

International Conference

Beyond Binaries: Intersex Body Politics in Premodern Islamic Legal, Medical, and Literary Discourses



Boy (?) Holding a Falcon, Iran, Late 18th century, Qajar Dynasty, Hermitage Museum

Utrecht University
Department of Philosophy and Religious Studies
Sweelinckzaal
Drift 21, room 0.05
Wednesday 26 June 2024



Universiteit Utrecht



This conference is part of the Veni Grant “Beyond Binaries: Intersex in Islamic Legal Tradition” awarded to Dr. Mehrdad Alipour by the Dutch Research Council (NWO).

Beyond Binaries: Intersex Body Politics in Premodern Islamic Legal, Medical, and Literary Discourses

While, on the one hand, numerous studies have currently focused on the history of Islamic doctrines and cultural traditions concerning gender and sexuality, such as effeminacy, transgenderism, and homosexuality, the questions regarding *intersex* topics in Islam and Muslim culture, despite having great visibility in terms of how they are publicly debated and invoked in polemical contexts, have hardly been tackled comprehensively by scholars of Islam. On the other hand, presently, traditional Muslim scholars and public preachers often advocate for Islam as intolerant of trans-genderism or non-binary sex/gender divisions (see, for example, Assim al Hakeem: <https://www.youtube.com/watch?v=pQ0DE7tl7No>; Yasir Qadhi: https://www.youtube.com/watch?v=iCsUXGz1_6I; Amer, Jamil: https://www.youtube.com/watch?v=oWF-b_rXwpU). Not surprisingly, this dominant approach has reinforced *orientalist* narratives insisting that the male-female binary conception of humanity in Islamic teaching is a monolithic rigid code without room for discussion and historical developments. For example, Paula Sanders, in “Gendering the Ungendered Body,” argued for the following two notions: (1) premodern Islamic legal and medical texts demand sex and gender dimorphism that strictly define males and females as true opposites; (2) medieval Muslim jurists could not tolerate intersex ambiguity and imposed a gender on such (“unsexed-ungendered”) bodies to protect against social disorder and preserve male-dominated sexual hierarchy (Sanders 1991). Astonishingly, she drew such a broad conclusion primarily based on an examination of four mainly eleventh-century legal manuals, dominantly *Kitāb al-mabsūṭ* of the Ḥanafī jurist Muḥammad Ibn Aḥmad al-Sarakhsī (d. 1090). Despite the limitation of Sanders’s study, her thesis has been championed by various scholars of Islamic, Middle Eastern, and gender studies in the last three decades.

By contrast, Muslim discourses on sex or gender are oftentimes surprisingly dynamic. Therefore, some scholars have challenged Sanders’s position and upheld that the recognition of the intersex category as a non-binary possibility is particularly significant as classical Muslim jurists and physicians acknowledged the complex identification of such individuals, even when assigning them a specific legal sex/gender (Gesink 2018, Alipour 2017, Geissinger 2012). Moreover, contemporary grassroots-level activists and Muslim reformist scholars lobby for a more accepting attitude, referring to Islam’s inbuilt tolerance of both biological sex fluidity and non-binary conceptions of gender.

This conference thus offers a scholarly assessment of the premodern Muslim medical practice, Islamic law, and Persian and Arabic literary trajectories demarcating the space between the two poles of acceptance and rejection of the third sex and/or gender in premodern Muslim discourses. Its enquiry thus relates to the sex and/or gender identity(ies) of intersex individuals in Islamic legal, medical, and literary debates, including:

- What are the discursive spaces on intersex topics in Islamic legal, medical, and/or literary debates?
- How did Muslim premodern medical experts perceive *intersex* bodies and behavioural characteristics?
- How have intersex topics shaped Muslim legal and/or medical discourses concerning binary/non-binary debates?
- How were intersex people illustrated in premodern Persian and Arabic literature in terms of their behavioural and biological characteristics?
- What was the reception of intersex people in premodern Muslim culture?
- What is the correlation between *intersex* (*khunthā*) and *effeminate* (*mukhannath*) in premodern Muslim vernacular culture as depicted by Persian and/or Arabic poetry and prose?

