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**POSITION PAPER #5**

**Gay, Lesbian and Bi-Sexual Persons  
– the Islamic Position and Muslim Response**

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**20th April 2016**

### **ABOUT THE MAJLIS UL ULAMAA (MAJLISTT)**

The Majlis ul Ulamaa is a forum to facilitate the collaboration of Islamic Scholars resident and active within Trinidad and Tobago. It seeks to define the authentic Islamic position as it relates to Islam and the Muslim community of the country, considering the various scholastic positions and schools of law. To this end, it deliberates on issues of importance, and defines the Islamic position. The due process is meticulous, spanning the issuing of a draft position paper, inviting stakeholders and public comment and consultations before a final position is issued.

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***Bismillaahir Rahmanir Raheem***  
*Allahumma salli alaa sayyidinaa Muhammadin wa baarik wa sallim*

## **Gay, Lesbian and Bi-Sexual Persons**

### **– The Islamic Position and Muslim Response**

Majlistt recognises that there has been a lot of attention in the media and in society as it relates to Gay, Lesbian, Bi-sexual and Trans-sexual (GLBT) issues. There has been a lot said on what the Islamic position is, with some of what is said being misinterpretations of Islam, others addressing only parts of the issue and yet others being completely inaccurate. Majlistt sees the need to articulate the Islamic position on the issue.

We recognise that although the label GLBT includes all the aforementioned areas, the areas are distinct and can be classified into sexual preferences (relating to gay, lesbian and bi-sexual persons) on one part and persons exhibiting alternative gender behaviours or preferences, or at the extreme changing their gender classification (relating to trans-sexual persons or trans-gender issues) on the other part. Also to be considered within the issue of sexuality and gender are those whose genders are unclear at the time of birth – Hermaphroditism. This paper treats with the 1 issue distinctly – Gay, Lesbian and Bi-Sexual Persons and Related Issues in Society. The other issues of Transgender persons and Hermaphroditism would be treated with in a separate paper accordingly.

In focusing on Gay, Lesbian and Bi-sexual persons and issues (GLB), we recognise that these issues and labels are defined in different ways by different people, and as a result, for the purposes of clarity, we adopt the following definitions in our consideration of the issues:

- **Homosexuality:** being sexually attracted to or having intercourse with one’s own sex or gender. This applies to gay and lesbian persons (i.e. same-sex attractions for male and females respectively)
- **Bi-sexual:** being sexually attracted to, and/or engaging in sexual relations with both male and female

With respect to the issue of effeminacy – this warrants special mention – which we understand to be those traits that a human male exhibit that are feminine in nature, behaviour, mannerisms or styles, and vice versa. This is a matter of gender identity and behaviours, and may be related to but is not the same as sexual identity, although the association is often made today in society. A man can behave effeminately without being homosexual, or alternatively can be homosexual without being effeminate. The same can be said for women who can appear ‘manly’ independent of sexual orientation. Majlistt is of the view that it is important to make the distinction between general behaviours and sexual preferences, and this is done for the purposes of this paper.

In treating with GLB issues, we recognise that many resources that treat with Islam and GLBT issues infer gender inequality as a related topic. Perhaps this is an association that is made with issues of Feminism and Lesbianism in some countries. We do not share this view and consider the issues relating to gender equality as a distinct issue from sexual orientation and preferences, and which would be treated with separately.

### **1. Significance of the Issue**

The issue itself has become visible and central to social discussions in many societies throughout the world – Islamic and otherwise – and has surfaced within the national (i.e. Trinidad and Tobago) community, both among the Muslim community as well as in national discourse.

Within a social context, many persons have asked on social media and in person to individual scholars of the Majlistt for clarification and guidance on these and related matters. In other instances, Majlistt notes there have been lobbies for equality, and the decriminalisation of homosexual acts which are contained within the Laws of the country. Muslims today are more exposed to issues of homo and bi-sexuality – in online, social, electronic and print media, and within the society.

