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Terminological Engineering in International Law: Sexuality and the Epistemological Challenge to Islamic Ethical Law

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Abstract
This study investigates how international institutions, particularly United Nations bodies, engage in terminological engineering that reshapes global moral and legal discourse. It argues that terms related to gender, sexuality, and human identity are not linguistically neutral but serve as instruments of Western ideological hegemony. Through the analysis of international instruments such as CEDAW, the Beijing Platform for Action, and the Yogyakarta Principles, the paper demonstrates how linguistic normalization embeds secular-liberal assumptions within international law. Drawing upon the Islamic intellectual tradition, especially the concepts of fiṭrah (innate disposition) and iṣṭilāḥ (ethical terminology), the study contrasts secular and sacred epistemologies of law and language. It concludes that the global diffusion of these terminologies constitutes not merely a legal process but an epistemological transformation that redefines human ontology, undermines ethical pluralism, and challenges the moral sovereignty of Islamic jurisprudence.

Keywords: Islamic Law, Islamic Ethics, Gender, LGBTQI+, Sexuality, Human Rights

I. Introduction

The last few decades have witnessed growing convergence in the definitions of key concepts among international bodies, especially those operating within the United Nations framework. This increased homogeneity has led to critical thinking not only among non-Western societies but also among a significant part of Western scholars and thinkers. There have been concerns that these definitions follow an apparent ideological course and drift out of ancient ethical, religious, and anthropological frameworks.[1]

[1] Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornell University Press, 2003), 6–8; Makau Mutua, "Savages, Victims, and Saviors: The Metaphor of Human Rights," *Harvard International Law Journal* 42, no. 1 (2001): 201–45; Ahm Ershad Uddın, "Human Rights of Minorities in Islam: From the Perspective of Iraq," *İlahiyat Tetkikleri Dergisi*, no. 57 (June 2022): 55–62, https://doi.org/10.5152/ilted.2022.223077.

This paper argues that the internationalization of the language of law is neither disinterested nor legalistic, but is rooted in broader epistemological power and political frameworks. Of special concern is how strong international organizations can reconfigure essential human categories, including sex, gender, and identity, by creating and institutionalizing specific terminologies. After being codified, such terms gain a normative power and tend to bypass cultural pluralism and epistemic diversity in favor of a monolithic, secular, and liberal worldview.[2]

The Islamic concept of human nature (*fiṭrah*) offers a moral and ontological perspective that is opposed by the secular anthropology of modern international law. The Quran explains humankind as being created with a morally ordained attitude that Allah had:

> "So set your face toward the religion, inclining to truth—the fiṭrah of Allah upon which He has created mankind; there is no changing the creation of Allah." (Qurʾān 30:30).

This verse places human morality in a transcendent order than a sociopolitical structure. The classical Muslim theorists, such as Abū Ḥāmid al-Ghazālī (d. 505/1111), understood *fiṭrah* as the moral guide given by Allah that humans can use as a gauge of truth and justice —a divinely ordained ability that, once distorted by ignorance or societal conditioning, results in moral anarchy.[3] This kind of structure is profoundly different from the secular understanding of the law and self that developed in modernity, which, as Wael B. Hallaq suggests, substituted divine sovereignty with human self-legislation.[4] This secular form of international law, when considered through a legal-institutional approach, as Martti Koskenniemi showed, often masks ideological hegemony behind the discourse of universality and neutrality.[5]

This study is thus initiated by examining the Arab-Islamic intellectual tradition of investigating the ethical and epistemic bases of terminology (*iṣṭilaḥ*). It then follows the imposition of Western legal systems on Western countries and their institutional authority, through the mechanisms of international law, to impose additional terminologies that do not conform to *fiṭrah* and to the normative systems of other civilizations, including the Islamic.

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[2] Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press, 2000), 45–47; Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford, Calif: Stanford University Press, 2003), 25–28.

[3] Abū Ḥāmid Ghazālī, *Iḥyāʾ ʿUlūm Al-Dīn* (Beirut: Dār al-Maʿrifah, 1983), 1:59–60.

[4] Wael B. Hallaq, *Restating Orientalism: A Critique of Modern Knowledge* (Columbia University Press, 2018), 112–14.

[5] Koskenniemi Martti, *The Politics of International Law* (Bloomsbury Publishing, 2011), 29–32.