Programme

09.30 Welcome and opening **Mehrdad Alipour**

Session One: Chair Mehrdad Alipour

09.45 **Loren Schechter (Rush University)**

Variations in Sex Traits and Surgery: Consensus and Controversy

10.15 **Mir Abe Marinus (NNID, Netherlands' organisation for sex diversity)**

Intersex in the Dutch law – slow wheels turning in a heteronormative system

10.45 **Susannah Cornwall (University of Exeter)**

Biblical and Rabbinic Accounts of Intersex Variations

11.15 *Coffee break*

Session Two: Chair Ash Geissing

11.45 **Indira Falk Gesink (Baldwin Wallace University, Keynote)**

Islamic Perspectives on Intersex and Implications for Treatment

13.00 *Lunch break*

Session Three: Chair Asghar Seyed-Gohrab

14.30 **Ash Geissing (Carleton University)**

Notes on gender as a spectrum in Sunni Hadith literature

15.00 **Ari Schriber (Utrecht University)**

Intersex as Evidentiary Problem: Locating the Khunthā in Post Classical Mālikī Law

15.30 **Saqer A. Almarri (New York University Abu Dhabi)**

Shurayh, Ali, and the Khuntha: Gender and Narrative Fluidity

16.00 *Coffee break*

Session Four: Chair Susannah Cornwall

- 16.30 **Asghar seyed-Gohrab (Utrecht University)**
Intersex Characters (mukhannath and khunthā) in Classical Persian Poetry
- 17.00 **Arash Ghajarjazi (Utrecht University)**
Sexual Indeterminacy in Safavid Literary Biographies
- 17.30 **Mehrdad Alipour (Utrecht University)**
Body Politics in Premodern Islamic-Persian Medical Discourse
- 18.00 *Closing Remarks*

Variations in Sex Traits and Surgery: Consensus and Controversy

Loren Schechter

Variation of Sex Traits (VSTs) are a group of congenital conditions in which “development of chromosomal, gonadal, or anatomic sex is atypical” (Lee PA et al., 2006). Conditions can be classified into three subgroups: variations in number of sex chromosomes (i.e. Klinefelter syndrome and Turner syndrome), 46,XX VST (i.e. disorders of ovarian development and excessive androgen), and 46,XY VST (i.e. disorders of testicular development and insufficient androgen). Individuals with VSTs can present with pelvic, urinary, and/or sexual dysfunction as well as variations in phenotypic anatomy. Symptoms and clinical findings that can range from mild to severe and can result in medical, sexual, and reproductive difficulties, as well as impaired quality of life and wellbeing. There is general consensus that acute surgical issues (i.e. urethral obstruction) require early intervention. However, the indications, timing and need for elective reconstructive surgery remains controversial as clinical studies are limited (Lee PA et al., 2016; Hughes IA et al., 2006). Opinions differ as to whether reconstructive surgery in childhood improves or impairs adult sexual function and whether the creation of sex-typical genitals predisposes or exacerbates gender dysphoria if an individual’s gender identity does not match their sex assigned at birth or in infancy. While some believe that surgical outcomes are improved if surgery is performed early, others recommend waiting until a child is old enough to participate in the decision-making process. The child/adolescent and their parents need to understand the issues and be able to assent and consent, respectively. Surgical interventions require a multidisciplinary and individualized approach based upon a shared decision-making model. The underlying condition, expert opinion, and the goals and preferences of the individual and their parents all require consideration when developing treatment plans.

Dr. Loren Schechter is Professor of Surgery and Urology and Chief of Gender Affirmation Surgery at Rush University in Chicago, IL, USA. He serves on the Executive Committee of The World Professional Association for Transgender Health and served as co-lead for the Surgery and Post-Operative Care section of the 8th Edition of *The Standards of Care*. Dr. Schechter authored the first surgical atlas concerning Surgical Management of Transgender Individuals and is a founding member and president of the Society for Gender Surgeons. In addition, he is a 2024 Visiting Professor for

the American Society for Plastic Surgery. He has been performing genital reconstruction for over twenty-four years, including both primary and revision surgeries. Dr. Schechter received his medical degree, with honors, from the University of Chicago Pritzker School of Medicine and completed his residency in general and plastic surgery as well as a fellowship in reconstructive microsurgery at the University of Chicago Hospitals.