In particular, some of the questions that arise include the following:

- Are homosexual or bi-sexual actions permissible in Islam?
  - Can persons who practice homo or bi-sexual still be Muslim?
- Is (positive or negative) discrimination of homo and bi-sexuals permissible?
  - How should such persons be treated in a non-Muslim country?
- How should Muslims respond to and interact with persons who actively practice homo or bi-sexual acts? Of more specific focus are those persons who are:
  - Family relations
  - Friends, neighbours, travellers and guests
  - Interactions through commerce – clients, suppliers, associates, staff members
  - In religious institutions – in the mosque, at religious functions and events

### **2. Recognition of Homosexuality and Transgender Issues in Islam**

It is instructive to note that the underlying values of individual freedom in ‘Western’ countries have resulted in the increased visibility of the issues in the media and online realms. Persons from societies subscribing to more traditional values have associated the rise in GLB with ‘the West’, and have associated one with the other.

We note in light of this that the issue surfaced at UN in 2008, with countries predominantly in the Americas and Europe in favour of legitimisation and decriminalisation of GLB acts, and the significant number of Middle Eastern and North African (predominantly Muslim) countries opposed to such an initiative.

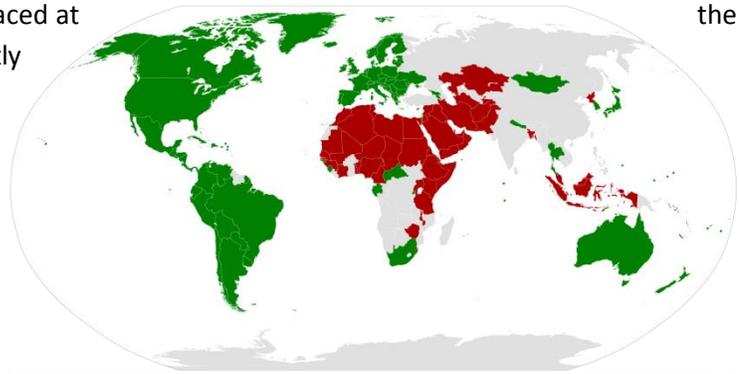


Figure 1 Source: Wikipedia LGBT rights at the UN

Notwithstanding this, the issue of the association of GLB and its linkages to the West by people in society is supported by the Human Rights Council Resolution on Human Rights, Sexual Orientation and Gender Identity was passed in 2011 (A/HRC/RES/27/32), with follow up 'Free & Equal' public education campaign for GLB equality.

We recognise a more Islamic treatment of these issues can be found in the OIC's Cairo Declaration on Human Rights in Islam (1990) (Annex to Res. No. 49/19-P).

We recognise that GLB behaviours have been manifest in different societies in recorded history – it may be better accommodated in western cultures but this does not warrant association as 'western' in nature. In this regard, Islam recognises the propensity for GLB behaviour, with those acts clearly stated in the Qur'an<sup>i</sup>. The words that are often referred to which includes acts of homosexuality (but not exclusively) are recognised:

- Al Fahisha (e.g. in 7:80 & 27:54) Atrocity or gruesome deeds
- Al Khabaith (e.g. in 21:74) Improper or unseemly things
- Al Munkar (e.g. in 29:29) That which is reprehensible
- As Sayyi'aat (e.g. in 11:78) Bad or evil deeds
- People of Lut: 7:80-84; 26:159-175; 27:54-58; 29:28-35; 54:32-40; 11:69-83, 15:51-77; 21:71&74-75; 37:133-138

### 3. Is it permissible in Islam?

#### 4.1 Islamic Position

Homosexuality is considered deviant and forbidden in Islam. It should be neither encouraged nor entertained. It is an abomination and a transgression of limits of acceptable human behaviour.

- Homosexual and bi-sexual behaviour is a transgression of limits of behaviour according to Islam.

Allah tells us in (27:54) *“(Lut said to the people) Of all the creatures in the world will you approach males, and leave those whom Allah has created for you to be your mates? Nay, you are a people transgressing all limits.”*

Lut was a messenger of Allah and guided by Him to admonish the people, as narrated in Quran 21:74 *“And to Lut, too, We gave Judgment and Knowledge, and We saved him from the town which practised abominations: truly they were a people given to Evil, a rebellious people.”*

- The Traditions of the Holy Prophet Muhammad (peace be on him) are also clear on what constitutes acceptable behaviour of persons of the same gender, as recorded in Ahadith:

*Abu Hurairah reported that the Holy Prophet (pbh) said: A man should not lie with another man, and a woman should not lie with another woman without covering their private parts.*

*Ibn Abbas and Abu Huraira reported Allah's Messenger as saying, 'Accursed is he who does what Lot's people did.'*

"Sihag (lesbian sexual activity) of women is zina (illegitimate sexual intercourse) among them."

