

Same-Sex Marriage Legality: Genealogy and Epistemology Studies on Irshad Manji

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Abstract:

Generally, marriage legalized for couple consisting of one man and one woman. Whereas, the same-sex marriage is different, because it can legalize same-sex couple. Manji, as one of Muslim thinkers, supports the legality of same-sex marriage. Manji's re-ijtihad of the existence of homosexuals attracted the researcher to conduct a research with the focus of study: (1) how is the genealogy of Manji's perspective on the same-sex marriage legality, and (2) how is the epistemology of Manji's perspective on the same-sex marriage legality? This research is secondary research using genealogical and epistemological approach on Manji. Data sources consisting of references are collected using documentation method, and then analyzed using content analysis method. The results of the study describe that (1) the genealogy started after Manji established her "truth" (with small t) when she was in Queer Television program, along with the external support from Canada that also legalized the same-sex marriage on 2005. While (2) the epistemology based on her personal interpretation of "truth", that the punishment given to the people of Luth because of "rape" of power and control that exceeds the limit, and not because of homosexual.

Keywords: Same-sex Marriage, Genealogy, Epistemology, Irshad Manji.

Abstrak:

Umumnya perkawinan dilegalkan bagi pasangan yang terdiri dari satu pria dan satu wanita. Padahal, pernikahan sesama jenis itu berbeda, karena bisa melegalkan pasangan sesama jenis. Manji, sebagai salah satu pemikir Muslim, mendukung legalitas pernikahan sesama jenis. Re-ijtihad Manji atas eksistensi kaum homoseksual menarik peneliti untuk melakukan penelitian dengan fokus kajian: (1) Bagaimana genealogi pandangan Manji tentang legalitas perkawinan sesama jenis, dan (2) bagaimana epistemologi Manji perspektif tentang legalitas pernikahan sesama jenis? Penelitian ini merupakan penelitian sekunder dengan

pendekatan genealogis dan epistemologis pada Manji. Sumber data yang berupa referensi dikumpulkan dengan menggunakan metode dokumentasi, kemudian dianalisis dengan menggunakan metode analisis isi. Hasil penelitian menjelaskan bahwa (1) silsilah dimulai setelah Manji menetapkan “kebenaran” (dengan huruf t kecil) ketika ia berada di program Queer Television, bersama dengan dukungan eksternal dari Kanada yang juga melegalkan pernikahan sesama jenis pada tahun 2005. Sedangkan (2) epistemologi berdasarkan tafsir pribadinya tentang “kebenaran”, bahwa hukuman yang diberikan kepada kaum Luth karena “pemeriksaan” atas kekuasaan dan kendali yang melebihi batas, dan bukan karena homoseksual.

Kata Kunci: perkawinan sejenis; genealogi; epistemologi; Irshad Manji.

Pendahuluan

Marriage is an important matter in human life. This evidenced by the existence of a form of legitimacy by the states to its citizens who want the status of legitimacy. Legality of marriage itself is a sacred thing for family life. Legal marriage status influences many personal matters, social, and state laws. With the legality, legally anyone can continue the legal status of family life, the legality of childcare, legal rights of inheritance, and others as his/her. Generally, marriage legalized for couple consisting of one man and one woman. Whereas, the same-sex marriage is different, because it can legalize same-sex couple. In fact, Marriage in the "western world" has different marriage orientation from the "eastern world". The "western" marriage institution initially had the same orientation as the "eastern", while maintaining the importance of *sui-generis* as moral status that denies same-sex marriage,¹ which is protecting the survival of the human race consisting of sexual needs, living together, and continuing descendants.² The orientation of marriage began to shift since the intensity of the feminist movement in 1960-1970,³ where the complexity of the fundamental needs of marriage is no longer about sexual needs, living together, and continuing offspring, but turns into more flexible, sexual needs or living together and/or continuing offspring.⁴ Thus, marital institutions in some "western" worlds no longer privatized by heterosexuals, but are also endeavored to protect each marriage orientation normatively and constitutionally.⁵

In June 2015, the United States Supreme Court legalized same-sex marriage. The verdict took place on a decision made by five Supreme Court judges. The

¹ Elizabeth Brake, *Minimizing Marriage: Marriage, Morality, and the Law*, Studies in Feminist Philosophy (New York: Oxford University Press, 2012), 1–2.

² Kevin Aloysius Zambrowicz, “‘To Love and Honor All the Days of Your Life’: A Constitutional Right to Same-Sex Marriage?,” *Catholic University Law Review* 43, no. 3 (Spring 1994): 907–50.

³ Nancy D. Polikoff, *Beyond (Straight and Gay) Marriage: Valuing All Families under the Law* (Boston: Beacon Press, 2008), 11.

⁴ Zambrowicz, “‘To Love and Honor All the Days of Your Life’: A Constitutional Right to Same-Sex Marriage?”

⁵ Heather Brook, *Conjugal Rites: Marriage and Marriage-like Relationships before the Law*, 1. ed (New York, NY: Palgrave Macmillan, 2007), 203–4.

decision decided by judges consisting of opinion of four judges and dissenting opinion of one judge.⁶

The United States is not the first country to legalize same-sex marriage. The Dutch first implemented the legality of same-sex marriage in 2001. Until today, about 22 countries have been legalized same-sex marriage. They are Dutch (2001), Belgium (2003), Spain (2005), Canada (2005), South Africa (2006), Norway (2009), Sweden (2009), Portugal (2010), Iceland (2010), Brazil (2013), United Kingdom (2013), France (2013), New Zealand (2013), Uruguay (2013), Scotland (2014), Luxembourg (2015), Finland (2015), Slovenia (2015), Ireland (2015), Mexico (2015), and United States (2015).⁷ The phenomenon of legality that occurred in various countries and even reported Indonesia as one of the Islamic countries that legalize Gay and Lesbian.⁸ This is because Indonesia, in addition to having various ethnic and groups, also has a historical record as one of the countries that cares for the Lesbian, Gay, Bisexual and Transgender (Hereafter abbreviated as LGBT) oldest community in Asia. Indonesia has the Wadam Djakarta Association established in 1960, Lambda Indonesia established in 1982, Perlesin (Indonesian Lesbian Association) and GAYa Nusantara established in 1987.⁹