Intersex in the Dutch law – slow wheels turning in a heteronormative system

Mir Abe Marinus

Since 1995, when a child is intersex, it is possible in the Netherlands to register this child at birth as “sex could not be determined”, that is, if a declaration by a medical professional is provided. Since the 2010s onwards intersex children and adults who were registered at birth as either male or female, successfully asked the court to correct this mistake. The judge ordered in several cases for their sex registration to be corrected to “sex could not be determined,” showing as an “x” on their passport. This possibility inspired non-binary people to turn towards the courts for recognition of their gender identity as well. Does this mean Dutch law is intersex-inclusive? In this talk, the current political discourse, sex registration and more recent Dutch law changes relating to intersex will be analysed, showing the resilient patriarchal and heteronormative structures embedded in Dutch society and the workings of medicalisation. How are intersex issues framed, and to what extent is intersex explicitly included in relevant law? To what extent are intersex people and their human rights recognised?

Mir Abe Marinus is a policy officer and researcher at NNID, Netherlands’ organisation for sex diversity. They have extensive experience as a trainer and facilitator addressing social issues and gained research experience as an intern, research assistant and researcher. They have a theoretical background in philosophy and gender studies, focusing on affect studies and transgender studies. Their research interests are qualitative research, critical theory, affect studies, trans studies, gender studies, and intersex studies.

Biblical and Rabbinic Accounts of Intersex Variations

Susannah Cornwall

In Judaism, the traditional emphasis on fixed gender norms raises questions about the legal and ritual status of intersex individuals. The rabbis historically debated whether intersex individuals should be considered legally and ritually male, female, both, or neither. I examine a range of historical perspectives, including the use of different physical features as markers of sex in different periods. I also discuss the Roman and rabbinic views on eunuchs, highlighting that, unlike Hellenized Jews and Christians, the rabbis arguably did not consider eunuchs as challenging gender boundaries. The Levitical proscriptions related to genital damage are explored, with arguments suggesting concerns about potential impurity rather than specific sexual or gendered reasons. In contemporary contexts, there is ongoing debate within Judaism regarding the measure of halakhic sex for intersex people, whether based on genotype or phenotype. This also has implications for the legal status of trans individuals, exploring the impact of gender-confirming surgery on their halakhic recognition within Jewish communities. I seek to emphasize the diversity of responses within these traditions towards intersex (and trans) people, highlighting the ongoing negotiation of religious boundaries in response to evolving understandings of sex and gender variance.

Dr. Susannah Cornwall is Professor of Constructive Theologies at the University of Exeter, UK, and Director of EXCEPT (Exeter Centre for Ethics and Practical Theology). Her books include *Constructive Theology and Gender Variance: Transformative Creatures* (Cambridge University Press, 2022), *Un/familiar Theology: Reconceiving Sex, Reproduction, and Generativity* (Bloomsbury T&T Clark, 2017), *Theology and Sexuality* (SCM Press, 2013), *Controversies in Queer Theology* (SCM Press, 2011), and *Sex and Uncertainty in the Body of Christ: Intersex Conditions and Christian Theology* (Routledge, 2010). She edited *Intersex, Theology, and the Bible: Troubling Bodies in Church, Text, and Society* (Palgrave Macmillan, 2015), and, with John Bradbury, *Thinking Again About Marriage: Key Theological Questions* (SCM Press, 2016).

Islamic Perspectives on Intersex and Implications for Treatment

Indira Falk Gesink

This keynote address will present the history of scholarship on intersex in Islamic societies and a theoretical framework for activist approaches to this scholarship. Gesink argues that a popular assumption that “Islam demands” binary gender is derived from twentieth century attitudes and that premodern Muslim authors demonstrated diversity of opinion from the eighth through eighteenth centuries. Some authors held to a Qur’anicallly-derived insistence that God created people as men and women, whereas others acknowledged multiple non-binary embodiments, including intersex. This debate is healthy: it pushes scholars to strive for more accurate science and more nuanced historical understanding, which will ultimately permit less damaging medical practice.