Although previous research has examined the implementation of human rights norms through legal diffusion, little research has examined the potential of terminological engineering as an agent of ideological hegemony, especially in comparison with non-Western epistemologies (including the Islamic legal tradition). The present study aims to address this gap by providing a discourse-analytic and epistemological critique of the terminology of international law grounded in the Islamic intellectual tradition. The paper will provide an international faith-based critique of the terms "gender identity" and "sexual orientation" by analyzing how these terms are constructed, codified, and institutionalized by international organizations. This topic is vastly underrepresented in the literature on human rights.

The main research question that informs this inquiry is the following: What role has the international legal system, led by the West, played in the spread of terminologies that do not correspond to faith-based and traditional conceptualizations of human identity worldwide?

To answer this question, the paper proceeds in four stages. First, it establishes the theoretical and conceptual foundations by examining the relationship between language, power, and knowledge in both global legal discourse and the Islamic intellectual tradition. Second, it analyzes how Western hegemony is operationalized through international institutions that construct and institutionalize dominant legal terminologies. Third, it evaluates the terminological changes visible in major treaties and declarations—particularly those relating to human identity and gender—through selected case studies. Finally, it offers an Islamic legal-ethical analysis of these developments, drawing on the concepts of *fiṭrah* and *iṣṭilaḥ* to assess their broader epistemological implications.

II. Terminology, Power, and Epistemology: Theoretical Foundations

1. Global legal terminology and norm diffusion

International law and global norm diffusion increasingly recognize that international institutions not only define legal norms but also establish the language in which these norms are expressed. Jack Donnelly claims that, despite being said to be universal, human rights are the product of Western liberal politics, which generates epistemological contradictions when translated into non-Western cultures.[6] Equally, Sally Engle Merry examines the process by which international legal ideas are vernacularized — translated into local settings, thereby transforming and translating global norms. In her work, she has observed that this process typically masks profound epistemic asymmetries between international institutions and local worldviews.[7]

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[6] Donnelly, *Universal Human Rights in Theory and Practice*, 6–10.

[7] Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice*, Chicago Series in Law and Society (Chicago, IL: University of Chicago Press, 2005), 3–8, https://press.uchicago.edu/ucp/books/book/chicago/H/bo3636543.html; Ahm Ershad Uddin,

Hilary Charlesworth and Christine Chinkin advance this criticism by showing that international law is not ideologically neutral but is based on a secular liberal worldview in which the definition of legitimate knowledge and gender equality is determined.[8] In his classic essay, "Savages, Victims, and Saviors", Makau Mutua uncovers the way that the discourse of human rights reproduces colonialism by making the West the judge of morality and the non-West an object of moral rescue.[9] Similarly, Martti Koskenniemi demonstrates that international law's claim to universality conceals its role as a tool of ideological and political power.[10]

Although these critiques overlook the discursive and terminological dimensions of global governance—how terms are codified in international instruments—this work reframes terminological engineering as a key mechanism of normative hegemony and epistemological control.[11]

2. Islamic epistemology and the ethics of terminology (*iṣṭilāḥ*)

In contrast, the Islamic intellectual tradition does not regard terminology as a neutral linguistic means but as a moral and epistemic trust (*amānah ʿilmiyyah*). The classical science of *iṣṭilāḥ* (science of defining and protecting technical terms) developed as a means of achieving semantic precision in disciplines such as *uṣūl al-fiqh* (legal theory), *kalām* (theology), and *manṭiq* (logic). Early works such as al-Khwārazmī's *Mafātiḥ al-ʿUlūm* provided one of the first encyclopedic mappings of terminological knowledge across sciences,[12] while al-Jurjānī's *Kitāb al-Taʿrīfāt* systematized these definitions to prevent conceptual drift and preserve epistemic coherence.[13] Subsequent scholars such as al-Kafawī in *al-Kulliyyāt* and al-Ṭahānawī in *Kashshāf Iṣṭilāḥāt al-Funūn* continued this legacy, regarding terminological precision as integral to maintaining the moral and metaphysical order of knowledge.[14]

The Qurʾān itself cautions against distorting divinely revealed language, as in verses such as *"But those who wronged substituted words other than those that had been said to them"* (Q.

"The Practice and Legitimacy of Misyār Marriage: A Critical Analysis within Islamic Law," *Yakın Doğu Üniversitesi İslam Tetkikleri Merkezi Dergisi* 9, no. 2 (December 2023): 2, https://doi.org/10.32955/neu.istem.2023.9.2.06.