The historical record of Indonesia and the ruling of United States Supreme Court lure LGBT people of Indonesia to re-exist. Moreover, when one of the leading media exposed editorial title "LGBT serious threat" in its main page.¹⁰ This main news that spread immediately received special attention from the Indonesian LGBTIQ community (Lesbian, Gay, Bisexual, Transgender and Intersex Questioning). The Coordinator of LGBTIQ Forum, Yuli Rustinawati, send a legal notice to the headline of Ahad, January 24, 2016, and demanded that the concerned media to apologize to the Indonesian LGBT community.¹¹ Moreover, LGBT conversation was increasingly widespread, it even discussed in television media that broadcast nationally in Indonesia such as Kompas TV and TV One.¹²

⁶ Ericssen dan HIndra Liauw, "Mahkamah Agung Amerika Legalkan Pernikahan Sesama Jenis," Kompas.com, 26 Juni 2015, <http://internasional.kompas.com/read/2015/06/26/23073761/Mahkamah.Agung.Amerika.Legalkan.Pernikahan.Sesama.Jenis>.

⁷ Andreas Gerry Tuwo, "Pernikahan Sesama Jenis Dilegalkan di 23 Negara Ini," diakses 13 April 2016, <http://global.liputan6.com/read/2260668/pernikahan-sesama-jenis-dilegalkan-di-23-negara-ini>; Niall McCarthy, "The Countries Where Gay Marriage Is Legal [Map] - Forbes," diakses 13 April 2016, <http://www.forbes.com/sites/niallmccarthy/2015/06/29/the-countries-where-gay-marriage-is-legal-map/#1e5206431c22>.

⁸ Deutsche Welle (www.dw.com), "Inilah Negara Islam yang Legalkan Gay dan Lesbian | Semua konten media | DW.COM | 11.02.2016," diakses 19 Agustus 2016, <http://www.dw.com/id/inilah-negara-islam-yang-legalkan-gay-dan-lesbian/g-19041996>.

⁹ Chuck Stewart, ed., *The Greenwood encyclopedia of LGBT issues worldwide* (Santa Barbara, Calif: Greenwood Press, 2010), 409; "Melongok Nasib LGBT di Indonesia | Indonesia | DW.COM | 01.03.2016," diakses 15 April 2016, <http://www.dw.com/id/melongok-nasib-lgbt-di-indonesia/a-19070880>; Kartika Ikawati, "Kilas balik 3 dekade organisasi LGBT Indonesia bersama Dede Oetomo," Rappler, diakses 15 April 2016, <http://www.rappler.com/world/regions/asia-pacific/indonesia/85710-3-dekade-lgbt-indonesia-dede-oetomo>.

¹⁰ "LGBT Ancaman Serius," diakses 15 April 2016, <http://www.republika.co.id/berita/koran/halaman-1/16/01/24/o1gi281-lgbt-ancaman-serius>.

¹¹ "Forum LGBTIQ somasi Republika terkait artikel 'LGBT Ancaman Serius,'" diakses 15 April 2016, <http://www.rappler.com/indonesia/121324-komunitas-lgbtiq-somasi-republika>.

¹² tvOneNews, *[Full] Indonesia Lawyers Club - "LGBT Marak, Apa Sikap Kita?" (16/02/2016)*, 2016, <https://www.youtube.com/watch?v=ByQG4pPaE7Y>.

From the various mass media phenomenon that announce about LGBT, Hasyim Muzadi, one of the leading religious leaders in Indonesia, guessing this phenomenon as a "campaign" to legalize same-sex marriage.¹³

The rejecting opinion of same-sex marriage legality in Indonesia is similar to what have been interpreted by religious leaders since the classical period. As the mainstream Muslim group understands, same-sex relationship have been introduced and labeled as *fāhishat*¹⁴ by the *Al-Qurān*.¹⁵ The Labeling underlies every decision of Islamic religious leaders, especially the four schools of popular *sunnī* in rejecting the existence of the *fāhishat* and all practices of same-sex relationship, even less to accept the legality. However, the rejection that has been crystallized since the classical period of Islam understood differently by Irshad Manji. Manji, is a prominent Pakistani Muslim thinker who live in Canada. Manji supports the existence of same-sex relationship. In fact, Manji herself is a lesbian who married her partner, Laura Albano, in May 2016.¹⁶ Manji's statements that open up to the public as a lesbian was one of the conclusion she gets from her thinking, truth (with small t) of "Muslim Refusenik".¹⁷ For Manji, Islam has an *Ijtihād* tradition that has enriched Islamic treasures *Ijtihād* is a tradition for mutual understanding, mutual reasoning, and mutual interpretation. This tradition is a long-lost spirit of freedom from Muslim individuals.¹⁸ Because according to her, *Al-Qurān* contains verses about his insistence on Muslims to think, that are three times more than the verses that require only blind following. Muslims must dare to think, so with the courage to think, they can create harmony between God, Freedom, and Love.¹⁹ Furthermore, Canada, as the country where Manji lives, become one of the countries that also legalize marriage as stated in the following part of Civil Marriage Act.²⁰

"Marriage, for civil purposes, is the lawful union of two persons to the exclusion of all others."

¹³ "Kiai Hasyim: Kampanye LGBT di Indonesia untuk Legalkan Kawin Sejenis," *Republika Online*, diakses 15 April 2016, <http://nasional.republika.co.id/berita/nasional/umum/16/03/06/o3m5fn282-kiai-hasyim-kampanye-lgbt-di-indonesia-untuk-legalkan-kawin-sejenis>.