Dr. Indira Falk Gesink is Professor of History and Director of Core Curriculum at Baldwin Wallace University in Berea, Ohio. She is author of *Islamic Reform and Conservatism: Al-Azhar and the Evolution of Modern Sunni Islam* (2009), *Barefoot Millionaire* (2013), and *Philosophies of History* (2018). Her work has also appeared in the *American Historical Review* and the *Journal of Middle East Women's Studies*. Her most recent monograph (forthcoming) is titled *Complex Sex: Non-Binary Gender in Islamic Societies before 1900*.

Notes on gender as a spectrum in Sunni Hadith literature

Ash Geissinger

To the extent that gender in the Sunni hadith corpus has been systematically studied, the focus has primarily been on the image and legal status of freeborn and often elite women. Some work has also been done on traditions which mention gender minorities, as well as others depicting moments of nonnormative gendered embodiment or behaviour. However, the question of how Sunni Hadith literature presents the various gendered categories in relation to each other has yet to receive much attention. This paper analyzes several hadiths which represent gender in terms of a spectrum, from free maleness to varying degrees of not-maleness. Shifts in their reception and interpretation (and reinterpretation) in select premodern and contemporary Muslim texts will also be examined.

Dr. Ash Geissinger is an Associate Professor at Carleton University, Ottawa. Dr. Geissinger's research is located at the intersection of the study of the Qur'an and its exegesis, the Hadith literature and hadith commentaries, and gender. Their book, *Gender and Muslim Constructions of Exegetical Authority: A Rereading of the Classical Genre of Qur'an Commentary* (Brill, 2015) argues for and models a new approach to studying Qur'an commentaries which utilizes gender as an analytical lens. Recent publications include: "Applying gender and queer theory to premodern sources," in the *Routledge Handbook of Islam and Gender*, ed. Justine Howe (Routledge, 2021), and "Female figures, marginality, and qur'anic exegesis in Ibn al-Jawzī's *Ṣīfat al-ṣafwa*," in *Islamic interpretive tradition and gender justice: Processes of canonization, subversion, and change*, eds. Nevin Reda and Yasmin Amin (McGill-Queen's University Press, 2020).

Intersex as Evidentiary Problem: Locating the *Khunthā* in Post-Classical Mālikī Law

Ari Schriber

How have Mālikī jurists in the past three centuries understood the *khunthā* in the Maghrib? This paper addresses this question through the lens of Mālikī literature related to court practice in the Maghrib. In particular, it examines two separate yet, I contend, ultimately related phenomena: its presence in literature on adjudication (*qaḍā'*) yet near-total absence in the vast collections of *nawāzil* (precedent *fatwās*). I argue that the primary issue related to the *khunthā* related to *evidence*—namely, establishing whether an individual with intersex features should be counted as a man or woman in relevant legal disputes. By examining the widely popular commentary of Alī b. 'Abd al-Salām al-Tasūlī (d. 1258/1842) on the foremost judicial primer in the Mālikī West—*Tuhfat al-hukkām* of Ibn 'Āṣim (d. 829/1426)—I demonstrate how jurists proposed to resolve such disputes. For al-Tasūlī, the prospect of an intersex individual requires not the acknowledgement of a third sex, rather the need to take measures fixing that individual's status as male *or* female. However, I contend that the second phenomenon—its near-total absence in *nawāzil* literature—indicates a strong aversion to undertaking such measures in practice. By examining the ubiquity and breadth of *nawāzil* literature, as well as the discussion of analogue issues (e.g., genital defects of marriage), I establish the high plausibility that *nawāzil* reflect social-legal reality far better than most sources of Islamic legal practice. As a result, I ultimately posit that the absence of the *khunthā* from *nawāzil* literature indicates the social undesirability of litigating claims based on evaluating intersex features. In

this respect, the *khunthā* remains in recent centuries Mālikī as a reflection of the classical term more than as an ever-developing concept from legal practice.

Dr. Ari Schriber is Marie Skłodowska-Curie Postdoctoral Fellow at Utrecht University. His research interests lie at the intersection of 20th-century Islamic legal history and colonial history of the Middle East and North Africa. Dr. Schriber is particularly interested in investigating evolving Islamic traditions of court practice in colonial and post-colonial Morocco. He is currently preparing a monograph, entitled: *Shari'a of the Colony: Judgeship, Proof, and Legal Modernity in Morocco, 1912-1965*. Prior to coming to Utrecht, Schriber was Arts and Sciences Postdoctoral Fellow at the University of Toronto (2021-2023). He completed his PhD (2021) and Masters (2013) in the Department of Near Eastern Languages and Civilizations at Harvard University and holds a BA in Middle Eastern Studies and Religious Studies from the University of Virginia.

