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## **Review of Junaid Jahangir & Hussein Abdullatif, *Islamic Law and Muslim Same-Sex Unions*, Lanham: Lexington Books 2016, vii+269 pp., ISBN 978-0-7391-8937-5**

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The book *'Islamic Law and Same Sex Unions'* by Junaid Jahangir and Hussein Abdullatif develops a positive reading of homosexuality and same-sex unions through queer and historical-critical text analysis. At the same time it serves as a tool for people standing between the conflicting poles of religious and sexual identity. The authors speak as believing Muslims. They are not academically trained Islamic or religious scholars. Abdullatif works as a pediatric endocrinologist and Jahangir is an assistant professor of economics and also Muslim LGBT activist. As stated in the short biographies of the authors in the book they worked over the last decade on developing a renewed perspective on Muslim same-sex unions (p. 269). A first version of that renewed perspective was published by Jahangir in 2010 in an article entitled *'Implied Cases for Muslim Same-Sex Unions'* in Samar Habib's two volume collection *'Islam and Homosexuality'*. In that article Jahangir raised the issue that homosexuality is still being problematized and rejected in so-called mainstream Islam with some rather marginal exceptions. His solution was to open up a dialogue with scholars and the mainstream Muslim community 'by comprehensively addressing the scriptural texts and establishing the case for Muslim same-sex unions based on Islamic jurisprudence' (Jahangir 2010: 298).

This approach is continued in more detail in their book *'Islamic Law and Muslim Same-Sex Unions'*. Based on the argument of Asifa Siraj, that religiosity is the most influential variable behind homophobia, the authors react to current developments within conservative Muslim scholarship rejecting not only gay and lesbian Muslims as sinful and even un-Islamic, but that also threatening supporters of gay and lesbian Muslims with excommunication from Islam. Jahangir and Abdullatif aim to deconstruct the argumentations of conservative Muslim scholars and develop a re-interpretation and justification of same-sex unions based on Islamic law tradition. With that approach they see their work as complementing previous studies conducted by Scott Siraj al-Haqq Kugle, Samar Habib, Hassan El Menyawi and also Kecia Ali. Jahangir and Abdullatif describe their undertaking as a 'middle path', as a basic Muslim methodology which

insists on an Islamic ethos of justice and human dignity as the central guiding principle.

The authors base their analysis on a historical-critical methodology and they develop their queer reading by re-reading the Islamic law tradition. The book is divided into seven chapters. The first chapter begins with the historical-critical classification and simultaneous refutation of common prejudices against queer Muslims, homosexuality, and same-sex relationships. Four central opinions on homosexuality are presented and are criticized: the exploitative sexuality of queer Muslims, the assessment of their behavior as a morally reprehensible decision, the term *ma'buns*, which is a term for men suffering from a desire for receptive homosexual anal intercourse and the linking of homosexual sex with exclusively anal intercourse. As a decisive counter-argument and to strengthen their own position, the authors point out the historical and societal dependence of the respective jurisprudences and especially the dependence of the respective jurisprudences on contemporary medical and psychological knowledge of homosexuality.

Chapters 2–5 deepen this topic in greater detail with the critical treatment of the basic Islamic written sources, the Qu'ran, the Hadith and the jurisprudence of the Sunni and Shiite tradition. The authors revisit the interpretations of Qu'ranic verses in the story of *Lut* as well as the reliability of Hadith drawing on Kugle's work '*Homosexuality in Islam*'. They conclude that the analogy of the people of *Lut* with lesbians and gays, the analogy of the *liwat*-principle with same-sex relationships and the resultant prohibition of same-sex relationships reflect the sociocultural norms and medical knowledge of those societies, into which past scholars were integrated. There, homosexual acts were closer to the practice of the people of *Lut* than the contemporary understanding of homosexuality and lives of same-sex couples. With that the authors argue that the *liwat*-principle and its reduction to sexual acts, more precisely anal intercourse, is neither compatible with the sexual activity of gay and lesbian couples nor with the contemporary understanding of same-sex relationships as love and the sharing of responsibilities. Proceeding from the conclusion older scholarship must be read with a view to context dependency, the authors argue that contemporary scholars have to inform their opinions by the same texts as the past scholars, but they have to take into account the very different practice and understanding of homosexuality in their contemporary societies (p. 57).

