبِي طَالِبٍ عَنْ جَابِرٍ

This hadith was narrated in Sunan by Imam al-Turmudzi. In addition to al-Tumudzi, Ibn Majah narrated this tradition in Sunan.

- b. The command to kill if they gather to do the deeds of the People of Lot

حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ بْنُ عَلِيٍّ النَّفَيْلِيُّ حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ وَجَدْتُمُوهُ يَعْمَلُ عَمَلَ قَوْمِ لُوطٍ فَاقْتُلُوا الْفَاعِلَ وَالْمَفْعُولَ بِهِ قَالَ أَبُو دَاوُدَ رَوَاهُ سَلِيمَانُ بْنُ بِلَالٍ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو مِثْلَهُ وَرَوَاهُ عَادُ بْنُ مَنْصُورٍ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ رَفَعَهُ وَرَوَاهُ ابْنُ جُرَيْجٍ عَنْ إِبْرَاهِيمَ عَنْ دَاوُدَ بْنِ الْحَصِينِ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ رَفَعَهُ

The above Hadith was narrated by Imam Abu Dawud in Sunan. Besides Abu Dawud, the above hadith was also narrated by Imam Turmudzi in his Sunan, Imam Ibu Majah in his Sunan and Imam Ahmad bin Hanbal in his Musnad.

- c. The command to stone them if they gather to do the deeds of the People of Lot

حَدَّثَنَا يُونُسُ بْنُ عَبْدِ الْأَعْلَى أَخْبَرَنِي عَبْدُ اللَّهِ بْنُ نَافِعٍ أَخْبَرَنِي عَاصِمُ بْنُ عُمَرَ عَنْ سُهَيْلٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ. عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي الَّذِي يَعْمَلُ عَمَلَ قَوْمِ لُوطٍ قَالَ ارْجُمُوا الْأَعْلَى وَالْأَسْفَلَ ارْجُمُوهُمَا جَمِيعًا.

- d. Stoning 20 times if a man says to another man Ya Mukhannts, Ya Luuthi
- حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ إِبْرَاهِيمَ حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ حَدَّثَنِي ابْنُ أَبِي حَبِيبَةَ عَنْ دَاوُدَ بْنِ الْحُصَيْنِ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ إِذَا قَالَ الرَّجُلُ لِلرَّجُلِ يَا مُخَنَّثٌ فَاجْلِدُوهُ عِشْرِينَ وَإِذَا قَالَ الرَّجُلُ لِلرَّجُلِ يَا لُوطِي فَاجْلِدُوهُ عِشْرِينَ يَا لُوطِي فَاجْلِدُوهُ عِشْرِينَ

In addition to Sunan Ibn Majah, the above tradition is also narrated by Imam al-Darimi in his Sunan and Imam Malik in his Muwatho.

- e. A minor act of Liwath is coming to the wife from her anus

حَدَّثَنَا عَبْدُ الصَّمَدِ حَدَّثَنَا هَمَّامٌ حَدَّثَنَا قَتَادَةُ عَنْ عَمْرِو بْنِ شُعَيْبٍ عَنْ أَبِيهِ عَنْ جَدِّهِ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ فِي الَّذِي يَأْتِي امْرَأَتَهُ فِي دُبْرِهَا هِيَ اللَّوْطِيَّةُ الصُّغْرَى

- f. Allah curses LGBT people

حَدَّثَنَا مُحَمَّدُ بْنُ سَلَمَةَ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو عَنْ عِكْرِمَةَ. عَنِ ابْنِ عَبَّاسٍ قَالَ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَلْعُونٌ مَنْ سَأَّ أَبَاهُ مَلْعُونٌ مَنْ سَبَّ أُمَّهُ مَلْعُونٌ مَنْ ذَبَحَ لِغَيْرِ اللَّهِ مَلْعُونٌ مَنْ غَيَّرَ تَحْوَماً الْأَرْضِ مَلْعُونٌ مَنْ كَمَهَ أَعْمَى عَنْ طَرِيقٍ مَلْعُونٌ مَنْ وَقَعَ عَلَى بَهِيمَةٍ مَلْعُونٌ مَنْ عَمِلَ بِعَمَلِ قَوْمِ لُوطٍ