¹⁴ *Fāhishat* secara bahasa dapat diartikan dengan keji, vulgar, porno, cabul, memalukan, atau melampaui batas. Ahmad Warson Munawwir, *Al-Munawwir: kamus Arab-Indonesia* (Surabaya: Pustaka Progressif, 1997), 1036.

¹⁵ "Sūrat Al-A'raf," dalam *Al-Qurān Al-Karīm*, t.t., a. 80–81.

¹⁶ "Irshad Manji - Photos," diakses 3 November 2016, https://www.facebook.com/7903274577/photos/?tab=album&album_id=10154612199584578; "Irshad Manji marries partner Laura Albano," *Free Malaysia Today*, 10 Mei 2016, <http://www.freemalaysiatoday.com/category/nation/2016/05/10/irshad-manji-marries-partner-laura-albano/>.

¹⁷ Irshad Manji, *The Trouble with Islam: A Muslim's Call for Reform in Her Faith* (Macmillan, 2007), 23–24.

¹⁸ Irshad Manji, *Allah, Liberty, and Love: The Courage to Reconcile Faith and Freedom* (New York: Free Press, 2012), xiv.

¹⁹ Manji, xxiii.

²⁰ "Civil Marriage Act S.C. 2005, c. 33," *CanLII - Versions comparison*, diakses 10 Maret 2017, <https://www.canlii.org/webdiff/diff.do?path=%2Fen%2Fca%2Fflaws%2Fstat%2Fsc-2005-c-33%2Flatest%2Fsc-2005-c-33.html&path=%2Fen%2Fca%2Fflaws%2Fstat%2Fsc-2005-c-33%2F33045%2Fsc-2005-c-33.html>.

Based on the context, this research discusses about (1) how the genealogy of Irshad Manji's thoughts on the legality of same-sex marriage and (2) how the epistemology of Irshad Manji's thoughts on the legality of same-sex marriage. The analysis on the genealogy and epistemology of Manji's thought assumed to explore different perspectives to be taken into consideration in later thought and legal policy related to same-sex marriage.

Researcher conducts qualitative research by examining the ideas that come with regular conceptions,²¹ and trying to generate narrative and analytical richness based on the method used.²² The type of this research is the library research or a second-hand research (secondary research).²³ The research approach will be used for describing Irshad Manji's thought with genealogical²⁴ and epistemological approach.²⁵ The data used in this study is the secondary data. the secondary data is categorized to primary data material, and secondary data material.²⁶ The primary data material for understanding Irshad Manji's thoughts are her two works entitled *The Trouble with Islam Today: A Muslim's Call for Reform in Her Faith* dan *Allah, Liberty, and Love: The Courage to Reconcile Faith and Freedom*. Data collecting techniques that support this library research (secondary research) is documentation.²⁷ This technique used to collect primary and secondary data that support the research as described in data source. *Content analysis* is the method used to analyze data.²⁸ This method stived to present data that has been collected by replicate the context and explain every definitions and concepts needed in the research.²⁹

Result and Discussion

Irshad Manji Biography

Irshad Manji is an Egyptian and Gujarati who was born in Uganda in 1968. The little Manji had to move out of Uganda in 1972 because of Idi Amin's order of tyranny that required any non-native Uganda to leave the country,³⁰ Manji's family then moved to Canada. In Canada, Manji is active in learning, even in two schools:

²¹ Burhan Bungin, *Metodologi Penelitian Kualitatif* (Jakarta: PT Raja Grafindo Persada, 2006), 47–48.

²² Audie Klotz dan Deepa Prakash, ed., *Qualitative methods in international relations: a pluralist guide*, Research methods series (Basingstoke [England] ; New York: Palgrave Macmillan, 2008), 211.

²³ David Stewart, *Secondary Research*, 2 ed., 2016, <http://methods.sagepub.com/book/secondary-research>.

²⁴ Lisa Given, "The SAGE Encyclopedia of Qualitative Research Methods," 14 November 2016, <https://doi.org/10.4135/9781412963909>.

²⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2010), 137.

²⁶ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: PT Raja Grafindo Persada, 2007), 29.

²⁷ Wendy Olsen, *Data Collection: Key Debates and Methods in Social Research* (London, 2016), bb. 2.9, <http://methods.sagepub.com/book/data-collection>.

²⁸ Gaye Tuchman, Media Institutions: Qualitative Methods in The Study of News, dalam ... Klaus B Jensen dan Nicholas W Jankowski, *Handbook of Qualitative Methodology for Mass Communication Research*. (New York; Florence: Routledge Taylor & Francis Group [distributor, 1991), 82–83.

²⁹ Neil Salkind, "Encyclopedia of Research Design," 14 November 2016, bb. Content Analysis, <https://doi.org/10.4135/9781412961288>.

³⁰ Zachary Lomo, Angela Naggaga, dan Lucy Hovil, "The phenomenon of forced migration in Uganda: an overview of policy and practice in an historical context.," *Refugee Law Project Working Paper*, no. 1 (2001).

secular school and Islamic religious school. She has many “red” questions that can not be solved by her teacher, which were also causes her to be expelled from the Islamic religious school, but, she still learned in secular school. After completing her formal education at secular school, Manji studied auto-didactically in public library, for about 20 years, and became a journalist.³¹

Manji’s Homosexuality

The little Manji’s family is a family that migrated from Uganda due to the rule of Idi Amin, when Manji on her four year old. Little Manji was not familiar with the form of homosexual family; even she was also not familiar with the term same-sex relationship. Manji family has heterosexual family life in general just like the heterosexual families in Pakistan; the family power was dominated by the father's power. Unfortunately, the father's power over little Manji was full of domestic violence. Based on what Manji said in her books, Manji can not do much about what her father has done. Thus, explicitly Manji obviously did not get any homosexual experience from her childhood life of the heterosexual family.