Shurayh, Ali, and the Khuntha: Gender and Narrative Fluidity

Saqer A. Almarri

I return to a case I have described from a Fatimid legal code (Almarri 2016), while my work at the time suggested the uniqueness of the narrative, I have since found more material narrating the court event involving Shurayh, Ali, and the Khuntha. We are faced with limited and fragmented information about the case, and through an application of digital humanities methods to search through digital corpora, scholars may be able to piece together such fragmentation and produce a fluid narrative that provides insight to the case where Shurayh was confounded by a khuntha who fathered a child, and where Ali voided the khuntha's marriage to declare them a man. I explore this intriguing case of gender testing in early Islamic law from the perspective of digital philology and provide insights on different perspectives of this case from different authors that portrayed it for different reasons. Through this study, I attempt to piece these fragmented parts together to produce a synoptic version of the narrative that can be read side-by-side to provide a well-rounded fluid narrative of this curious case of Shurayh, Ali, and the Khuntha.

Dr. Saqer A. Almarri is an academic based at New York University Abu Dhabi's Humanities Research Fellowship for the Study of the Arab World. He holds a PhD in Translation Studies from Binghamton University—State University of New York. His work primarily explores how gender variance is perceived, conceptualized, and translated over time among pre-modern

Arabic and Muslim writers with a focus on writings on intersexuality. Saqer can be contacted at saa9091@nyu.edu

Intersex Characters (*mukhannath* and *khunthā*) in Classical Persian Poetry

Asghar Seyed-Gohrab

Gender norms are usually discussed in classical Persian poetry in various literary genres and poetic forms such as *ghazal* (“love lyric”), *qaṣīda* (“panegyric”) and *mathnavī* (“rhyming-couplets”). Whereas medieval Persian romances depict love relationships between male and female characters, emphasizing the protagonists’ masculine and feminine traits, in other genres gender norms are more diffuse. As a rule, the *ghazal* depicts the beloved as a young man, evoking various aspects of homoerotic love. The prelude (*nasīb*, *tashbīb*) of many Persian panegyrics, likewise, is mostly homoerotic, usually showing the devotion of a male courtly poet to a king, a vizier, a political notable, etc. In addition, Persian poetry also introduces other gender categories, which allude to intersex individuals as *mukhannath* and *khunthā*. The homoerotic dimensions of Persian poetry create a sharp contrast to Islamic law. In a prodigious number of poems, poets depict various dimensions of the homoerotic relationship without any apparent fear or worries of religious injunctions and severe punishments. In this paper, I shall focus on particularly the intersex references, discussing how these individuals are depicted in Persian profane and religious poetry.

Dr. Asghar Seyed-Gohrab is Professor of Iranian and Persian Studies at Utrecht University in the Department of Philosophy and Religious Studies and a member of the Royal Netherlands Academy of Arts and Sciences (KNAW). He has published extensively on Persian literature, mysticism and religion. He has written monographs on subjects ranging from classical Persian poetry to Sufism and the role of mysticism in Iran-Iraq war (1980-1988) poetry and how peaceful religious injunctions are used to justify violence. In addition, Dr. Seyed-Gohrab has published many articles in international journals, book chapters, blogs, various translations of poetry, and book reviews. He is the general editor of the Iranian Studies Series at Leiden University Press with currently 31 book titles available. He has authored several books, articles and chapters such as *Martyrdom, Mysticism and Dissent: The Poetry of the 1979 Iranian Revolution and the Iran–Iraq War (1980–1988)* (Berlin: de Gruyter, 2021); *Literature of the Early Twentieth Century: From the Constitutional Period to Reza Shah*, (edited volume, London and New York: I.B. Tauris, 2015); *Laylī and Majmūn: Love,*

Madness and Mystic Longing in Niẓāmī's Epic Romance, (Leiden / Boston: Brill, 2003). He has been the recipient of several national and international prizes. In 2021 he received the prestigious ERC-Advanced Grant for the project *Beyond Sharia: The Role of Sufism in Shaping Islam* ([Beyond Sharia – The Role of Sufism in Shaping Islam](#)).