### I'tibar and Sanad Criticism

In hadith, i'tibar displays the entire chain of hadith that has been obtained in the takhrij activity. The search results of the Jawami Al-Kalim application displayed 33 with various sanad paths. The first narrator (companion) is narrated by Prophet PBUH. there be 2 (two): Abu Hurairah and Abdullah Bin Abbas. There are two mauqufs, Jabir bin Abdillah and Ali bin Abi Talib. With a large number of transmissions, it can be concluded that this tradition is well-known in terms of quantity. On the other hand, the quality of this tradition is disputed by scholars of the hadith regarding its authenticity. Looking for the assessment of the hadith experts on these traditions in the book Al-Talkhisu Al-Habir Imam Ibn Hajar assessed that this tradition was narrated by Imam Ahmad, Abu Daud and Abu Daud, Tirmidhi, Ibn Majah, Hakim, and Al-Baihaqi from the tradition of 'Ikrimah, from Ibn Abbas and Al-Nasa'i denied this narration. It was also narrated by Ibn Majah and al-Hakim from

the hadith of Abu Hurayrah and its chain is weaker than the first chain. Ibn al-Thalla' said in his book *Al-Ahkam*: There is no authentic report that the Prophet stoned or punished homosexuals, but it is authentic that the Prophet said: kill the offender and his partner, reported by Ibn Abbas and Abu Hurayrah. In Abu Hurairah's hadith, whether he is married or not is what Ibn Thalla says. Abu Hurairah's hadith is not sahih, narrated by Al-Bazzar from the route of 'Ashim ibn Umar al-'Umari, from Suhail, from his father, but 'Ashim matruk (not taken). Ibn Majah narrated this hadith with a sanad line with the words: Stoning the one above and the one below. The hadith of Ibn 'Abbas is disputed as to its authenticity as discussed earlier (Al-'Asqalani, 1995).

Shaykh Albani has validated this Hadith, but it should be noted that Shaykh Albani is not the only one who has validated this Hadith, as some people have said, rather he has also validated this Hadith, such as Shaykh Ahmad Syakir and scholars before him. Imam al-Hakim stated in his *mustadrak*: This Hadith has a valid chain of transmission, and Shaikhan did not mention it. Al-Dhahabi agreed on its validity as stated in *al-Talkhish*, and it was also authenticated by Ibn Abdi al-Hadi in *al-Muharrar*, Ibn Hibban and Ibn al-Qoyyim; he stated in *al-Jawab al-Kafi*: This Hadith was narrated by Ahlu al-Sunan and authenticated by Ibn Hibban and others. Imam Ahmad made this Hadith a proof and included it in Al-Bukhari's conditions. Ibn Jarir authenticated this Hadith in his book *Tahdzib Al-Athar* from the route of Ibn Abbas with the words: “Kill the one who comes to the animal and the animal, the offender and his partner in the case of homosexuality, and kill any married offender”. He said: This report is saheeh for us (Islamweb.net, 2024).

#### Hadith Jurisprudence on LGBT

LGBT (Lesbian, Gay, Bisexual, and Transgender) acts are bad deeds committed by the people of the Prophet Luth and immortalised by the holy books of religions. In Islam, several verses of the Quran record these bad deeds, such as QS. al-A'raf/7:80-81 which reads:

وَلَوْطًا إِذْ قَالَ لِقَوْمِهِ أَتَأْتُونَ الْفَاحِشَةَ مَا سَبَقَكُمْ بِهَا مِنْ أَحَدٍ مِنَ الْعَالَمِينَ ۚ ۸۰ إِنَّكُمْ لَتَأْتُونَ

الرِّجَالَ شَهْوَةً مِّنْ دُونِ النِّسَاءِ ۚ بَلْ أَنْتُمْ قَوْمٌ مُّسْرِفُونَ ۚ ۸۱

And (we also sent) Lut (to his people). (Remember) When he said to his people, “Do you do such abominable deeds as no one before you have done in this world? Indeed, you go to men to fulfill your desires, not to women, and you are a transgressing people.” (Al-A'raf/7:80-81).

In addition, there are other verses in QS. al-Anbiya'/21:74-75; QS. al-Naml/27:54-55 and QS. al-Ankabut/29:28-30. These verses tell the story of the people of the Prophet Luth, according to Sheikh Abdurrahman Al-Sa'di, especially the first verse: And we also sent Luth to his people to command them to worship Allah alone, and to forbid them from doing abominable deeds that no one in the world had ever done before them. Luth said “why do you do that abominable deed?” i.e. an abominable

deed that reaches the highest level of ugliness “which no one in this world has done before you?” besides being an abominable deed which is the worst thing, they were also the ones who invented it and modelled it for those after them, this is also the worst deed.