Looking further into little Manji's academic environment. Manji claims she was freer to express in school than at home. Based on her books, Manji also not related to homosexual issues. The “hungry” Manji only tried to ask taboos about the role of women and Jewish status in the Muslim community. Manji's question to religious leaders in madrasah did not ask about homosexuality, Manji was limited to asking about the role of adult women faster than boys by asking.

“Then why not reward girls for our maturity by letting us lead prayer?”³²

That was a question that causes Manji to be expelled from the madrasah after delivering it several times to M Khaki, the religious leader of the madrasah, and she got no rational nor satisfactory answer from him. Finally, we do not find any proof that Manji find her homosexual existence in her childhood age.

After the little Manji expelled from the madrasah, she did not directly have access to a homosexual environment. Manji conveyed that she had only discovered her partner in her twenties, or the age at which she had passed the autodidact lesson of Islam, and the age at which Manji pursue her career on one of the controversial TVs of the day, the Television Station called Queer Television. The station, by its name, has aired many issues on LGBT and the various disputes that have occurred in the Middle East since the 1990s.³³ Manji also said that she met her partner in the Anglican Church while conducting an inquiry for a new TV program.³⁴ Therefore, it can be inferred that Manji found her existence and support of being lesbian was right after Manji joined Queer Television.

Manji's activities on the television program turned out to bridge her academic mindset and anxiety to provide support for homosexuals by questioning the status

³¹ “Irshad Manji,” dalam *Wikipedia, the Free Encyclopedia*, 1 Mei 2016, https://en.wikipedia.org/w/index.php?title=Irshad_Manji&oldid=718013339.

³² Manji, *The Trouble with Islam*, 12.

³³ Azrah Manji, “Queer Television,” <https://prezi.com/9pjmcc-uhluf/queer-television/>; “QT: QueerTelevision,” dalam *Wikipedia*, 15 Mei 2016, https://en.wikipedia.org/w/index.php?title=QT:_QueerTelevision&oldid=720344100.

³⁴ Manji, *Allah, Liberty, and Love*, 52.

of homosexuals that until recently believed to be exiled and even killed. In fact, for Manji, God clearly created His creature with a "perfect" creation. Manji then invites the reader not to insist on understanding the text of the Qur'an, especially text related to homosexual, which is contradictory and ambiguous.³⁵ Furthermore, Manji openly admitted that she is a lesbian but still being Muslim.

Manji has experienced many affairs in supporting the existence of homosexual community. After only supporting, she found her lesbian partner, which is also convinced Manji's footprints as a thinker, supporter of same-sex marriage, and lesbian became more complete. Especially when Manji legalized her marriage to Laura Albino in May 2016. With these facts, Manji's thinking is very clear in favor of the existence of homosexuals both inwardly and mind.

In addition to internal factors, Canada, the country that became the shade of Manji, is also an environment that has a major contribution in developing her thinking. The state, which established the status as a Multiculturalism state in 1971, accepted all forms of diversity with open arms, sociologically, ideologically and politically.³⁶ The country also has a similar history to some of its predecessor countries that first legalized same-sex marriage. The legal process can be categorized in three global phases. *Phase One*, the presence of same-sex relationship was discriminated; the principle of multiculturalism raises many interpretations of the existence of homosexuality itself. Some who are seriously opposed to its existence (again) are from religious groups who regard it as social disgrace, as well as the state at the moment still considers it as one of the criminal acts.³⁷

Phase Two, a same-sex relationship gained the right of existence derived from the homosexual movement that succeeded in suppressing the Court to interpret the Canadian Charter of Rights and Freedoms in 1982. The effort in gaining the existence of homosexuals continued, leading to constitutional amendments equalizing the rights of homosexuals in 1988, it was after one of the gays made it into the ranks of parliament.³⁸ Finally, *Phase three*, by interpreting marriage as a right to gain love. Thus, in Canada, marriage is no longer an institution consisting of one man and one woman, but the love that represents marriage creates an equal

³⁵ Manji, *The Trouble with Islam*, 2.

³⁶ Secara sosiologis menerima kehadiran siapa pun dari latar belakang ras dan etnis yang beragam; secara Ideologis menerima ideologi apapun yang sesuai dengan cita-cita keragaman budaya di Kanada; dan secara policy melakukan manajemen yang dapat menampung diversity dalam domain federal, propinsi, wilayah dan kota. Michael Dewing, "Canadian Multiculturalism" (Library of Parliament, 14 Mei 2013), <http://www.lop.parl.gc.ca/content/lop/researchpublications/2009-20-e.pdf>.

³⁷ Laura Reidel, "Religious Opposition to Same-Sex Marriage in Canada: Limits to Multiculturalism," *Human Rights Review* 10, no. 2 (1 Juni 2009): 261–81, <https://doi.org/10.1007/s12142-008-0079-x>; "TIMELINE | Same-sex rights in Canada," CBC News, diakses 10 Desember 2016, <http://www.cbc.ca/news/canada/timeline-same-sex-rights-in-canada-1.1147516>.

