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The mukhannath in pre-modern Islamic Law

Serena Tolino, Zurich University

In Islamic Law categorizing each individual as a man or a woman was very important. Indeed, there are strong differences between males and females for what regards both duties and rights. For example, in general circumstances women inherit half the share of inheritance available to men; blood money of a woman is half of that of a man; men have the duty to economically support women, and the dressing code for the two genders is very different. Needless to say, there is a strong insistence on the separation between men and women, with women, especially elite women, relegated to the private sphere. Though, Muslim jurists also had to deal with less normative "genders": one of these was the "mukhannath", the effeminate man. The term comes from the Arabic root *KH-N-TH*, which originally means "to fold back the mouth of a waterskin for drinking"[1] and is associated with the meaning of weakness, flaccidness. The term *khuntha*, which refers to the hermaphrodite, comes from the same root. Mukhannath refers either to a hermaphrodite or, more often, to an "effeminate". The mukhannath is born as a biological man, but he is considered to be effeminate in respect to the "normative" ideal of masculinity. In pre-modern Arabic this concept was used to describe a man who resembles a woman in behaviour, posture, voice and dressing. Today it is also used to identify a transgender. The legal discussion on the *mukhannath* in pre-modern Islamic Law basically revolved around one simple question: could these men stay with women who are, as Islamic law define them, non-*muḥram* to them?[2] The debate revolves around one *ḥadīth* (Prophetic Saying), which concerns a *mukhannath* known as Hīt, and it is reported in three main versions. According to the first version, the Prophet Muḥammad visited his wife Umm Salama while a *mukhannath* was in her apartments. When the Prophet entered, the *mukhannath* was describing to Umm Salama's brother a woman, Ghaylān's daughter, promising that he would have showed her to him if the Muslims had conquered the city of Ṭā'if. The Prophet realized that the *mukhannath* was perfectly able to describe those features of a woman that could arouse erotic interest. Therefore, he banished him from his wife's house and the entire city. According to another version of the *ḥadīth,* which does not give the general context of the story, the Prophet cursed effeminate men and masculine women and banished them. The last version of the *ḥadīṯ* only states that the Prophet cursed effeminate men and masculine women.[3] While some scholars believe that these *ḥadīṯs* demonstrate the Prophet's aversion towards effeminates and masculine women, others believe that the Prophet banished that single *mukhannath* not for his being "effeminate", but for having described a woman to a man, using erotic details: this demonstrated that he was not immune to feminine appeal, as it was believed, and could not, therefore, attend his wife's house. From this story we may assume two things: the first one is that Hīt was not a *mukhannath* as much as it was believed. The second one is that it was probably normal for a *mukhannath* to live in the same apartment of an unrelated woman. Assuming that this story is authentic (and we cannot be sure about that), it demonstrates that in the social practices things were much more

[1] Everett K. Rowson: The effeminates of early Medina, in: Journal of the American Oriental Society 111 (1, 1991), 671-693, 672.

[2] This category of women includes any relative of the opposite sex that has reached puberty and that a man cannot marry and with whom sexual intercourse would be considered incestuous. For a man this category includes his mother, grandmother, daughter, granddaughter, sister, aunt, grandaunt, niece, grandniece, his father's wife, his wife's daughter (step-daughter), his mother-in-law, and any relative derived from suckling.

[3] Scott Kugle, Homosexuality in Islam: Islamic Reflection on Gay, Lesbian, and Transgender Muslims Oxford 2010, 92-97.

complicated than how Islamic Law attempted to define them, and that the "gender binary" was much less fixed in pre-modern than in modern times.