Luth explained it by saying, “you come to men to release your lust (for them), not to women” that is, how can you not desire women, whom Allah created for you and in whom there is pleasure in accordance with your desires and nature? Instead, you desire the rectum of men, which is very dirty and disgusting, the way that comes out of it foul feces that even mentioning it is shameful, let alone touching and approaching it “then you are a people who transgress the limits” i.e. you are people who violate the limits of Allah and dare to oppose things that are prohibited by Him (Al-Sa'di, 2000). Consequently, Allah was swept. punished them with a very bad punishment that had never been inflicted on the people before, as in the QS. Hud/11:82-83;

فَلَمَّا جَاءَ أَمْرُنَا جَعَلْنَا عَالِيَهَا سَافِلَهَا وَأَمْطَرْنَا عَلَيْهَا حِجَارَةً مِّن سِجِّيلٍ مَّنضُودٍ ۚ ٨٢ مُسَوِّمَةً ۚ عِنْدَ

رَبِّكَ ۗ وَمَا هِيَ مِنَ الظَّالِمِينَ بِبَعِيدٍ ۚ ٨٣

Therefore, when our decree came, we overturned it (the land of the lutites) and rained down upon them stones from burning earth in a continuous stream. (Stones) are signs of your lord. That torment is not far from the wrongdoer.” (Hud/11:82-83).

Had homosexual acts not been forbidden, they would not have been punished by Allah, and they would not have been called fahisyah and khabaits, nor would they have been called musrifun, fasiqin, tajhalun and mufsidin.

### LGBT Ideas and the Human Rights Perspective

In the current era, Lesbian, Gay, Bisexual, and Transgender (LGBT) has become an interesting topic of conversation. LGBT refers to certain sexual orientations and identities (Afiyah, 2023). This phenomenon has become a global issue that has been discussed in various parts of the world, especially because of cases of LGBT-related social deviations in several places, which have the potential to have a negative impact on the younger generation. In Indonesia, the term first appeared in the 1990s and is a development of the previous term, LGB, which has been used to refer to the LGBT community since the mid-to-late 1980s (Nugraha, 2017). After 1998, the LGBT movement grew larger, with stronger organisations at the national level. In recent years, LGBT propaganda has become more visible, including LGBT activists demanding the protection of rights for the LGBT people. The consolidation of the LGBT movement culminated in the Indonesian National LGBT Community Dialogue in Bali in June 2013 (Nadeak and Maduwu, 2022).

Lesbians are commonly used to refer to homosexual characteristics. The term lesbian is often related to sexual behavior between women, whether physical, sexual, emotional, or spiritual (Marimis, 2014). Lesbians are often defined as women who have



romantic or affectionate relationships with other women (Nurul, Hamidah, & Legowo, 2017). Gays are generally used to refer to homosexual or homosexual characteristics (Spencer, 2004). The use of the term gay is also often related to sexual behavior between men, involving individuals who have romantic or sexual attraction to individuals of the same gender (Selvina et al. 2019).

Bisexual is someone who enjoys feeling emotional and sexual attraction to both genders (male and female) (Vitasandy & Zulkaida, 2010). The definition of bisexual comes from the combination of the words “bi,” which means two, and “sexual,” which refers to intercourse between men and women (Selvina et al., 2019). Experts believe that bisexual behaviour in adults can be considered heterosexual or homosexual. Some maintain sexual relationships with men and women simultaneously.

Transgender is the unequal gender identity of a person in his or her assigned gender (Sa'abah, 1997). The term transgender does not indicate a specific sexual orientation, such as heterosexual, homosexual, bisexual, pansexual, polysexual, or asexual. Transgender individuals may identify themselves as someone whose gender identity does not fit the traditional categorisation of males or females, but rather includes an amalgamation of both (Lestari & Sefitri, 2016).