³⁸ Reidel, "Religious Opposition to Same-Sex Marriage in Canada"; "TIMELINE | Same-sex rights in Canada."

position between heterosexuals and homosexuals to give the same legal rights in the Civil Marriage Act issued by Supreme Court in July 2005 as the following:³⁹

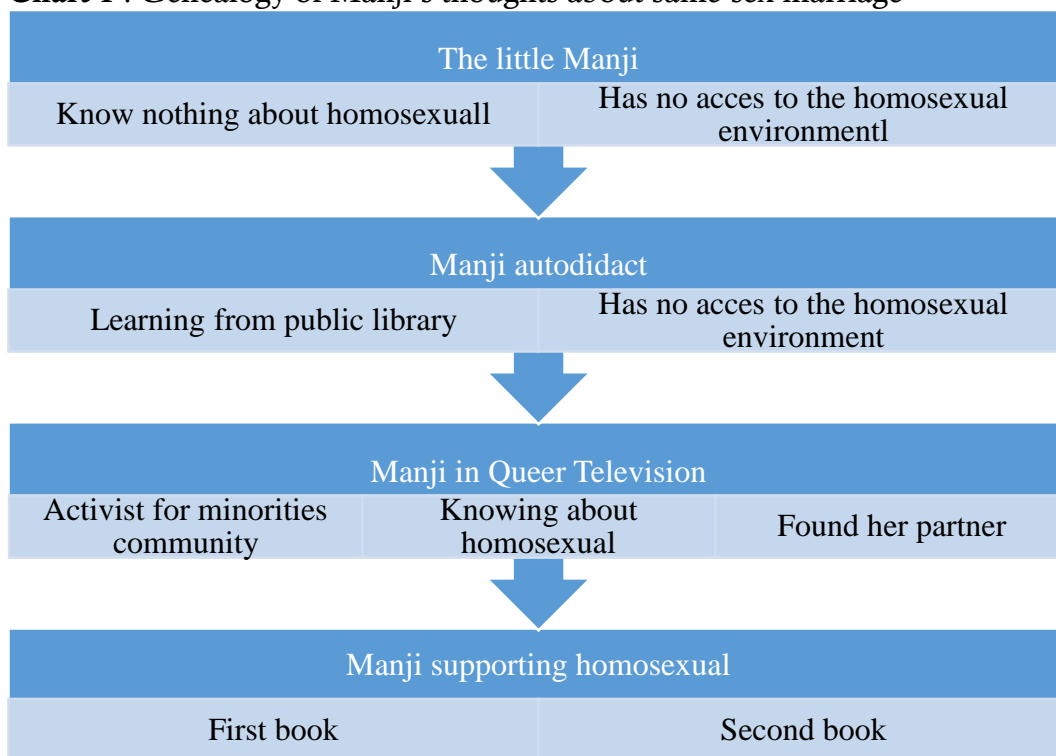
“the courts in a majority of the provinces and in one territory have recognized that the right to equality without discrimination requires that couples of the same sex and couples of the opposite sex have equal access to marriage for civil purposes”

Lastly, based on developments on the legal protection of the existence of homosexuals in Canada, the country where Manji lives supporting her to acquire the existence and protection of the law, especially after the Court of Appeal has established that same-sex marriage relations have been legal since 2005.

Geneology of Manji’s thoughts

The journey of Manji's thought in supporting and legalizing such marriages become clearer if we map it in the chart as follows

Chart 1 : Geneology of Manji’s thoughts about same-sex marriage



Little Manji and autodidact Manji is a figure of someone who is very thirsty for science. Both two phases who continue to study for 20 years did not even convey any interest in the opposite sex. This proves that she was really looking for the knowledge she did not find in the formal school, especially her post-conflict knowledge of Islam with Mr. Khaki. The thing that needs to be noticed is that neither the little Manji nor the autodidact have access to any community or homosexual institutions.

³⁹ Reidel, “Religious Opposition to Same-Sex Marriage in Canada”; “TIMELINE | Same-sex rights in Canada”; Katherine Osterlund, “Love, Freedom and Governance: Same-Sex Marriage in Canada,” *Social & Legal Studies* 18, no. 1 (1 Maret 2009): 93–109, <https://doi.org/10.1177/0964663908100335>.

Queer Television is a very meritorious institution in introducing Manji in building her thoughts on homosexuality. As one of the activists and reporters, Manji explores more about homosexuality and then finds her lesbian partner while running a new program from Queer Television. Manji somehow found her identity after finding her partner, and then Manji also supported the homosexual by writing her first book "The Muslim Call for Reform in Her Faith" , and her second book "Allah, Liberty and Love: The Courage to Reconcile Faith and Freedom". The West also provided indirect support and legal protection in Manji's thinking, since Manji writes both of her works after Canada legalized the existence of homosexuals in the multicultural country, moreover when Manji legalized her same-sex marriage in May 2016.

Based on Manji's historical mapping of status and her support for homosexuality, it can be seen that Manji's genealogy of thinking about the legality of same-sex marriage took place after Manji was steady with her "small truth". This stability was created when Manji worked in the Queer Television program, and was reinforced with the support of an external Canadian state that also legalized similar marriages in 2005.

Epistemology of Manji's Thoughts

There must be other meanings in the Qur'an; especially those relating to same-sex relationship. This statement became Manji's first step to change the Muslim mindset about the existence of homosexuals in the Qur'an. Manji invites us to interpret the verses that tell of the Prophet Luth stories, as well as to question it "is it true that the verse speaks of homosexuality? It could be that verse says something else". Manji insists on reinterpretation by referring to Surah 3: 7⁴⁰

After Manji convinced herself that, the verse was an ambiguous verse. Manji compares the two Quran translation products: public translation product in Canada and reformist translation product. The public translation is the translation of the Koran by Dawood NJ, with a translation that still tells the story of the Luth tribe that was found guilty of approaching the same sex as follows.

*26: 166 Will you fornicate with males and eschew the wives whom God has created for you? Surely you are great transgressors.*⁴¹

The reformist translation, which Manji later refers to, says that the verse is not a punishment for all forms of homosexuality, but only to aggressive-homosexual behavior. With translation as follows.