In the third chapter, the authors analyze the Hadith tradition which is employed by conservative Muslims as a further legitimization of their viewpoint. Against this, the authors emphasize the uncertainty about the authenticity of the sources which is why its validity and legitimacy are questioned. In Chapters 4 and 5, the authors focus on classical Sunni and Shiite jurisprudence and teaching concerning sexual acts to provide further evidence for their own position that the equation of *liwat* as heterosexual anal intercourse with homosexuality has to be dissolved. They argue here that the 'prohibition of anal intercourse between husbands and wives is not transferable to [anal intercourse] between two men bound by a legal contract, given the physiological difference between men and women due to pleasure derived from the massage of the prostate gland.' (p. 239) Moreover the prohibition on anal intercourse cannot affect the issue of Muslim same-sex unions, because they are not defined by a single sexual act. Also, because anal intercourse does not possess the features of oppression it cannot be construed as evil. Furthermore the authors demonstrate in Chapter 5

the complexities and differences of opinion across schools of religious jurisprudence and scholars. One special and repetitive point the authors make is the differentiated handlings of same-sex acts between men and between women in the Sunni and Shiite jurisprudence. Jahangir and Abdullatif use these insights as a counter-argument against contemporary conservative scholars, who justify their rejection of homosexuality by claiming a historic consensus in Islamic law tradition and who shorten homosexuality to *liwat* and on doing so reduce same-sex relationships and same-sex sexuality to the singular sex act of anal sex.

The previous chapters are built as the argumentative base for the final Chapters 6 and 7 of the book. In the sixth chapter the authors deal in great detail with contemporary conservative scholars. This chapter is organized along different argument-types including a counter-argumentation. The main critique of these scholars focusses on the inconsistencies between their own views and their interpretation of the Islamic law tradition and especially their selective approach which flattens the nuanced and diverse debates and interpretations of classical Muslim teachings. The outcome of this critical review strategically serves to render plausible the authors' 'Muslim Queer-Positive Jurisprudence' in Chapter 7. A central issue the authors center on is that of same-sex unions and same-sex marriage. Echoing Kugle's argument for basing marriage on an analogy of partnership rather than one of sale (Kugle 2010: 211–214) the authors argue that past jurists did not address the anachronistic issue of a same-sex legal contract. Therefore homosexuality is absent in a legal contract. But on the basis of the values espoused by the Qu'ran on marriage as affection, compassion and responsibility, same-sex unions can be justified.

The strength and concurrent weakness of the book lies in the very detailed description of the pluralism of opinions in the context of homosexuality and same-sex relationships in Muslim discourse. The illustration of many different scholars, on the one hand, supports the authors' argument that the conservative and partially monolithic justification of rejecting homosexuality is untenable. On the other hand, this variety of different opinions, especially in the sixth chapter, lacks geographical and sociocultural classification of the cited scholars. Moreover the authors do not problematize gender as relevant category of the criticized group of scholars, which seems to be dominated by men. Here I see a great opportunity for further research on the dimension of gender, which could be examined not only at the level of argumentation but also at the agent level. Another critical point of the argumentation by Jahangir and Abdullatif is the fact that they do not develop an argumentation especially for female homosexuality or for the needs of inter\*- and trans\*-persons. What they do instead, on the one hand they use the differentiation between female and male homosexuality to show the differentiated handling of the past Muslim scholars and on the other hand they use this differentiation as their own argument against contemporary Muslim scholars, who reject such differentiations.

Altogether, with its emic perspective, the book provides an extensive reference source on the inner-Islamic discussion for gay and lesbian Muslims and can be used as a strong base for an argumentation that situates same-sex unions within Islamic law tradition. For scholars of gender, sexuality and religion the book is an interesting source for studying a queer-religious argumentative strategy developing a progressive-positive Islamic understanding of homosexuality and same-sex unions.