The construction of other genders by means of personal appearance in medieval Islam: the case of mukhannathūn (effeminates) and kuntha (hermaphrodites)

Abstract
This article focuses on two variations from the Muslim patriarchal binary system of females and males: mukhannathūn (those who display female behaviour and appearance while having male sex organs) and kuntha (those with a lack of or confused sex organs). These two categories were tolerated and represent an extension of the normative expected sex-gender spectrum of Islam. Personal appearance in its broad meaning is used as a tool for analysing the social-religious existence of mukhannathūn and kuntha within the community. The article concludes that jurists imposed a whole set of regulations, mixing male and female appearance, for the purpose of defining and differentiating these groups. These laws also enabled the religious and social existence of mukhannathūn and kuntha within Muslim communities. The patriarchal system preserved its power and protected itself while widening the binary male-female spectrum to include variations such as medial sex.

Introduction
The construction of personal appearance is a reflection of cultural, social, and religious norms that determine its rules, boundaries, and fashions. Dress and adornment are not engendered by nature but are the products of culture and the context of time and place. Muslim jurisprudence discusses the human body in detail, and a great deal was written about women’s bodies. Three of the five pillars of Islam – prayer, fasting, and ḥājj – pertain directly to the human body and affect its outward appearance. The fact that medieval Muslim jurists discussed personal appearance in detail is testimony to its importance in daily life and at exceptional times alike, and its role in determining gendered differentiations. Although the Muslim sources portray a world of two sexes where men are prohibited from resembling women and

1 Krawietz 2012, 48. For more about the basic perceptions of modesty and ‘awra in the Qur’ān, see Hsu 2003, 403-404; Katz 2003, 548-549.
vice versa, the legal discussions reveal a more complex attitude toward variations and their personal appearance. The gendered world of Islam includes males, females, hermaphrodites (*khuntha*), and effeminate men (*mukhannathūn*), who are all part of the Muslim community. Hence, their personal appearance had to be discussed and defined in order to enable their daily and religious lives.

Jurists constructed a connection between personal appearance, gender, and space by a division into gendered spheres of action. In the public sphere, males had only minimal limitations imposed on their personal appearance, while women were subjected to numerous prohibitions under the code of modesty. In the private sphere, women presented their personal appearance in front of other women and defined categories of male relatives with whom their strictures of modesty were eased. It must be emphasised that men were permitted to exhibit their defined proper personal appearance in both spheres and before all categories of women.

The birth of people with confused or ambiguous sex or gender identification, or those who displayed unexpected gender behaviour and appearance, challenges the basic binary gendered socio-cultural and religious system of Islam. When people wear unusual items of clothing, they are changing who they are and sometimes that includes a change in their sexual identity. Two groups that did not fit into the conventional frame caused jurists to comment on and define their existence within Muslim communities: *mukhannathūn*, who were defined as men but dressed themselves as women, and *khuntha*, who had a physical disability with regard to their genitalia. Medieval jurisprudence framed the legal status of these two groups by devising legal answers and solutions for their religious-social existence in order to enable them to be a part of Muslim society. However, according to Muslim jurisprudence, changing one’s personal appearance to that of the opposite sex is considered an abomination and is taboo, as mentioned in many *hadīth* traditions. The source of this prohibition is a fear of challenging male sexual identity in a patriarchal society in which this characteristic is essential to the establishment of power and control. In terms of belief and religion, the changing of one’s gender is perceived as an interference in God’s creation and must be condemned and prohibited.

Gender divisions and their attendant implications are deeply modulated in the Muslim legal discussion of personal appearance. Legal discussions deal with variations of various kinds, some are physically based while others are socially based. The jurists’ concerns reflect a patriarchal need to maintain a gendered hierarchical division even by means of gender distinctions in dress and adornment. At the same time, this confirms the pragmatic attitude of the Muslim jurists who recognised and enabled the existence of variations as part of society’s diversity within patriarchal-religious based communities. Gesink adds another perspective by claiming that the jurists’ judgements were what they thought would be best for the individual and the community in terms of dignity, comfort, and fulfilling religious obligations.