*26:165 "Do you approach the males of the worlds?" 26:166 "You leave what your Lord has created for you of mates? You are an intrusive people!"*⁴²

Unlike the two sources used by Manji. The story of Prophet Luth, whom Manji had regarded as an ambiguous story, was interpreted as a form of "rape" in the form of power and control. Manji conveyed that: *It could be about the rape of*

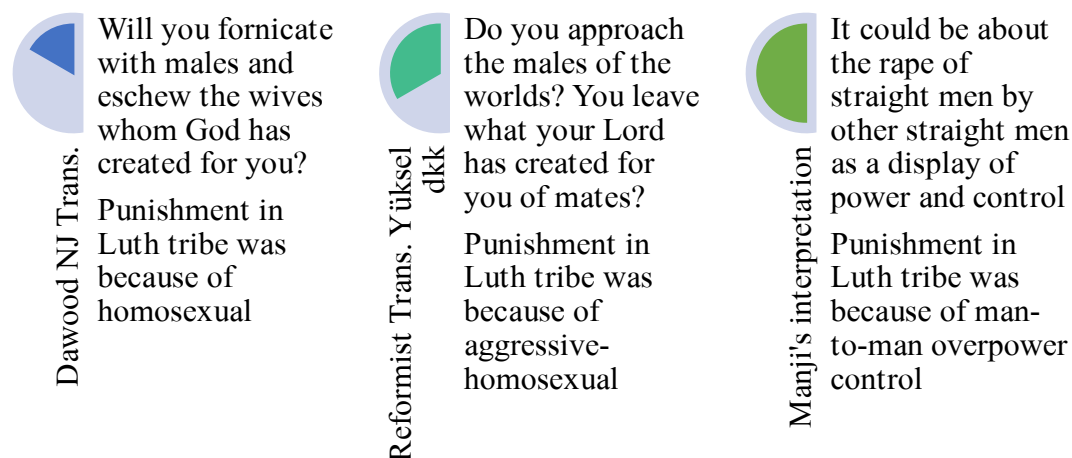
⁴⁰ Manji, *Allah, Liberty, and Love*, 199.

⁴¹ N. J. Dawood, *The Koran*, Revised, Penguin Classics (Penguin Classics, 2004), 338.

⁴² Edip Yüksel, Layth Saleh al-Shaiban, dan Martha Schulte-Nafeh, ed., *Quran: A Reformist Translation* (United States of America: Brainbow Press, 2007), 250.

straight men by other straight men as a display of power and control. Then, because of the "rape" committed by the Luths that *God punished Lut's tribe for cutting off trade routes, hoarding wealth and dissing outsiders* as the punishment of the "rape" that they committed. Here is a comparison of the two translations of the translated Qur'an as Manji's reference and his personal interpretation.

Chart 2: Comparison of the translated Quran and Manji's interpretation



Manji's personal interpretation is implication of Manji's efforts to fight for her "truth" in herself, especially to mediate her status as a Muslim and a lesbian. Manji ventures to reveal this as one of the *ijtihad* that oppose totalitarian of Islam, which has been denying tolerance to homosexuality.⁴³ Manji sees that the negative labeling of homosexuality is a mere assumption.⁴⁴ This is due to the lack of rational responses from Muslims to homosexuality; whereas the other religions already have many thinkers responding to homosexuals with more tolerant interpretations. Accepting homosexuals for Manji is a humanist thing, a "truth" to her,⁴⁵ as one of the religious leaders told Manji at a conference in Iraq.⁴⁶ With her "truth", after forming a mindset about how to bridge the homosexuals and the Quran, Manji expanded the program for homosexual acceptance to a wider stage. Manji invites us

⁴³ Based on literature references recommended by Manji in homosexual studies conducted by Ibn Warraq, tolerance toward homosexuals have occurred in the days of the Caliphate as information submitted in the Quran is considered ambiguous. Description obviously provides punishment for homosexuals is only found in the traditions of the Prophet and the study of classical scholars. However, unfortunately there is no evidence that history says that this penalty is never applied to homosexuals... Ibn Warraq, *Why I am not a Muslim* (Amherst, N.Y: Prometheus Books, 1995), 342.

⁴⁴ The work of Fadl, as one of the works recommended by Manji, does not directly support the existence of homosexuals. But, in his writings, Fadl pushed the issue, if homosexuals are just slander, then that should be done is to remove the source finah. Manji present study to eliminate the slander, against totalitarian Islam to discredit homosexuality... Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women*, First Edition (Oneworld Publications, 2001), 471.

⁴⁵ In support of the "truth" Manji cites inline with Nasrin perspective: "I'm not a scientific supremacist. I am for Truth. Not big-T Truth, which is God's Truth, but small-t truth."... "I want to abolish religion only because religion is against humanity. If religion is not against humanity, I have no problem with it."... Manji, *The Trouble with Islam*, 211.

⁴⁶ Manji, *Allah, Liberty, and Love*, 229.

to deconstruct anti-humanitarian identity and culture.⁴⁷ Based on the results of Manji's analysis, the identity that has been shackling the homosexual hater's community is the totalitarian identity that comes from religion in misunderstanding homosexuality.

Simple two-edged *Istinbāth*

The result of Manji's "truth", which explaining that the punishment given to the Luth Tribe was due to the "rape" of overcrowding power and control and not because of homosexuality, was a simple form of *istinbāth*. Manji did this by having the courage to fight against an anti-humanity culture, with which she concluded it as re-ijtihad movement. Manji's work of re-ijtihad is indiscriminate; with this *istinbāth* anybody can do ijtihād and mediate anything that were previously considered taboo to be in line with Islam. In this case, Manji seeks to be '*uswah*' by mediating her faith as a Muslim with her sexual needs as a lesbian. Manji also bravely made a personal interpretation based on two English translations of the Quran, and she did not need the original text of the Qur'an, with simple reason as follows.