[8] Charlesworth and Chinkin, *The Boundaries of International Law*, 45–47.

[9] Mutua, "Savages, Victims, and Saviors," 201–45.

[10] Martti, *The Politics of International Law*, 29–32.

[11] Norman Fairclough, *Discourse and Social Change* (Cambridge: Polity Press, 2009), 66–69.

[12] See, Muḥammad ibn Aḥmad Khwārazmī, *Mafātiḥ Al-ʿUlūm*, ed. Gerhard F. P. Sachs (Leipzig: Otto Harrassowitz, 1910).

[13] See, ʿAlī ibn Muḥammad Jurjānī, *Kitāb Al-Taʿrifāt*, ed. Ibrāhīm Abyārī (Beirut: Dār al-Kitāb al-ʿArabī, 1985).

[14] See, Abū al-Baqāʾ Kafawī, *Al-Kulliyyāt: Muʿjam Fī al-Muṣṭalaḥāt Wa al-Furūq al-Lughawiyyah*, ed. ʿAdnān Darwīsh and Muḥammad Miṣrī (Beirut: Muʾassasat al-Risālah, 1998); Muḥammad ʿAlī Ṭahānawī, *Kashshāf Iṣṭilaḥāt Al-Funūn*, ed. Aḥmad Ḥanafī (Beirut: Maktabat Lubnān, 1996).

2:59) and *"Among those who are Jews are those who distort words from their [proper] usages"* (Q. 4:46). These lines emphasize the moral seriousness of keeping the terms straight. This classical observation has been carried into modern epistemological discussions by contemporary Scholars. Wael B. Hallaq argues that the Islamic epistemological system opposes the secular distinction between value and fact, since every act of naming or definition carries moral and theological consequences.[15] Seyyed Hossein Nasr contrasts Islam's sacred cosmology with modernity's desacralized epistemology,[16] while Talal Asad shows how secular discourse displaces religious epistemologies through linguistic and institutional authority ("discursive secularism").[17]

Nevertheless, in Islamic science, iṣṭilāḥ treats words as carriers of truth, whereas global governance treats them as ideological tools; thus, terminology becomes a linguistic and theological battleground that shapes law and knowledge.

3. Language, power, and critical discourse theory

The *critical discourse analysis* framework developed by Norman Fairclough shows how institutional language is constructed and how power relations are perpetuated through the normalization of specific linguistic choices.[18] His methodology is crucial to the analysis of how the process of codifying particular terms by the international legal institutions seems to influence the social realities and consolidate epistemic power. This relationship between language and domination is also furthered by Teun A. van Dijk, who argues that discourse is a strategic resource for reproducing institutional control in global systems.[19]

The theory of *Orientalism* by Edward Said provides equally convincing evidence that discourse is not only a reflection but also a power, actively defining, classifying, and subordinating non-Western epistemologies to Western paradigms.[20] Collectively, the critical frameworks indicate that the language of legal and political institutions is not neutral or descriptive; it is constitutive of authority itself.

Within the Islamic legal tradition, terminological precision carries ethical and jurisprudential weight. The maxim attributed to Imām Abū Ḥanīfa, al-ʿibrah li-l-maʿānī lā li-l-alfāẓ ("consideration is due to meaning, not to mere wording"), underscores that intention and essence take precedence over linguistic form. ʿAlāʾ al-Dīn al-Kāsānī

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[15] Wael B. Hallaq, *Shari'a: Theory, Practice, Transformations* (Cambridge, UK ; New York: Cambridge University Press, 2009), 33–36.

[16] Seyyed Hossein Nasr, *The Need for a Sacred Science* (Albany: State University of New York Press, 1993), 85–92.

[17] Asad, *Formations of the Secular*, 25–30.

[18] Fairclough, *Discourse and Social Change*, 67–69.

[19] Teun A. van Dijk, *Discourse and Power* (Houndmills, Basingstoke, Hampshire ; New York: Red Globe Press, 2008), 25–33.