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2 Ishak, Haneef 2014, 524-525.
3 Kerkhof 2013, 1.
4 Khan *et al.* 2009, 441.
6 Katz 2017, 81.
7 Gesink 2018, 170.
The sources for this study are Sunni, mostly from the Mashriq, medieval Muslim jurisprudence, which is, partly at least, a product of the social structure and cultural features, beliefs, rituals, and customs that were practiced by members of this society and that influenced the legal rulings. The legal theory (usul al-fiqh) is a retrospective of the positive law that was already created largely for the local needs of Muslim societies. Because past Muslim societies were composed of mixed cultures that were Islamised, the purpose of the legal sources was to compose a unifying guide for the communities who had adopted the same religious principles.

This article aims to analyse the social construction of two distinctive and discriminative gender/sex identities with identifiable personal appearance: mukhannathūn (effeminates) and khuntha (hermaphrodites) within the socio-religious and patriarchal societies of medieval Islam. The comparison will shed some light on their personal appearance and enlighten the jurists’ socio-cultural and religious perception of the existence of these ‘variations’ within Muslim society. This methodology will emphasise the differences between these minority groups and the uniqueness of their personal appearance. By accommodating their sexual/gendered differences, the jurists were able to establish standards that would define the proper ways of dressing the bodies of the mukhannathūn and the khuntha. Through the discussion of their personal appearance in daily life and when performing ceremonies, we can learn about their social-religious existence, their gendered status, and their spheres of action. The prohibitions that were imposed on their personal appearance and behaviour reflect their subordinate status and represent their marginality in society. On the other hand, the pragmatic attitude of the jurists and their creative solutions enabled the existence of these two minority groups as tolerated, but disapproved, ambiguities within Muslim communities.

A basic related question is how to decipher the juridical discourses within the socio-religious Muslim context. Are they a reflection of the need to preserve the patriarchy’s power and dominance and prevent disorder as Sanders claimed in the early nineties? Or, are they portraying a complicated picture of defining and constructing multiple categories of gender that reflect a non-binary and much wider system of sex and gender? I hope to present a more nuanced picture that will merge these two perspectives by arguing that the gendered spectrum of Islam was widened to include variations, but this inclusive attitude enabled the patriarchy to strengthen and preserve itself. By enabling and legitimising variations, the basic binary was maintained because the variations were tolerated and discriminated, but not valued, recommended, or encouraged.

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8 Rispler-Chaim 2007, 15.
9 al-Azmeh 1988, 251.
10 El Bernoussi 2017, 2.
11 Sanders 1992, 74-98.
12 Sanders 2008, 2.
13 For more, see Najmabadi 2005, 2013, 211-231; Ze’evi 2006; Sanders 2008.
Khuntha and mukhannathūn: basic definitions

People with ambiguous sexual and/or gender identities, who do not fit into the known categories of males and females, are divided according to Muslim jurisprudence into two main groups: khuntha and mukhannathūn. Although it is beyond the scope of this article, it is interesting to note that the same root (kh.n.th) described and defined two different gender ambiguities or variations. The meaning of this root in Arabic is softness, effeminacy, pliability, mixing of forms, or doubling, which are all traits appropriate to describe males who behave like females (mukhannathūn) or those of a medial sex (khuntha). Although the same root was used to describe two different variations, the information regarding the appearance of these groups is not identical.

Because the definition of a mukhannathūn includes many aspects of behaviour and personal appearance such as clothing and adornment, the legal discussion of their appearance is greatly detailed. Conversely, most of the legal discussion of the khuntha’s appearance focuses on the physiology and biology of their sex organs, and much less was written about their clothing and adornment. Khuntha are identified by the ambiguity of their genitalia, while mukhannathūn are identified by the ambiguity of their social effeminate behaviour. Almarri adds that the terms khuntha and mukhannath (and khanith) express representations of inhabiting the body in ways that are considered transgressive of mainstream society, in between the margins of gender, sex, and sexuality.