*Why should I perpetuate the fib of reciting Arabic if it makes no practical sense and strikes no emotional chord? Why must we suspect that every English Translation of the Koran "corrupts" the original text? I mean, if the Koran is a straightforward as the purists tell us, then aren't its teachings easily translated into a thousand tongues. Finally, why should stigma stalk those of us who haven't been weaned on Arabic when the fact is that no more than 20 percent of Muslims worldwide are Arabs? Translation: At least 80 percent of us aren't Arabs.*⁴⁸

Having no competence in Arabic is the main root of difference in Manji's ijtihad and existing *fuqaha*' This is why Manji also dare to legalize a same-sex relationship with his personal interpretation, which is also the basis of his thinking to legalize her same-sex marital status. This very egocentric personal interpretation takes place exactly what Jameelah feared, that the Quran, which is officially translated without mentioning its Arabic text, would result in an increase in the Qur'an's incomprehension of the language to the next generation. The translations of the Qur'an, especially the official translations that do not mention the Arabic text, will not only plague the Ummah, but will also eliminate the original text itself.⁴⁹

Al-Qurān 3: 7 is the origin of Manji's thoughts to interpret that verses about homosexual was only an ambiguous verses. As described as follows.

⁴⁷ Manji, *Allah, Liberty, and Love*, 101–5; Abraham H. Maslow, *Religions, Values, and Peak-Experiences (Compass)*, Compass (Penguin (Non-Classics), 1994), 12; Khaled M. Abou El Fadl, *The Great Theft: Wrestling Islam from the Extremists* (HarperOne, 2005), 115 dan 144; Kwame Anthony Appiah, *The Honor Code: How Moral Revolutions Happen*, Reprint (W. W. Norton & Company, 2011), 116 dan 132.

⁴⁸ Manji, *The Trouble with Islam*, 13.

⁴⁹ Maryam Jameelah, *Islam dan Modernisme*, trans. oleh A Jainuri dan Syafiq A Mughni (Surabaya: Usaha Nasional, t.t.), 66.

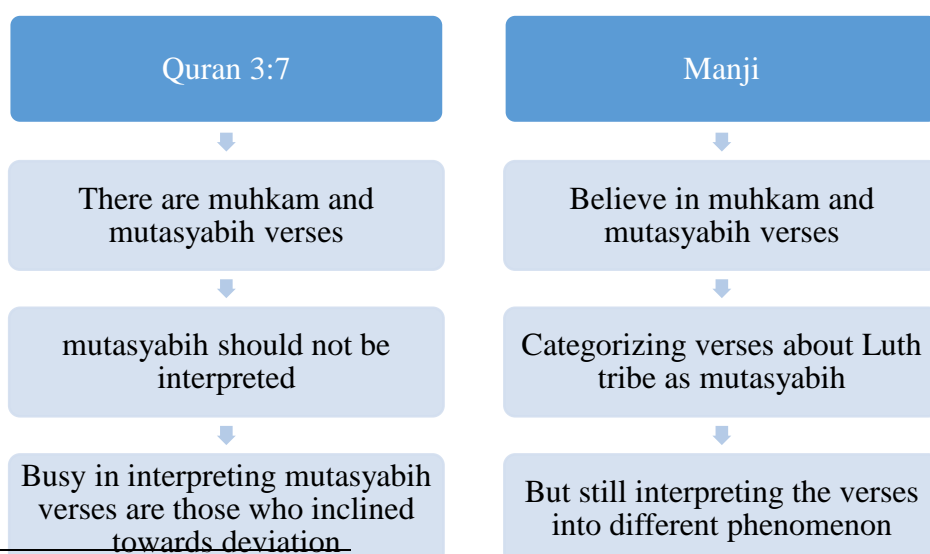
هُوَ الَّذِي أَنْزَلَ عَلَيْكَ الْكِتَابَ مِنْهُ آيَاتٌ مُحْكَمَاتٌ هُنَّ أُمُّ الْكِتَابِ وَأُخَرُ مُتَشَابِهَاتٌ فَأَمَّا الَّذِينَ فِي قُلُوبِهِمْ زَيْغٌ فَيَتَّبِعُونَ مَا تَشَابَهَ مِنْهُ ابْتِغَاءَ الْفِتْنَةِ وَابْتِغَاءَ تَأْوِيلِهِ وَمَا يَعْلَمُ تَأْوِيلَهُ إِلَّا اللَّهُ وَالرَّاسِخُونَ فِي الْعِلْمِ يَقُولُونَ آمَنَّا بِهِ كُلٌّ مِنْ عِنْدِ رَبِّنَا وَمَا يَذَّكَّرُ إِلَّا أُولُو الْأَلْبَابِ⁵⁰

He has sent us (Al-Quran) to you (Muhammad). Among them are the verses of Muhkamat, those are the points of the Book (Al-Quran) and others are mutasyabihat. As for those who in their heart are bent on deviation, they follow the mutasyabihat to seek slander and it's ta'wil, whereas no one knows the ta'wil but Allah. And those with deep knowledge said, "We believe in him (Al-Quran), all from the side of our Lord". No one can take a lesson except those who understand.⁵¹

Based on that verse, it is true that in the Qur'an there is a verse of *muhkamat* and *mutasyabihat*. From choosing the Quran 3: 7 as the basic opener of *ijtihad* for total faith, we shall find an awkwardness, which described that The Qur'an states that people who are busy doing *ta'wil* with *mutasyabih* verses are people whose hearts are inclined to astray. However, in this case, Manji was the one who was busy with the verse about homosexuality and busied herself with it.

According to Manji's discussion about the Qur'an 3: 7, we have found the epistemology of Manji was unlinked. One the one side, Manji herself said that *ijtihad* is faithful to the fullest, and decide the verses about homosexuality as paragraph *mutasyabih*. On the other hand, she interpreted the verse by stating that the story of the Luth tribe was because of an overpower Control between men to other men in terms of trade. Which it means, if the verse about homosexual is a *mutasyabih* verse, do not those who laboriously present a reinterpretation like Manji herself are those who are branded by Al Quran 3: 7 as a person who is inclined to be astray?

Chart 3 Comparison of Manji's thought and original text in the Quran 3:7



⁵⁰ "Sūrat Ali Imrān," dalam *Al-Qurān Al-Karīm*, t.t., a. 7.