[20] Edward W. Said, *Orientalism* (New York: Vintage, 2014), 2–3.

cautions in *Badāʾiʿ al-Ṣanāʾiʿ* that inattentive change of legal vocabulary may corrupt doctrine and disrupt the unity of fiqh logic,[21] while Imām Mālik viewed ʿamal ahl al-Madīnah as a legal and linguistic reference point, and al-Qarāfī warned of terminological innovations leading to bidʿah and semantic corruption.[22] In his *Risālah*, al-Shāfiʿī distinguishes between literal and metaphorical uses and warns against excessive interpretation, and Ibn Taymiyyah criticized semantic manipulation that weakens the purity of the Sharīʿah language.[23] Wael B. Hallaq notes that this shared concern reflects a unified jurisprudential ethic in which terminological constancy protects the divine will against ideological reliance and secular generalization.[24]

It is in this convergence that discourse becomes both power and responsibility: while institutions use language for ideological control, the Islamic legal tradition treats it as a trust (*amānah*) governed by moral moderation and divine allusion.

4. The arab-islamic tradition of terminology formation

The classical Arab-Islamic tradition of thought placed immense stress on the ethical, epistemic, and civilizational roles of words and terms. By the advent of Islam, Arabic already enjoyed great rhetorical accuracy and grammatical skill, as evidenced in early *Jāhilī* poetry and the theory of balāghah,[25] providing a rich platform for *ʿilm al-muṣṭalaḥ* (the science of technical terms) to rise to prominence in Islamic science.

The Qurʾān, revealed in such a well-developed linguistic environment, drew on existing patterns of Arabic eloquence (fasāḥah) and rhetoric (balāghah) to render theological and ethical truths as accurately as possible, consistently highlighting the moral responsibility attached to speech and warning against linguistic distortion: "*Among the Jews are those who distort words from their proper usages*" (Q 4:46) and "*O you who believe! Do not say 'Rāʿinā,' but say 'Unẓurnā'*" (Q 2:104). Classical exegetes like al-Ṭabarī and Ibn ʿĀshūr held that these verses were a ban on semantic manipulation that might corrupt meaning and

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[21] ʿAlāʾ al-Dīn Kāsānī, *Badāʾiʿ Al-Ṣanāʾiʿ Fī Tartīb al-Sharāʾiʿ* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1986), 7:233–34.

[22] Aḥmad ibn Idrīs Qarāfī, *Al-Furūq* (ʿĀlam al-Kutub, 2001), 1:51–53.

[23] Aḥmad ibn Taymiyyah, *Majmūʿ Al-Fatāwā* (Riyadh: King Fahd Complex, 1995), 29:16–18.

[24] Hallaq, *Sharīʿa*, 33–36; Ahm Ershad Uddin, "Analyzing the Implementation of Shufʿah 'Preemption Rights' in the Legal System of Bangladesh within the Framework of Islamic Law," *İslam Medeniyeti Araştırmaları Dergisi* 8, no. 2 (2023): 459–83, https://doi.org/10.20486/imad.1351411.

[25] Muṣṭafā Ṣādiq Rāfiʿī, *Tārīkh Ādāb Al-ʿArab* (Beirut: Dār al-Kitāb al-ʿArabī, 1989), 1:21–25; Shawqī Ḍayf, *Tārīkh Al-Adab al-ʿArabī: Al-ʿAṣr al-Jāhilī* (Cairo: Dār al-Maʿārif, 1983), 19–23; Fatih Ulugöl, "ARAP DİLİ ISTILÂHLARINDAKİ İHTİLAFLARDA DÎNÎ HASSASİYETİN ROLÜ," *Çukurova Üniversitesi İlahiyat Fakültesi Dergisi (ÇÜİFD)* 20, no. 2 (December 2020): 486–508, https://doi.org/10.30627/cuilah.722748.

truth,[26] leading Muslim thinkers to develop formalized terminological systems in fields such as *fiqh* (jurisprudence), *uṣūl al-fiqh* (legal theory), *kalām* (theology), *naḥw* (grammar), and *bayān* (rhetoric).[27]

In the early times, the knowledge of terminologies was maintained through oral transmission, after which Muslim scholars systematized and documented technical terminology, establishing a tradition of lexical and conceptual scholarship through works such as al-Jurjānī's *Kitāb al-Taʿrīfāt*,[28] al-Kafawī's *al-Kulliyyāt*,[29] al-Sakkākī's *Miftaḥ al-ʿUlūm*,[30] al-Ṭahānawī's *Kashshāf Iṣṭilāḥāt al-Funūn*,[31] and Muḥammad Jalabī's *Zubdat al-Taʿrīfāt*,[32] all of which sought to codify disciplinary vocabularies as epistemological anchors for coherent intellectual inquiry.