1. Khuntha (Hermaphrodites) – Those who have some biological or physiological abnormality related to sexual characteristics, meaning that they were born without genitalia or with both male and female genital characteristics. Rispler-Chaim adds that khuntha is a congenital impairment in which an infant cannot be identified upon birth as male or female. According to Muslim jurisprudence, khuntha are those with biological-gender ambiguity upon birth, and their existence within the social system and law became possible by a legal definition of two sub-divisions: khuntha ghayr mushkil (non-ambiguous hermaphrodite), which means there is a clearly dominant functioning of genitalia, and khuntha mushkil (ambiguous hermaphrodite), which means that a person was not transformed into one of the sexes. As a khuntha mushkil cannot be classified as male or female after reaching physical maturity, there is no clear answer with regard to gender identity. Their complicated situation is unsolved medically and socially, although jurists were obliged to find creative and pragmatic solutions to enable them to be a part of a religion-based community. Another, more complicated group

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14 I follow Almarri (2016, 251-252) by using the Arabic transliteration to avoid any semantic confusion with other cultural meanings of these terms.
16 It is interesting to note that women who resemble men in their appearance and behaviour are called mutarajjilāt, an adjective that is derived from the root r.j.l, whose basic meaning is to describe men and their characteristic manners. Thus, no special root was chosen to describe those women, while a unique root was chosen to define mukhannathūn. For more, see *Ibn Manẓūr 1970, Vol. 1, 1131; Lane 1980, Vol. 3, 1043-1046. It is worth mentioning that another term used for women who dress like men is ghalāmiyyār; Rowson 2003, 47-51.
17 Almarri 2018, 8.
18 Gesink 2018, 154-156. For more about the medieval medical discourse on sexual difference, see Ragab 2015, 452-454.
of *khuntha* is those who change sex at adolescence. According to Gesink, “the jurists assigned the most cautious requirement as applied to either sex on *khuntha* to ensure the fulfillment of religious duties and accidental sins of them and the Muslim community alike.”

2. *Mukhannathūn*22 (Effeminates) – Those who are identifiable physically and sexually as males but exhibit behaviour appropriate of females.23 The basic meaning of this adjective is gentleness or self-indulgence, and it is used to describe men who behave with softness and self-indulgence, as women supposedly do. This is an identifiable group of men who adopted a feminine appearance in clothing, make-up, and accessories such as jewellery, in addition to feminine behaviour in modes of speaking and walking.24 According to Habib, it seems that the term *mukhannathūn* “is an extension of social gender expectations, or unrelated sexual and gender orientations.”25 Rowson adds that the effeminates (*mukhannathūn*) in early Islam were not accused of immoral acts, and they contributed to the development of music in Medina after the Prophet’s death.26 Another trait that is attributed to *mukhannathūn* is the use of erotic strategies perceived as feminine and intended to arouse sexual desire or excitement in those who practice them and those who witness them.27

According to the descriptions in Muslim jurisprudence, the *mukhannathūn* have tender, effeminate voices and effeminate manners in walking, talking, thinking, and personal appearance. However, as long as they do not have sexual desire for women, they can enter the private sphere of females.28 No matter how diverse the jurists’ definitions of the *mukhannathūn* were, they all focused on whether they lacked sexual desire towards women. The *mukhannathūn* were permitted to associate freely with women based on the assumption that they had no sexual interest in them, but they were not presumed to be homosexuals, although some were. Some other legal restrictions included a ban from leading prayers or serving as witnesses in court. This demonstrates that *mukhannathūn* were perceived as behaving abhorrently according to Muslim jurisprudence.29

The creation of a liminal zone of existence

The process of socialising non-normative genders in Muslim communities created a category for them that stands between male and female and enables the continuity of the known binary, even strengthening it. By accepting less common and non-normative identities of people and constructing a jurisprudence for them, jurists created a liminal zone of existence. The basic boundaries between males and females were reaffirmed, and these non-normative genders were defined and located in this liminal zone. By translating these definitions into a liv-

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21 Gesink 2018, 166.
26 One of the first studies about *mukhannathūn* in Islam is Rowson 1991, 673, 675.
ing category based on personal appearance, these ungendered and unsocialised variations became a legitimate group with typical characteristics of personal appearance.