According to Law No. 39/1999, Human Rights are a set of rights inherent in humans as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the state, law, government, and everyone for the sake of honour and protection of human dignity (Tamba, 2019). Often, LGBT people take refuge under the umbrella of “Human Rights” asking society and the state to recognise the existence of this community (Hayati, 2019). If seen from the Indonesian Constitution, namely the 1945 Constitution Article 28 J which reads as follows: First, everyone must respect the human rights of others in the orderly life of society, nation and state. Second, in exercising their rights and freedoms, everyone must submit to restrictions stipulated by law with the sole purpose of ensuring recognition and respect for the rights and freedoms of others and fulfilling fair demands in accordance with moral considerations, religious values, security, and public order in a democratic society (Sihombing, 2019).

Human rights have limits in the Indonesian constitution, where these limits must not conflict with morals, religious values, security, and public order; Indonesia is not a religion-based state, but Pancasila clearly states in its first principle “*Belief in One God*” so that religious values become the guardians of constitutional joints in realising the life of a democratic Indonesian nation.

Restrictions on human rights are possible for respect. Therefore, the state is present in carrying out these restrictions to benefit the nation. Human rights cannot be used as a cover to interfere with the rights of others or the public interest. There is no relevant argument for removing the ban on same-sex marriages based on eliminating discrimination. According to some views, gays and lesbians are not fit, so it is irrelevant to defend their will, namely the legalisation of same-sex marriage on the basis of equality. Equality is applied in terms of services to people of different ethnicities, skin

colors, and community diversity (Djafri, Syamsuddin, & Syatar, 2022). Gays and lesbians need to be treated specifically to avoid damaging society; therefore, it is the duty of the state to crack down on them, not to preserve them.

The issue of LGBT behaviour in Indonesia has sparked disagreement between its pros and cons. LGBT supporters argue that the state and society should promote the principle of non-discrimination for all groups including men, women, transgenders, heterosexuals, and homosexuals. They refer to the fulfilment of human rights as the basis for their demands, claiming that sexual orientation is also a human right. On the other hand, opponents perceive LGBT as a form of deviance that is not generally in line with the concept of humans. After the Constitutional Court Decision No. 46/PUU-XIV/2016, the issue of the criminalisation of LGBT behaviour in Indonesian legislation remains controversial subject of debate. LGBT support (Sihombing, 2019) interprets the decision as tending to legalise LGBT, while others consider that the decision confirms that the Constitutional Court does not have the authority to create new criminal acts .

The right to marry and have a family is not intended to justify same-sex marriage. The Marriage Law defines marriage as a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on God Almighty as stipulated in Law Number 1 of 1974 concerning Marriage (Hashela, 2016). Therefore, sexual behaviour is strictly regulated by marriage bonds. Sexual behaviour is only accommodated in marriage, which is a “bond of birth and mind” that aims to form a family based on the Almighty God. It is not just a civil record but also a management of social order. This is because the only human value of sexual behaviour is the maintenance of the generations. Behaviours such as rape, adultery, infidelity, and casual sex have no place in Indonesian law. These are not only bad for one or two people, but also bad for the next generation. These behaviours clearly take away the only human value of sexual behaviour bestowed by God, Almighty.

#### Islamic Law on LGBT Behavior

LGBT behaviour in Islam is clearly a contradictory act, as discussed earlier in the Takhrij al-hadis section. Sabiq argues that liwat or homosexuality is an act prohibited by shara and is a jarimah that is more heinous than zina. *Liwat* is an act that is contrary to humans and nature and is harmful to humans (Sabiq, 1977).

Scholars of jurisprudence differ in their opinions on the punishment for homosexuals, the details of which are as follows: First, the opinion of Imam Shafi'i who likens it to the punishment for adultery, which is the act of inserting the penis without a legal marriage, then stoned and the boy is flogged and then exiled; Second, the Ijma' of the Companions, Imam Malik, Imam Shafi'i, Imam Ahmad that the perpetrator and his partner are killed and the procedure is left to the judge; Third, Imam Abu Hanifah, Atha' and Qatadah who view ta'zir because the perpetrator does

not damage the bloodline like adultery so it is classified as a serious offense (Sabiq, 1977). Looking at LGBT offenders from the maslahat method, it is included in the category that contradicts the dharuriyah maslahah, namely preserving offspring, maslahah 'ammah, namely the continuity of the human population, maslahah tsabitah does not change, and the maslahah is mu'tabarrah because it is supported by valid hadith evidence.