It must be noted that homosexuality in Islam refers to the homosexual acts committed by a person. The spontaneous homosexual thoughts and urges that a person may have is not in itself a sin, but if a person intentionally thinks homosexual thoughts, or acts on these thoughts then the act is sinful and prohibited. (Qur'an 2:225)

#### **4.2 Contemporary Justifications**

We note that advocates for GLB claim homosexual behaviour is natural human behaviour, and consistent with other species in nature (Bagemihl 1999<sup>ii</sup>). While the accuracy of this position is not the focus of this paper (we note the position aforementioned was widely criticised by the research community), we maintain the distinction of humans from other social species, and wider animal and plant life, and are guided by Islam in what constitutes acceptable human behaviour and what represents transgressions beyond limits.

#### **4.3 Unhealthy Practices**

That it is considered bad, unclean and improper in Islam is reinforced by numerous instances within medical research, which has also recognised its likelihood of GLB practices to be worse for a person's health.

- GLB persons represent the highest risk group for major diseases, including:
  - sexually transmitted diseases (STDs)<sup>iii</sup> including AIDS and HIV<sup>iv, v, vi</sup>, Hepatitis<sup>vii, viii, ix</sup>, Gonorrhoea<sup>x, xi, xii, xiii</sup>, Syphilis<sup>xiv, xv</sup>,
  - HPV infections<sup>xvi</sup> which are closely tied to anal cancer<sup>xvii, xviii</sup>, and
  - gastrointestinal syndromes<sup>xix, xx, xxi</sup>
- Increases in sexual promiscuity<sup>xxii, xxiii, xxiv, xxv, xxvi, xxvii</sup>

- Failure to disclose HIV status<sup>xxviii xxix</sup> or ignorance of the HIV status of sexual partners<sup>xxx</sup>,
- Tendency to Substance Abuse<sup>xxxi , xxxii xxxiii</sup>
- Domestic Violence<sup>xxxiv , xxxv xxxvi xxxvii</sup>
- Suicide and Shorter Life Span<sup>xxxviii xxxix xl xli xlii</sup>

#### **4. Are homosexuals or bi-sexuals still Muslim?**

Yes they are. The Qur'an guides us that homosexual and bi-sexual individuals are misguided, and are sinners and transgressors.

#### **5. Should Homosexuals be Punished in Islam?**

Punishment in Islam is prescribed in the Qur'an, upheld by the traditions of the Holy Prophet Muhammad (pbh) and deliberated upon by the various Schools of Fiqh.

In Islam, persons guilty of lewdness are to be punished.

*"If two men among you are guilty of lewdness, punish them both. If they repent and amend, Leave them alone; for Allah is Oft-returning, Most Merciful." Qur'an 4:16*

##### ***6.1 Prescribed Punishment***

The Hanafite school teaches that no physical punishment is prescribed, however it is left to the discretion of the Qadhi (Islamic Judge).

The Hanabali school teaches that severe punishment is warranted.

The Sha'fi school requires a minimum of 4 adult male witnesses before a person can be found guilty of a homosexual act.

##### ***6.2 Adjudication and Prescription of Punishment***

It is necessary to note that punishment is pronounced by a Qadhi (Islamic Judge) and cannot be applied by ordinary persons. This is clearly reflected in numerous sources: Tafseer al-Qurtubi 2/245, 246; Nayl al Awtaar, 7.295, 296;

*No one should carry out the hadd punishments (punishments prescribed by Allah) without the permission of the ruler. If there is no ruler who rules according to sharee'ah then it is not permissible for the ordinary people to carry out the hadd punishments. Whoever does that is sinning, because carrying out the hadd punishments requires examining the matter and requires shar'ia knowledge in order to know the conditions of proof.*

*The ordinary people have no knowledge of such things, and the carrying out of one of the hadd punishments by the ordinary people leads to many evils and the loss of security, whereby people will attack one another and kill one another or chop off one another's hands on the grounds that they are carrying out hadd punishments. Tafseer al-Qurtubi 2/245, 246*

Given the requirement in Islam that judgement and resulting punishment can only be conferred by a Qadhi, the instances of persons acting abusively or in a hostile manner – verbally or physically – against persons committing homosexual acts should not arise. No Muslim (unless a Qadhi or ordered by a Qadhi) has the right to take it upon themselves to act, and instances of hate crime, abuse, bullying and honour killings are neither acceptable nor Islamic.