While the *khuntha* was differentiated based upon a physiologic-biologic exception as they do not have dominant sex organs, either temporarily or permanently, the *mukhannathūn* was differentiated based upon their feminine manners of behaviour. The *mukhannathūn*, therefore, are defined by non-sexual feminine gender characteristics, not by sexual role, and their status was known and recognised. 30 Consequently, they presented a mixture of the conventional personal appearance of men and women. There is a difference between gender role, which is public, and sexual behaviour, which is private. The public gender identity of *mukhannathūn* was recognised as no threat to male monopoly over public power. The prophet Muhammad himself is even reported as treating the *mukhannathūn* with understanding and compassion by allowing them to work in his household and enter his wives’ private sphere, unless they commented on the women improperly. 31 While *mukhannathūn* removed themselves from the dominant male category and lost their respectability by their feminine behaviour, they could still be accepted as part of society. The defined status of the *mukhannathūn* was reversible since they could revert to being traditional men, an option that was permitted only for men. 32

Culture plays an important role in defining, interpreting, and evaluating variations as a part of the need to draw a line between the mainstream and marginal groups. 33 Within recognised spheres, individuals or groups who did not fit existing categories presented a dilemma and a challenge to society and its roles. There is considerable documentation of various gender identities of men before and on the eve of Islam, a fact that required definitions and terms. 34 The Arabic terminology of *khuntha* and *mukhannathūn* as variations enabled Muslims to define their respective anatomy and, even more importantly, their symbolic gender representations, including their personal appearance. There was a need to translate the legal-physiologic definitions of *khuntha* and *mukhannathūn* into a living categories of people that would be socially and religiously a part of Muslim existence. This process enabled the replacement of the foreign with the familiar, while keeping its foreignness in order to determine centre and margins, majority versus minority, accepted and exceptional, normal and variations.

The existence of defined and recognised categories of persons who are considered by society as variations from the gender norm raises some basic questions regarding their physical, religious, and social existence, their spheres of action, and their sexual and gender identities. The presence of *khuntha* and *mukhannathūn* as special categories caused the jurists to define them and their personal appearance as a measure to prevent confusion. This decision enabled the jurists to incorporate both groups into life in society and to discuss their daily existence while suggesting creative solutions according to time, place, and the subject under discussion.

30 Rowson 1991, 70.
31 Kugle 2010, 92.
32 According to Wikan (2012, 172), the modern Omani *xanith* cannot be classified as either transvestite or transsexual and should be seen exactly as Muslim jurisprudence defined *mukhannathūn*; however, the modern Omani *xanith* will not be discussed in this paper. For more, see Bullough, Bullough 1993, 11; Morray 1997, 244-248.
33 Convey 1998, 3.
34 EL Feki, Rehman 2016, 43.
The construction of other genders by means of personal appearance

The personal appearance of khunta and mukhannathūn

An analysis of personal appearance should include an observation of various aspects of human appearance in daily life and in ceremonial times. The following discussion will focus on these two complementary aspects that will enable us to draw some basic conclusions regarding the personal appearance of khunta and mukhannathūn and their place within Muslim society.

Daily life

I. The need to cover the pubis

The unclear gender identity of the mukhannathūn that might cause them to seduce or be seduced by both sexes, caused the jurists to decide that mukhannathūn were prohibited from exposing their pubis (not only their pelvic organs) before males and females alike. Mature mukhannathūn were even prohibited from taking off their clothing before strange men and women. In the case of the absence of clothing, the eleventh-century jurist al-Sarakhšī defined a typical patriarchal order to conceal the pubis: first to be concealed is females’ pubis, then mukhannathūn’s pubis, and last males’ pubis.35