مَنْ وَجَدْتُمُوهُ يَعْمَلُ عَمَلَ قَوْمِ لُوطٍ، فَاقْتُلُوا الْفَاعِلَ، وَالْمَفْعُولَ بِهِ

“Whoever you find doing the deeds of the people of the Prophet Luth (i.e. homosexuality), then kill the perpetrator and his partner”.

Ibn Taymiyyah also used this hadith as proof and mentioned the agreement of the Prophet's companions on the killing of homosexuals. He said, “Stoning is prescribed by Allah to the People of the Torah and the Quran, in Al-Sunan from the Prophet (peace be upon him) who said: “Whoever you find doing the deeds of the people of Luth, then kill the offender and his partner”. Therefore, the Companions of the Prophet agreed that the two were killed although they differed in the procedure, some said stoned, some were thrown from the top of the tallest building in the area followed by stone throwing, and some said they were burned with fire (Islamweb.net, 2024).

Ibn al-Qayyim asserts that the damage caused by homosexual behavior is very great. Regarding the legal position between homosexuality and adultery, there are three well-known opinions (Al-Jauziyah, 1997): First, Abu Bakr al-Siddiq, Ali ibn Abi Talib, Khalid ibn Walid, Abdullah ibn Zubair, Abdullah ibn Abbas, Jabir ibn Zaid, Abdullah ibn Ma'mar, Az-Zuhri, Rabi'h ibn Abi Abdirrahman, Malik, Ishaq ibn Rahawaih, Ahmad, and As-Shafi'i mentioned that the ruling on liwat is more severe than adultery and that the punishment is death; Secondly, Atha' ibn Rabah, Hasan al-Basri, Sa'id ibn Musayyab, Ibrahim An-Nakh'i, Qatadah and Al-Auza'i stated that the ruling is the same as zina; and Thirdly, Al-Hakim and Abu Hanifa stated that the ruling is different from zina, which is ta'zir. Sheikh Yusuf Al-Qaradhawi argues that homosexual behaviour is contrary to human nature, destroying the nature of men and depriving women of their rights. This action can damage social order, and people no longer care about ethics, kindness, or feelings.

### 3. Conclusion

The lesbian, gay, bisexual, and transgender (LGBT) phenomenon has become a global issue and has been discussed in various parts of the world, including Indonesia. The term first emerged in the 1990s, and has since been subject to social debate. LGBT refers to specific sexual orientation and identity.

In the context of the hadith mentioned, a search of the *Jawami Al-Kalim* application showed that there are 33 different sanad paths related to the LGBT hadith. This indicates that the hadith has many sanad lines, which can be interpreted as a masyhur hadith in terms of quantity. However, in terms of quality, there is a difference in opinions among hadith scholars regarding the validity of hadith. This shows that

although the hadith has many sanad lines, there are differences in opinions regarding its validity among hadith scholars.

In the view of Islam, LGBT behaviour or homosexuality is considered an act that is contrary to religious teachings and is prohibited by sharia. The story of Prophet Luth's people in the Quran is a clear example of the act's abomination. Luth warned his people to worship Allah alone and forbade them from committing heinous acts that had never been done before. LGBT behaviour is considered very vile, beyond the limit, and violates God's commandments. Consequently, the people of Prophet Luth were punished with a very bad punishment that had never been inflicted on them before. Scholars of fiqh have differing opinions on punishment for LGBT offenders, ranging from zina, the death penalty, to *ta'zir*, depending on the school of fiqh. Some scholars assert that homosexuality is a crime that is more heinous than adultery and contrary to human nature. Sheikh Yusuf Al-Qaradhawi's view emphasises that homosexual behaviour damages human nature, deprives women of their rights, and can disrupt social order, as well as violate ethics, kindness, and feelings.

There is debate between those in favour of LGBT and those against it, each referring to human rights as the basis for their demands. However, it is important to note that human rights are limited to the Indonesian Constitution, which must not conflict with morals, religious values, security, or public order. Although Pancasila affirms "Belief in One God", religious values remain the guardian of constitutional principles in realising the democratic life of the Indonesian nation. This disagreement is also reflected in the issue of the criminalisation of LGBT behaviour after the Constitutional Court Decision No. 46/PUU-XIV/2016. LGBT supporting parties interpret the verdict as tending to legalise LGBT, while other parties consider that the verdict confirms that the Constitutional Court does not have the authority to create new criminal offences. Thus, LGBT issues in Indonesia remain controversial subject of debate.

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