#### **6. Advice for persons who are GLB or sympathetic to persons who are GLB**

To persons who practice gay, lesbian and/or bi-sexual intercourse, have practiced it in the past, or to those who see nothing wrong with it:

- We can all take guidance by the commands of Almighty Allah who made it clear that these behaviours are deviant and abominable. Such commands as being useful and beneficial to the well-being of individuals and wider society. The benefits of these lie both in the commands themselves and when taken together as a complete social system.
- We do not believe that people are born or genetically predisposed to such behaviour. Rather, we uphold the Islamic position that all persons are born innocent, pure and sinless, and as well are born with an innate moral compass on what is right and what is wrong.
- Islam guides us that Satan, our avowed enemy, decorates the evil to make it more appealing and attractive to us, and this is applicable to all wrongdoing, inclusive of GLB behaviour. However, we are urged to avoid temptation and lust, and to control them by seeking refuge in Allah. This is essential in striving to achieve a life of peace and success in both this world and in the hereafter.
- We remind all that perpetuating GLB acts, are a direct disobedience to Allah’s Command and a transgression of limits, and can invoke the curse of Allah upon the individual.
- If you have transgressed in the past and wish to change your life and your behaviour, or you have come to the realisation that you want to build your relationship with the Almighty Allah and serve Him alone, then know that it is not too late.
  - Acknowledge your wrong-doing to Allah, and repent to Him and ask for His help. He alone knows what is in your heart, He alone can forgive, and He alone will judge you based on your actions
  - If you wish to control and temper the urges that may arise, observe fasting as this helps temper sexual urges.

We remind everyone that Islam offers a way to build a relationship directly with the Almighty Allah, and in so doing benefit from a life of peace and hope for a better Afterlife. Anas (May Allah be pleased with him) said:

*"I heard the Messenger of Allah (ﷺ) saying, "Allah, the Exalted, has said: 'O son of Adam! I shall go on forgiving you so long as you pray to Me and aspire for My forgiveness whatever may be your sins. O son of Adam! I do not care even if your sins should pile up to the sky and should you beg pardon of Me, I would forgive you. O son of Adam! If you come to Me with an earth-full of sins and meet Me, not associating anything with Me in worship, I will certainly grant you as much pardon as will fill the earth.'" [At-Tirmidhi]*

## **7. How should Muslims treat with or respond to family members who are GLB?**

Majlis recognises that such instances are delicate situations, wherein emotions run high and creates instances of anger, fear, anguish and despondence by all parties. When such instances arise within families, how should a GLB member of the family be treated?

- We must take care in today's society to preventatively let our families know this type of behaviour is an act of disobedience to Allah.
- If a family member announces he/she is GLB, we should try to reform the person and guide them back to the tenets of Islam, to the best of our ability.
- Many hasten to act, invoking ahadith that said "kill the one who does it and the one to whom it is done"; "he will be stoned to death" etc. **We remind all Muslims that this ruling is applicable on a case-by-case basis adjudicated upon by a Qadhi. (Islamic Judge) We remind persons that "it is not permissible for the ordinary people to carry out the hadd punishments (punishments prescribed by Allah)."**

Muslims are reminded of the Islamic injunctions to show restraint and not act in haste or in anger towards others.

*"And what is with Allah is better and more enduring for those who believe and who rely upon their Lord. And those who avoid the major sins and indecencies, and when they become angry, they forgive." [42:36-37]*

*Abu Hurayrah relates that a man said to the Prophet (peace be upon him): "Counsel me." The Prophet (peace be upon him) said: "Do not get angry." The man repeated his request many times, but the Prophet (peace be upon him) kept saying: "Do not get angry." [Sahîh al-Bukhârî]*

## **8. Can a Gay person be an Imam?**

The Majlis is of the opinion that a gay person cannot lead the salaah but we will be discussing all the conditions for Imamah in a separate paper.