Khuntha were prohibited from exposing even their soles before their sexual identification was declared for fear of the possibility that they might be identified as women whose whole bodies had to be concealed.36 The same fear explains their prohibition from taking clothing off before those who might become potential mates for marriage. The ambiguity of the khuntha is demonstrated by al-Nawawi’s thirteenth-century decree to conceal the khuntha’s male organs while in the presence of women and their female organs while in the presence of males.37

II. Clothing and jewellery

Most of the information regarding the clothing of mukhannathūn is found in the legal explanations for the prohibitions of normative males. This is because the basic fear was that men would resemble mukhannathūn in their appearance and behaviour. For example, mukhannathūn were permitted but not required to wear clothing made of silk or yellow clothing, while men were forbidden this material and colour.38 Al-Ghazali (died 1111) recommended that male youths not wear colourful clothing as that was considered the typical clothing of mukhannathūn: “He should encourage him (a male child) to (wear) white clothing and not colourful or silk clothing that is determined as appropriate for women and mukhannathūn.”39 The jurists claimed, however, that a male who paid heed to his clothing and appearance in daily life and ceremonial times, as women did, did not commit a crime. There-

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fore, if the mukhannathūn wanted to return to normative masculinity, there was no harm in the fact that he had previously paid heed to his appearance and adopted accepted norms of female outward appearance.\(^{40}\)

On the other hand, khuntha were forbidden to wear silk clothing due to the chance that they would turn out to be men, and silk clothing was permitted only for women as a mean of adornment before their husbands (and for mukhannathūn).\(^{41}\) The jurists’ concern for the consequences of the unknown sexual definition of khuntha caused them to declare that khuntha were prohibited from wearing either men’s or women’s jewellery, because they did not fit into either acceptable gender identity.\(^{42}\)

III. Colour: yellow

The colour yellow is an example of gender differentiation through colours, as it was prohibited only for males.\(^{43}\) According to hadīth literature, the prophet Muhammad prohibited men from wearing yellow clothing.\(^{44}\) On the other hand, mukhannathūn are described specifically as wearing yellow clothing.\(^{45}\) Mukhannathūn, whose personal appearance and behaviour in the public sphere were identical to that of women and who were perceived as a distinct gender variation, were seen as a threat to the correct patriarchal masculinity.\(^{46}\)

IV. Hair

Mukhannathūn were prohibited from shaving their beards, as this was perceived as an attempt to hide their masculine physical characteristics and maintain a feminine appearance.\(^{47}\) Although mukhannathūn, who in reality were often beardless either naturally or through artificial interference, were allowed to exist in a liminal sphere where they could be a part of the community without losing their male identity.\(^{48}\) The presence or absence of beards in adults confirmed the male/female binary as their presence was an unmistakable characteristic of masculinity. Beardless adult men, therefore, represented a new identity on the gender spectrum. “The public badge of a dominant man was his beard and his natural sex partners were beardless men, boys, effeminates, and women.”\(^{49}\)

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\(^{40}\) Cf. the mixture of male and female clothing to mark the unique status of the modern xanith’s (effeminate) clothing in Oman; Wikan 2012, 174.


\(^{42}\) Women were permitted to adorn themselves with gold and silver jewellery, while men were prohibited from wearing gold jewellery, as it was considered part of their reward in heaven.

\(^{43}\) It is interesting to note that yellow was used as a discriminative colour not only to differentiate between men, women, and mukhannathūn but also between Muslims and their Jewish subjects who were ordered to wear a yellow patch on their upper clothing. These subordinated groups were compelled to be marked by gender or by religion by the Muslim ruling elite. See al-Suyūṭī 1967, Vol. 1, 145; al-Ṭabarī 1968, Vol. 9, 171-172; al-Wansharīsī 1981-1983, Vol. 2, 256; al-Shayzārī 1996, Vol. 3, 326-329.

\(^{44}\) al-Nasā’ī 1988, Vol. 8, 169.

\(^{45}\) al-’Adnānī 1999, 165.

\(^{46}\) Munss, Richards 1999, 9-36.