In *Mafātīḥ al-ʿUlūm*, al-Khwārazmī described methodological principles used throughout the centuries: conciseness and accuracy, adherence to technical usage instead of colloquialism, avoidance of unnecessary etymological discourse, and functional definition rather than rhetorical ornamentation,[33] exemplifying Islamic adherence to clarity (*wuḍūḥ*), coherence (*tanāsuq*), and moral accountability (*amānah ʿilmiyyah*) in the expression of knowledge.

The Arabic term muṣṭalaḥ derives from the triliteral root *ṣ-l-ḥ,* meaning reconciliation and concord (*ṣulḥ*), and in context refers to a deliberate agreement among experts to assign a specific sense to a word in a given field.[34] Classical lexicographers such as Ibn Manẓūr define *iṣṭilāḥ* as "*ittifāq qawm ʿalā maʿnā khāṣṣ li-lafẓin khāṣṣ*," while al-Tahānawī describes it as "*naql al-lafẓ ʿan maʿnāhu al-lughawī ilā maʿnā ʿurfī khāṣṣ bi-ahl fann*,"[35] highlighting its function as the relationship between conceptual structures (*taṣawwurāt*) and linguistic symbols (*alfāẓ*).[36] These definitions emphasize the epistemological value of terminology in maintaining accuracy, eliminating ambiguity (*iltibās*), and ensuring consistency (*istiqrār*).

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[26] Muḥammad ibn Jarīr Ṭabarī, *Jāmiʿ Al-Bayān ʿan Taʾwīl Āy al-Qurʾān* (Beirut: Dār al-Fikr, 1984), 4:233–34; Muḥammad al-Ṭāhir ibn ʿĀshūr, *Al-Taḥrīr Wa al-Tanwīr* (Tunis: Dār Sahnūn, 1997), 1:473–74.

[27] ʿAbd al-Raḥmān Ḥabannakah Maydānī, *Mawārid Al-Bayān Li-Durūs al-Lughah Wa al-Balāghah* (Damascus: Dār al-Qalam, 1990), 41–42.

[28] Jurjānī, *Kitāb Al-Taʿrīfāt*.

[29] Kafawī, *Al-Kulliyyāt: Muʿjam Fī al-Muṣṭalaḥāt Wa al-Furūq al-Lughawiyyah*.

[30] Yūsuf ibn Abī Bakr Sakkākī, *Miftaḥ Al-ʿUlūm*, ed. Nāṣir al-Dīn Asad (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1987).

[31] Ṭahānawī, *Kashshāf Iṣṭilāḥāt Al-Funūn*.

[32] Muḥammad Jalabī, *Zubdat Al-Taʿrīfāt* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1998).

[33] Khwārazmī, *Mafātīḥ Al-ʿUlūm*, 3–5.

[34] Ibn Manẓūr, *Lisān Al-ʿArab* (Beirut: Dār Ṣādir, 1990), 2:517–18.

[35] Manẓūr, 2:517–18.

[36] Ṭahānawī, *Kashshāf Iṣṭilāḥāt Al-Funūn*, 5–6.

In Islamic intellectual history, terminology has structured knowledge while preserving civilizational and ethical integrity, as scholars recognized that terminology is never ideologically neutral but carries values and epistemic assumptions. Contemporary studies, such as ʿAbd al-Raḥmān al-ʿAwaḍī's *al-Muṣṭalaḥāt al-Wāfida wa Atharuhā ʿalā al-Huwiyya*, explore how the uncritical adoption of foreign terms reshapes ethical and cultural frameworks.[37]

III. Terminological Engineering and Institutional Hegemony in International Law

1. The rise of a global terminological regime

The establishment and propagation of legislative language in the contemporary world have become a powerful means of ideological power. The Western legal-intellectual tradition, especially within international organizations such as the United Nations, the World Bank, and human rights bodies, has developed a value-laden language to create a global ideological discourse.[38] According to Martti Koskenniemi, international law serves not only as a juridical system but as a means of projecting Western political and moral power.[39]

This can be characterized as a terminological regime that constructs and legitimates specific conceptual vocabularies within treaties, conventions, education, and policy discourse. These terminologies reflect a Western liberal worldview seeking to redefine *personhood, identity, gender, family,* and *freedom*.[40]

One of the main points of this paper is that terminology is never impartial. When formalized in law, words gain prescriptive power, shaping moral obligations and legal rights.[41] An example is a RAND Corporation report noting that symbolic gestures, like allowing the hijab in a government building, are viewed as "political endorsements of religious identity."[42] Likewise, CEDAW urges states to reorganize legislation and social practices; Article 5(a) requires altering "social and cultural patterns of conduct," introducing a specific moral system into legal discourse.