⁵¹ This translation of Quran 3: 7 is a personal translation of researcher, that is intended for re-implement the epistemology of Manji's thought based on the "truth" of the researcher.

With a more detailed description of this Qur'an 3: 7, we should have stopped continuing this method of Manji reijtihad, because taking further interpretation towards *mutasyabih* verses about Luth tribe is inclined to be astray.

Manji's statement to *fuqaha'*, which guessing that *fuqaha'* are too obsessive with condemning homosexuals was a mere assumption, because Manji never delivered *fuqaha'* studies about homosexuals explicitly in his reading and writing. Manji's conclusions about homosexuality were delivered only based on Manji's reader and her forum testimonials, which were again based on the translation of the verse about the reinterpreted story of Luth tribe. Manji's justification of *fuqaha'* obsession seems overstating, as the study of homosexuality by *fuqaha'* is also form their faith at its fullest. Because both from the narrative of *sahabat* nor of the most prominent schools of concluding as it is stated, all delivered according to what is in the Qur'an and Hadith, without adding anything about homosexual status as aberrant behavior. *Ijtihād* of each *fuqaha'* was only about punishment for the perpetrators, such as punishment by burning, stoning, bounding, and *ta'zīr*.

Unlike if, the justification of this kind of obsession used read Manji's history towards her homosexuality existence. Genealogy of Manji's thought has a long history in supporting the existence of homosexuals. Beginning with her career, becoming a Queer Television program activist and she meet with her partner in her twenties. Then, Manji began delivering her re-ijtihad by launching two controversial works: *The Trouble with Islam Today: A Muslim's Call for Reform in Her Faith* in 2003 and *Allah, Liberty and Love: The Courage to Reconcile Faith and Freedom* in 2011. If we calculate, we will find Manji struggling her homosexual existence for more than 21 years before justifying the obsession of *fuqaha'*. It was 1990 until 2011. Furthermore, she also legalized her same-sex marriage in the name of Islam in 2016. Factually, these struggles are convincing her status as the supporter of Muslimah as well as homosexual existence for more than 25 years. Are not these facts proving that Manji is actually the one who was obsessed with homosexuality?

Manji obsession to bridge Islam and homosexual provide inspiration to create a "truth" that must be fought for by each individual. The "truth" became the main shaft in determining her actions and support given to each of the minorities existing within their environment. This "truth" also can be referred as *istinbāth* made in facing disputes of perception and cases that violate humanity in Islam, especially numerous cases of religious, ethnic and other. Manji even just use the Quran translations and private humanitarian values. In contrast to classical *ijtihad*, which can only be summed by classical jurists from several traditions, *ijma'*, *qiyās* and some methods to seek truly conclusion that meet *maqāṣid* in protecting religion, life, intellect, lineage and property. While Manji fully impressed with the personal subjectivity to justify any personal opinion from unanswered questions of her academic history, neither in formal and informal schools.

Manji's "truth" which only focused on the translation of the Quran has its advantages and disadvantages. The advantages of it, presented in the results that modest and self-centered, the effort of this *ijtihad* is very easy and can be

implemented by anybody, because it requires only the Quran that is understood by the as *re-ijtihad* and personal interpretation that creates “truth”. However, this *istinbāth* has many disadvantages. First, do not need to refer to the original text of the Quran. As already described in the previous discussion, that Manji, which does not refer to the original text, has a different view as just taking only some piece of the text for supporting of his thoughts selfishly. This self-centered way of thinking will not happen if Manji become more open to study the Quran from it’s original text, especially when it discuss about the Qur'an 3: 7 and verses of the Luth’s tribe. Second, do not need to refer to important manuscripts that support the Quran, such as *tafsīr* from classical *fuqaha’* and hadiths. Even if it describes personal opinion, the conclusion must really describe an innovation that is intact, with effort, patience, precision, and humble, so that the “truth” can actually be representative of the solution for Sharia disputes.⁵² Thus, the more variables taken into consideration in deciding legal opinion, the better the result of *ijtihad* generated by a *mujtahid*.

Conclusion

Manji is a simple thinker who is accepted by many minorities, even though, the deeper analysis concluding this result of *istinbāth* violate many basics that exist in Islamic law. Based on these facts, academicians and thinkers from either Muslim or non-Muslim who studied the Quran and even creating new methods of *ijtihad*, should enrich their science of Islam, especially the competency in reading and understanding Arabic. Manji's thought on the legality of same-sex marriage that led to his marriage to his partner Laura Albino is not a sudden one. Manji's thought has a long journey, with a summary of genealogy and The epistemology for which Manji can be accounted for by the "truth" that Manji stands for can be understood by the following two points; First, the genealogy started after Manji established her “truth” (with small t) when she was in Queer Television program, along with the external support from Canada that also legalized the same-sex marriage on 2005. Manji's historical and academic records describe the Genealogy of Manji's thought starting with her existence in a heterosexual environment. Environmental changes and support from the Canadian state have had a major influence on Manji in supporting the existence and legality of same-sex marriage.

Second, the epistemology of Manji's thought is only based on her personal interpretation of "truth" and the translation of the Koran. focusing on the meaning of "truth" led her not to care about the details of the verses related to the story of Sodom and Gomorrah in the Koran. Without having a scientific basis in Arabic and only using the translated Quran, Manji misinterprets the *mutasyabihat* verses in the Koran 3: 7, and seems to impose thought after obsession to support homosexual acts. She then came to the conclusion that the punishment given to the people of Luth because of “rape” of power and control that exceeds the limit, and not because of homosexual.

⁵² Adian Husaini dan Nuim Hidayat, *Islam liberal: sejarah, konsepsi, penyimpangan, dan jawabannya*, Cet. 1 (Jakarta: Gema Insani, 2002), 170.

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