\(^{47}\) For example, see al-Shayzārī 1969, 88; Ibn Bassām 1968, 71. For khuntha, see ’Ibn al-‘Ukhūwa 1937, 51. However, in Qajari Iran, the moustache was a cherished sign of a woman’s beauty; Najmabadi 2005, 232-237.

\(^{48}\) Rusmir 2003, 33.

\(^{49}\) Rowson 1991, 65.
Al-Tifāshi (died 1253) in his *The Promenade Of Hearts In What Is To Be Found In No Other Book* mentioned a list of terms that were unique for the personal appearance of *mukhannathūn* and how they changed their traditional male appearance, in particular their face and body hair. The fact that al-Tifāshi dedicated a chapter to the exceptional variations from the norm, a category which is almost completely absent in other juristic sources, is a reflection of his identification of a juristic need to react to and define existing norms and manners.\(^{50}\) However, the fact that only a few books discussed these subjects confirms the traditional assumption that *mukhannathūn* were considered a variation from the normal binary sex division.

The jurists’ final and permanent definition of a person as a *khuntha* with mixed or no sexual organs was postponed until the appearance of physical signs of sexual maturity, either breasts or a beard.\(^{51}\) As the growth of a beard was perceived as a sign of masculine physical maturity, *khuntha* were prohibited from any artificial interference that might hide or emphasise the existence or absence of facial hair.

### V. Nails

According to al-Nawāwī, *mukhannathūn* used to dye the palms of their hands and the soles of their feet, or the nails of their hands and feet, with *henna* as a part of their personal grooming. This was in partial imitation of women’s appearance.\(^{52}\) This is another example where a seemingly insignificant aspect of appearance was used to distinguish the *mukhannathūn* within society.

**Rituals and ceremonies**

The legal sources on the personal appearance of *mukhannathūn* and *khuntha* during ceremonies exemplify the inclusion of these gender variations as a part of society in Muslim religious life. The rules of personal appearance during exceptional times have two complementary aims: constructing an exclusive personal appearance for men and women during exceptional times and ceremonies, and keeping the gendered hierarchal differentiations in power. This is evidence of the importance of forming a normative framework of personal appearance even in changing situations and unusual periods. The legal discussion of the proper appearance of *khuntha* and *mukhannathūn* during exceptional times includes a reaffirmation of the daily norms of their personal appearance in addition to instructions that were phrased specifically for exceptional times. As most of the jurists defined *mukhannathūn*’s gender as not-male, they were subjected to females’ duties of personal appearance while performing rituals, although their legal sex was still male.

**I. Prayer**

The uncertainty regarding the gender identity of *mukhannathūn* and *khuntha,* and in particular the fear that *khuntha* would later turn out as women, caused the jurists to declare that

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\(^{50}\) al-Tifāshi 1992, 249-308.


all females’ rules of personal appearance were applied to both groups while praying. However, the other possibility, that *khuntha* would turn out as men, caused jurists, such as al-Nawawī (died 1277) for example, to declare that although they might have prayed while wearing women’s dress, their prayer was not invalidated.\(^{53}\) He added that *khuntha* should pray like women (dress and manners), but if they prayed with no head cover, or if they concealed their pubis as men must, their prayer was accepted and there was no need to repeat it.\(^{54}\) This is slightly different than the earlier jurist al-Sarakhsi (died 1090), who stated that it was preferable for *khuntha* to pray while covering their head with a *qinā‘*, a typical female head covering, as a part of the fulfillment of women’s rules of concealment.\(^{55}\) He explained that if it would be proven that *khuntha* were men, there was no harm in their praying with head covering and their prayer would be accepted, and if it appeared that they were women, they must pray while wearing a head covering anyway.\(^{56}\) Some jurists, such as al-Sarakhsi, also claimed that while praying, *khuntha* should conceal their whole body like women, while others, such as al-Nawāwī, permitted a revealed head due to the uncertainty of their sexual identification.\(^{57}\)

II. Ḥājj – pilgrimage to Mecca

The most symbolic characteristic of the ḥājj ceremony is the dress of *iḥrām*; that is the wearing of two white seamless pieces of clothing and shaving one’s head. These are all imposed on men alone. Women are excluded from the symbolic characteristics of the ḥājj’s personal appearance, especially the dress of *iḥrām*, but they are obliged to cover their heads and reveal their faces.