## **9. How should Muslims treat with or respond to persons (non-family members) who are GLB?**

In a non-Muslim society, the Muslim should:

- Admonish GLBs for their disobedience to Allah's command, and urge them to return to the right way.
- We are not discouraged from having them as employees, co-workers, clients, suppliers or other associates. However we should not befriend them or have them as allies or confidants.

Note, avoidance should not contravene equal opportunity or anti-discrimination laws governing the state. As residents of the state, we are obligated to uphold the law of the lands. The Qur'an instructs us accordingly:

- If doing so contravenes Islamic law, we can advocate or lobby for change. Allah tells us in (4:63) "Those men,-Allah knows what is in their hearts; so keep clear of them, but admonish them, and speak to them a word to reach their very souls."
- If it becomes rampant, and one fears for one's religion, then the alternative option is to migrate – Allah says in (4:97) "Was not the earth of Allah spacious enough for you to move yourselves away (From evil)?"

## **10. Exposure to GLB Content in the Media and the Muslim Response**

Muslims should be wary of being influenced – subtly or explicitly – by content that encourages or openly supports GLB paradigms. We are being more exposed to these practices in our everyday lives – in society and in the media we consume.

As Muslims, we need to be especially conscious of the influence of the media in all forms and their promulgation of GLB content and perspectives to society. That it is presented as a human right of equality gives the impression that the issue is part of a thrust to promote individual-centric values and lifestyles. This would only be as successful as our acceptance of such content and practices.

We recognise as well that we cannot ignore the issue, since the messages we receive tend to promote a positive or sympathetic viewpoint of GLB. We recognise as well that it is not practical to isolate ourselves and families from all the media channels across television, print, radio and the internet, in an attempt to avoid the issue. We see the need for more channels and programming that preserve Islamic values, and note a number of recent attempts to do this. We pray that these efforts continue to grow and prosper.

Otherwise, it is relatively easy today, using technology, to find out and impose controls on types of programming and content to which we are exposed. This might help us to avoid the prevalence of such content, but we do not expect it to be entirely successful.

Finally, we assume that the unintended exposure to such content cannot be entirely avoided, so that if one is exposed to such content, we are reminded to remove it from our presence or ourselves from its presence, and pray for Almighty Allah's guidance to those involved. We reiterate if it becomes all-pervasive and prevalent within society or our community, we have the option to migrate.

## Conclusion

Majlitt reminds all readers that Islam as a social system revealed by Allah supports individual rights within limits of what is just; in the best interest of society, and based on the 'natural order' of creation – as ordained by Allah. We are reminded:

*"By the Soul, and the proportion and order given to it; And its enlightenment as to its wrong and its right; - Truly he succeeds that purifies it, And he fails that corrupts it!" (Qur'an 91: 7-10)*

## **May Allah open our hearts to Truth and guide us to the Straight Path.**

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<sup>i</sup> The Holy Quran, Yusuf Ali Translation

<sup>ii</sup> Bagemihl, Bruce, *Biological Exuberance: Animal Homosexuality and Natural Diversity*, 1999

<sup>iii</sup> Bill Roundy, STD Rates on the rise, Blade News, December 2000, pg 1

<sup>iv</sup> Male Adult / Adolescent AIDS Cases by Exposure Category and RACE/Ethnicity, Table 9, Centre for Disease Control and Prevention: Division of HIV/AIDS Prevention, December 1999

<sup>v</sup> Young People at Risk, HIV/AIDS among Youth, Centre for Disease Control and Prevention: Division of HIV/AIDS Prevention, November 2000

<sup>vi</sup> Mortality and Morbidity Weekly Report (Centre for Disease Control and Prevention), Resurgent Bacterial Sexually Transmitted Disease Among Men who have Sex with Men, September 2000, pg 773-777

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<sup>viii</sup> "Viral Hepatitis B--Frequently Asked Questions," for Infectious Diseases (Centers for Disease Control and Prevention) September 29, 2000.

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