

First Openly Gay Imam Killed in South Africa (Focus on Sexuality and Homosexuality in Islam)

(5 march 2025)

The killing in Cape Town of Muhsin Hendricks¹, known for being the first openly gay Imam in the world², has caused a considerable outcry. The reasons that led some disguised men to attack and kill Hendricks are unknown and investigators are examining all hypotheses, but some rumors suggest that it was a “hate crime” that developed in circles opposed to some of the deceased’s religious initiatives³. Indeed, the Imam ran an “inclusive” mosque, which over time became a point of reference for the LGBTQ+ community and also a refuge for other marginalized Muslims, but his activities were not appreciated by everyone and he had several detractors.

In fact, although the South African Constitution in art. 9.3 establishes equality for all its citizens without any distinction, not even for sexual orientation⁴, and although South Africa is still the only African country to allow same-sex marriage⁵, the majority of Muslim residents do not agree with a gay-friendly attitude⁶.

¹ https://www.tgcom24.mediaset.it/mondo/ucciso-in-sudafrica-primmo-imam-gay_93916719-202502k.shtml

² Coming out as gay and leading a Muslim community may seem antinomic to most. It is an absolutely unusual phenomenon in Islam and occurs only in countries with a non-Muslim majority. In addition to Hendricks, a second example is that of Ludovic-Mohamed Zahed, director of the Calem center in Marseille, France, the first gay Imam to have founded an inclusive mosque in Europe. A third case is that of El-Farouk Khaki and Troy Jackson, co-founders of the Unity Mosque in Toronto, Canada, an inclusive mosque that promotes gender equality and acceptance of LGBTQ+ people.

³ CATLIN DANAHER, NIMIN PRINCEWILL, *Man hailed as world’s first imam to say he was gay is shot dead in South Africa*, in *CNN World*, 17 February 2025, available at

<https://edition.cnn.com/2025/02/17/africa/hendricks-gay-imam-south-africa-intl/index.html>

⁴ <https://www.gov.za/documents/constitution/constitution-republic-south-africa-04-feb-1997>

⁵ Civil Union Act n. 17/2006, disponibile alla url

https://web.archive.org/web/20160304053837/http://www.gov.za/sites/www.gov.za/files/a17-06_1.pdf

⁶ Cfr. NAJMA MOOSA, ZAAHIRAH AMERICA, *South Africa: Homosexual Muslims in South Africa Some Legal Implications, Including Constitutional, Marriage and Succession*, in *International Survey of Family Law*, 1/2022, pp. 329-356; ELSJE BONTHEYUS, NATASHA ERLANK, *Modes of (in)tolerance: South African Muslims and same-sex relationships*, in *Culture, Health & Sexuality*, 3-4/2012, pp. 269-282; EVELYNE BORNIER, *Hostels, Sexuality, and the Apartheid Legacy: Malevolent Geographies*, in *Comparative Studies of South Asia*, 1/2005, pp. 250-251.

The news story provides the opportunity for a brief reflection on sexuality and the issue of homosexuality in Islam.

The *Shari'a*, as is known, pervades every aspect of Muslim life, both in the internal forum and in relationships with others, and the rules on sexuality are not an exception, belonging to an organized system of social and moral values, which are mandatory.

Islam does not consider sexual pleasure as a sin or as a collateral activity of the reproductive act, but as an important moment in the life of believers, which must be pursued without frustration or sense of guilt, since a happy and healthy existence also includes the joys of sex⁷. Sexuality, however, must be experienced lawfully within a legal framework, the *milk*⁸. Legitimate sexual relations are those practiced between individuals not previously united by family or parental ties, and consummated during marriage between the subjects mutually married, or between the master and his slave. Therefore, any sexual union outside of marriage (or the contract between master and slave) constitutes an illicit sexual intercourse and constitutes the crime of *zina*⁹. The sanction for this crime, which is one of the most serious in Islam, although established in the Quran¹⁰, has evolved over time and has been applied according to the prophetic Sunnah and consists of stoning for married people and flogging, with one hundred lashes, for unmarried people¹¹. Returning to the case in point, it should be noted that the legal schools are not aligned on the precise identification of the punishable conduct (preliminary acts,

⁷ Qur II, 223 “*Your women are like a field to you. Go to your field as you wish. ...*”. For the Quran we refer to ALBERTO VENTURA (a cura di), IDA ZILIO GRANDI (tradotto da), *Il Corano*, Arnoldo Mondadori Editore, Milano, 2010.

⁸ In Islamic law, *milk* is the possessory right of a man over a woman, arising from marriage through the payment of the *mahr* (the wedding gift), or the payment of the purchase price of the slave by the master, the only two situations that legitimize sexual relations. Among others, see AGOSTINO CILARDO, *Il diritto islamico e il sistema giuridico italiano*, Edizioni Scientifiche Italiane, Napoli, 2002, p. 120 ss.; JOSEPH SCHACHT, *Introduzione al diritto musulmano*, Edizioni Fondazione Giovanni Agnelli, Torino, 1995, p. 186; ANNE MARIE DELCAMBRE, *Sub voce* “Milk”, in *Encyclopaedia of Islam*, Brill, Leiden-New York, 1993, VII, p. 60-61.

⁹ Qur XVII, 32 “*and do not approach fornication: it is shameful and a very evil way..f*”.