Medieval jurists, such as al-Sarakhsi and al-Nawāwī, decided that the personal appearance and rituals that were imposed on both *mukhannathūn* and *khuntha* would be those that were imposed on women while performing ḥājj. *Khuntha* who were immature could wear sewn clothing as women did, but when they matured, they had to wear seamless clothing as men did, while concealing more body parts, as women did.\(^{58}\) It was also recommended that they perform ḥājj while accompanied by men or women whom they were prohibited from marrying, and perform certain rituals at night, as women did. For example, al-Nawāwī stated: “It is preferable for him to circle (the *ka‘ba*) and run (a part of the ḥājj ceremonies) during night as women do because concealment is greater.”\(^{59}\)

In addition, *khuntha* could not exhibit men’s personal appearance while performing the circumambulation of the *ka‘ba* (*jawāf*) during the ḥājj. This means that they could not put the *ridā‘* (the upper garment of the *iḥrām*’s clothing) under the right armpit so that their right shoulder was exposed.\(^{60}\) At the same time, they were enjoined not to wear sewn clothing as women did. In addition, *khuntha* were given permission to conceal their head or their face,


but not both. This means that the jurists had designed for khuntha a unique iḥrām clothing that consisted partly of women’s iḥrām clothing and partly that of men. This suggests that the khuntha were clearly understood as a third sex.

III. Burial

The jurists declared that all the rules of personal appearance that were imposed on mukhanṭānūn and khunṭha during their life were in force for their burial. Both groups were subjected to those women’s laws of burial which were not defined as prohibited for men, thus there was no contradiction. If khunṭha died before their sexual identity was declared, men and women, except for their relatives, were forbidden to wash their corpse, and sand had to be used for purification. Some jurists, such as al-Sarakhsī, claimed that men and women relatives of the deceased khunṭha who were forbidden from marrying him/her could wash the corpse, but the pubis must be concealed in any case. The corpse would then be dressed with five pieces of clothing like a woman, but as there was no prohibition against dressing men the same way, there was no deviation from the legal norm. Men would be buried closest to the direction of the qibla, then khunṭha, and then women.

Conclusions

The demarcation of the mukhanṭānūn and khunṭha applied to all areas of life ranging from theoretical concepts and religious duties to personal appearance. Discussion and classification of these variations reveal a complicated worldview, where jurists both marked and protected them at the same time. The patriarchal boundaries between males and females were not impermeable, so pragmatism, realism, and a holistic worldview broke through them and created a zone of existence for more categories. The basis of this worldview was a binary patriarchal system that was formed and preserved by jurists. However, a more careful analysis of the juridical discourse reveals a complicated picture of toleration and pragmatism that enabled diversity and variations. The definitions of these variations were the basis for the juridical attitude of inclusivity, but at the same time they strengthened a patriarchy that was and continues to be based on a binary system of females and males. As this paper has shown, several conclusions can be drawn from the writings of medieval Muslim jurists.

1. The use of personal appearance to define the ‘other’

A set of rules was created to govern the personal appearance of mukhanṭānūn and khunṭha, who by virtue of their ambiguity existed on the edge of the known gendered boundaries. The jurists created a typical style of appearance for them that was a mixture of the clothing and adornment of both sexes. In Rowson’s words, the jurists provided “accommodation to those who flouted the more public, non-sexual aspects of gender construction such as dress,

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61 In daily life women were ordered to conceal both their heads and their faces, while during ḥājj ceremonies their faces were revealed. al-Nawâwî 1966, Vol. 7, 264; Vol. 2, 53.
62 For example, al-Sarakhsī 1994, Vol. 30, 105.
63 Gesink 2018, 164.
ornament and mannerism. These unique characteristics of personal appearance were aimed at creating a recognisable look that was used as a marked sign of identification and distinction, and that represented a more complicated body culture than binary gender definitions.