Sexual Indeterminacy in Safavid Literary Biographies

Arash Ghajarjazi

This article introduces "sexual indeterminacy" as a framework to examine non-binary sexual identities in Safavid literary biographies. By analyzing texts like *Khulāṣat al-Ash'ār zubdat al-afkār* (1607), *Haft iqlīm* (1609-1615), and *'Arafāt al-Āshiqīn va 'Araṣāt al-Ārifīn* (1613-1615), I investigate the nuanced use of terms like *mukhannath*, *khunthā*, *amrad*, and *shāhidbāz*. I contend that these works depict a societal acceptance of diverse genders and sexualities during the Safavid era, often prioritizing religious over sexual identity. Safavid biographies frequently address piety and heresy decisively, yet display tolerance towards sexually non-conforming behaviours and identities, reflecting a complex interplay between religious values and social norms regarding gender and sexuality.

Dr. Arash Ghajarjazi is a post-doctorate fellow for the ERC Advanced Grant *Beyond Sharia: The Role of Sufism in Shaping Islam*. He received his PhD from the Department of Philosophy and Religious Studies at Utrecht University. His research interests are Persian literature, literary theory, intellectual history, art history, and Religious Studies. His current research is dedicated to writing an intellectual history that explores the evolution of unbelief within Persian thought. He engages with classical Persian literature, literary biographies, apologetics, philosophical treatises, and Sufi compendiums. His research aims to uncover a nuanced and often overlooked tradition of critical thinking within Persian intellectual history. His research moves across a broad range of materials from the Medieval and Early Modern periods to Modern periods in Persian literature and culture.

Body Politics in Premodern Islamic-Persian Medical Discourse: examining al-Rāzī's non-binary assortment

Mehrdad Alipour

Currently, traditional Muslim scholars and public preachers often advocate for Islam as intolerant of trans-genderism or non-binary sex and/or gender divisions. Not surprisingly, this dominant approach has reinforced *orientalist* narratives insisting that the male-female binary conception of humanity in Islamic teaching is a monolithic rigid code without room for discussion and historical developments. However, the binary position has been challenged by a few scholars from the Islamic cultural, legal, and medical contexts. Further attesting the non-dichotomous discourse, the present study examines this position from a premodern Muslim medical perspective. Focusing on a treatise entitled “*al-Dā' al-khaff*” (the Hidden Illness), composed by the early classical Persian physician Abū Bakr Muḥammad b. Zakariyyā al-Rāzī (d. 925), it demonstrates how the binary typology of human beings has been contested by his scholarship. It further elaborates on the way in which al-Rāzī has transgressed the (perhaps) prevalent norm of the body politics of his time and suggested a discourse on a non-binary conception of humanity by illustrating a spectrum of humanity ranging from male to female, to khunthā (*intersex*), to effeminate male (mukhannath), and to mannish woman (mutarajjil) as independent yet interconnected categories in this assortment.

Dr. Mehrdad Alipour is VENI Research Fellow at Utrecht University. His study mainly focuses on the transformation of Islamic body politics concerning *gender*, *sex*, and *sexuality* in the premodern and modern eras. Mehrdad's current monograph (forthcoming) entitled *Islamic Body Politics: Non-Binary Intersex in Shi'i Legal Tradition, 1400 – 1919* is a result of his Veni project titled "Beyond Binaries: Intersex in Islamic Legal Tradition". His book, *Negotiating Homosexuality in Islam: A Legal-Hermeneutical Examination of Modern Shi'i Discourse* (Brill, 2024) is the first academic exploration of discursive space(s) for debating homosexuality in *Shi'i legal context*. His recent publications include: “Homosexuality in the Prospect of Before Revelation”, in *Wege zu einer Ethik*, edited by Alsoufi, Kurnaz, & Sievers (Nomos Publishing House, 2023) and “The Nexus between Gender-Confirming Surgery and Illness: Legal-Hermeneutical Examinations of Four Islamic Fatwas”, *Journal of Middle East Women's Studies* 18(3), 2022).

Notes.



Reclining Figure, Attributed to Iran, 1630–40, Metropolitan Museum of Art



Universiteit Utrecht