¹⁰ In the Quran *zina* is punished by several rules: “*If any of your wives have committed indecent acts, bring four of your witnesses against them, and if they bear witness to the fact, lock them up in the house until death comes to them or until God opens a way for them*” Qur IV, 15; “*And if two of you commit an indecent act, punish them; but if they repent and amend their conduct, let them alone, for God is a merciful forgiving*” Qur IV, 16; “*Let the adulterer and the adulteress be punished with a hundred lashes each, and let not the compassion you feel for them keep you from carrying out the sentence of God, if you believe in God and the Last Day; and let a group of believers be present at the punishment*” Qur XXIV, 2; “*(...) But if, after they have married, they commit a lewd act, let them have half the punishment established for free women*” Qur IV, 25.

¹¹ RUDOLPH PETERS, *Crime and Punishment in Islamic Law*, Cambridge University Press, Cambridge-New York, 2005, pp. 59 ss.

penetration, anal or oral intercourse, etc.) and on the actual perpetrators of the crime (both Muslims, Muslims and protected, unbelievers, etc.)¹². In any case, the majority doctrine includes in the crime of *zina*, in addition to extramarital relations, also premarital and homosexual relations.

In the Quran there is no clear reference to homosexuality (and its punishment), which is deduced by some scholars based on the hermeneutical activity on the verses regarding the story of the Prophet Lot and the destruction of Sodom and Gomorrah¹³. In particular, it is on the exegesis of verse 81 of sura VII¹⁴ that some interpreters have started the debate to punish sexuality between people of the same gender¹⁵.

Indeed, the concept of homosexuality as an illegitimate act and as such deserving of a specific sanction is not expressly crystallized in the *Shari'a* but is derived from the doctrine, however, not even in a peaceful way. In fact, if for the Maliki, Hanbali and Shafi'i legal schools and for the Shi'ites, in order to integrate the offence of illicit sexual intercourse, it is necessary that the male glans has come into contact with the private parts (whatever they may be) of a human being (whatever gender he or she belongs to), the Hanafis require the penetration of the member into the female reproductive organ and, consequently, condemn only the illegitimate carnal union between a man and a woman, thus tolerating the other types of intercourse which, as a result, do not provide for the legal penalty provided for *zina*, and may at most lead to the application of a discretionary penalty if discovered in the act¹⁶.

¹² For a review of the main Sunni doctrinal positions on the crime of *zina*, among others, see the ever-current text of LEON BERCHER, *Les délits et les peines de droit commun prévues par le Coran. Leur réglementation dans les rites malékite, chaféite et hanéfite*, Société anonyme de l'imprimerie rapide, Tunis, 1926. For a review of Shi'a vision, cfr. MEHRDAD ALIPOUR, *Shia 'a neo-traditionalist scholars and theology of homosexuality: review and reflections on Mohsen Kadivar's shifting approach*, in *Theology & Sexuality*, 3/2018, pp. 200-218.

¹³ Qur VII, 80-84; Qur XXVI, 165-166; Qur XXVII, 55 and Qur XXIX, 29.

¹⁴ Qur VII, 81 "Because you approach men in lust rather than women, you are a people without restraint".

¹⁵ DEBORAH SCOLART, *L'islam, il reato, la pena. Dal Fiqh alla codificazione del diritto penale*, Istituto per l'Oriente C.A. Nallino, Roma, 2013, pp. 155 e ss.; SERENA TOLINO, *Omosessualità e atti omosessuali fra diritto islamico e diritto positivo: il caso egiziano con alcuni cenni all'esperienza libanese*, Edizioni Scientifiche Italiane, Napoli, 2013; SCOTT SIRAJ AL-HAQQ KUGLE, *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims*, Oneworld Publications, London, 2010.

¹⁶ For the specific position of the Hanafi school regarding the crime of *zina* and homosexuality, ABU BAKR AL-KHASSAF, *Adab al-qadi*, American University Press, Cairo, 1978, pp. 352 ss.; ANWAR SHAH KASHMIRI, *Hashiya 'ala Jami' al-Tirmidhi*, Qadimi Kutub-khane, Karachi, 1988, pp. 338 ss. Per una rassegna più approfondita, cfr. MICHAEL MUMISA, *The death penalty for homosexual acts is a violation of Shari'a*, in *Almuslimah*, 6/2016.

It should be remembered that the Hanafi school, which has proven to be the most tolerant on the subject of *zina* and homosexuality, is the most widespread and followed in Sunni orthodoxy and it should also be noted that the Islamic minority existing in South Africa follows the teachings of Abu Hanifa¹⁷.

As mentioned, the reasons for the murder of Muhsin Hendricks are unknown, but if one were to assume that it was committed for religious beliefs, considering the Imam guilty of an illicit sexuality, wanting to grant everything and overcoming the difference of opinion between schools on the concept of homosexuality as a crime, it should be emphasized that the orthopraxy of Islam provides for the celebration of a trial for *zina* and, at the end and in the event of conviction, flogging for the unmarried subject, as a penalty in execution of the sentence. Nothing authorizes an arbitrary exercise of presumed reasons, nor is killing legitimate where the legal penalty is flogging. Anyone who acts differently, places himself outside the religious law of Islam.

Vasco Fronzoni

Source: Tgcom, February, 17th 2025

https://www.tgcom24.mediaset.it/mondo/ucciso-in-sudafrica-primo-imam-gay_93916719-202502k.shtml

¹⁷ Cfr. GORKEH GAMAL NKRUMAH, *Islam in Southern Africa*, in *Review of African Political Economy*, 11/1991, pp. 94-97.