2. A creation of a liminal sphere

The mukhammadūn’s and khuntha’s presence in a liminal zone that was neither feminine nor masculine caused the jurists to choose the strictest solution, namely, defining their personal appearance as subject to women’s rules of appearance. However, they could move freely from private to public sphere while crossing applicable barriers between men and women. Although marked out for the variations of their behaviour/disability, they were granted a narrow gap of existence with defined social and religious positions. They were not excluded from full participation in society but were defined as marginal groups with socio-religious definitions of existence and marked personal appearance in the public sphere, outside the binary dichotomy of male-female. While existing in this demarcation, they could practice their daily life and religious duties. This gender liminality threatened the social order as gender was inevitably tied to the status of others and to the division of sexes into their respective spheres. Within this binary system of two sexes, however, the jurists created a gap or intermediate zone where marginal gendered groups, khuntha and mukhammadūn, had the right to belong and their existence was assured by juridical instructions. These liminal gender identities were therefore accepted, even if they were not ideal for the preferred binary gender system.

3. The construction and preservation of the patriarchy

Since in Qur’anic Islam the normative standard of human classification in terms of sex recognises only a binary system of males and females, mukhammadūn and khuntha are an exception and challenge to this system. The jurists’ allowance for gender fluidity arises from their recognition of ambiguities as existing in society and the need to preserve the patriarchy. The imposition of laws of appearance over mukhammadūn and khuntha is confirmation of the jurists’ fear of the confusion of the gendered borders between the sexes. Thus, the attribution of these groups to the subjected part of the patriarchal structure ensured the supremacy and independence of the exclusive male sphere, while condoning their gender liminality. By allowing flexibility in the accepted rules of the binary gender structure, jurists legitimised the inclusion and establishment of variations under the patriarchal hierarchy of adult, bearded, active men. In this way, the patriarchy protected itself from radical changes, while at the same time another subordinate group was defined, standing under males, yet above females.

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64 Roswon 2003, 45.
65 This complexity and confusion are reflected in the numerous theories devoted to the subject in Gynecological Hippocratic Aphorisms. For more, see Selove, Batten 2014, 259.
66 Roswon 2003, 66.
4. A built-in tension: idealism versus pragmatism

The legal-ethical guidelines were aimed at creating and preserving the social-religious structure that was necessary for the existence of the community. Medieval Muslim jurists demonstrated a proactive attempt to reconcile the accepted binary sex division with the need for defining variations and a third gender, even temporarily, and balancing the legal prohibitions. On one hand, mukhannathūn and khuntha were submitted to rules of personal appearance that caused them to be identified and differentiated in public, but on the other hand they were perceived as part of society, thus their existence was defined and controlled.

Jurisprudence is aimed at guiding the community and shaping the desired morals and manners, but at the same time, its aim is also to enable a communal social and religious life for variations existing within society. The same jurists that defined a binary system of two sexes constructed the sphere where the mukhannathūn and khuntha could claim an identity. Within the basic patriarchal system, jurists expressed tolerance that actually widened the spectrum of sexual identities and legitimised the religious and social existence of variations. We learn also about the pragmatic and dynamic juridical work under changing needs, about the jurists’ inclusive perception of marginal groups, and about their close connections with Muslim communities. There is room in future research to more clearly look at how this practical approach of a middle gender was aimed at educating and finally guiding to full masculinity the confused male mukhannathūn (rather than the khuntha).

5. A spectrum of sexuality

These males, either mukhannathūn or khuntha, created a new position on the gender spectrum, as sex with them was possible precisely because they were not females in terms of social restrictions and punishments. The fact that they could appear in the public sphere while presenting the personal appearance and behaviour of women confirmed their acceptance and incorporation into society. The juridical definitions of these conditions enabled the existence of these variations, legitimised gender-sex variations, and widened the spectrum of sexual options. In any case, this widened spectrum of sexuality did not apply to women, consequently the patriarchy protected itself.

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