This hegemonic orientation denies partial obedience. Mahmoud Monshipouri argues that adopting human rights treaties entails a full ideological commitment, especially regarding gender and sexuality.[43] Catherine Palmer-Forth similarly maintains that

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[37] ʿAbd al-Raḥmān ʿAwaḍī, *Al-Muṣṭalaḥāt al-Wāfida Wa Atharuhā ʿalā al-Huwiyya* (Riyadh: Maktabat al-Rushd, 2015), 27–32.

[38] Anne-Marie Slaughter, *A New World Order* (Princeton University Press, 2005), 35–39.

[39] Martti, *The Politics of International Law*, 17–21.

[40] Mutua, "Savages, Victims, and Saviors," 201–45.

[41] Merry, *Human Rights and Gender Violence*, 12–15.

[42] Cheryl Benard, *Civil Democratic Islam: Partners, Resources, and Strategies* (2004), 26–27, https://www.rand.org/pubs/monograph_reports/MR1716.html.

[43] Mahmood Monshipouri, *Democratic Uprisings in the New Middle East: Youth, Technology, Human Rights, and US Foreign Policy* (New York: Routledge, 2016), 84–86, https://doi.org/10.4324/9781315635224.

commitment to human rights norms requires rejecting traditional legal paradigms incompatible with liberal autonomy and identity.[44]

Institutional mechanisms reinforce this framework through treaty obligations, UN monitoring, funding that privileges NGOs promoting standardized interpretations, and discursive enforcement that delegitimizes dissenting viewpoints.[45]

For Muslim-majority societies and other traditional cultures, such redefinitions represent a direct challenge to epistemologies rooted in revelation, rationality, and natural disposition (*fiṭrah*). Concepts such as freedom (*ḥurriyyah*), womanhood (*unūthah*), marriage (*nikāḥ*), and civilization (*ḥaḍārah*) are being reframed within secular anthropological paradigms that often diverge from the Islamic legal-ethical worldview.[46] Wael B. Hallaq underscores that this transformation is not simply moral but ontological: modern law reconstructs the very definition of the human subject in ways that displace divine authority with human sovereignty.[47]

Accordingly, global legislative language constitutes a hegemonic paradigm privileging secular liberal norms while marginalizing alternative civilizational systems. After consolidating power, this system reclassified moral life through a secular-humanist framework, portraying modesty as repression and redefining restraint as a barrier to freedom.[48]

This system reflects what Alasdair MacIntyre calls an emotivist culture, in which morality is reduced to preference.[49] Charles Taylor similarly argues that modernity replaces transcendence with self-realization.[50] As a result, international institutions advance a paradigm that conflicts with fiṭrah (Q 30:30). Hallaq describes this as "a comprehensive epistemic restructuring" replacing divine command with secular definitions of morality.[51]

This trend has produced a form of cultural and legislative colonialism through legal and discursive instruments.[52] A clear example of this global normative enforcement

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[44] Seyla Benhabib, "The Legitimacy of Human Rights," *Daedalus* 137, no. 3 (July 2008): 94–104, https://doi.org/10.1162/daed.2008.137.3.94.

[45] Philip Alston and Ryan Goodman, *International Human Rights* (OUP Oxford, 2013), 155–58.

[46] Prof Mohammad Hashim Kamali, *The Dignity of Man: An Islamic Perspective* (Cambridge: Islamic Texts Society, 2002), 27–30.

[47] Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (Columbia University Press, 2012), 49–53.

[48] Charles Taylor, *A Secular Age* (Cambridge, Massachusetts London, England: Belknap Press: An Imprint of Harvard University Press, 2018), 476–79.

[49] Alasdair MacIntyre, *After Virtue: A Study in Moral Theory, Third Edition* (Notre Dame, Ind: University of Notre Dame Press, 2007), 11–13.

[50] Taylor, *A Secular Age*, 421–25.

[51] Hallaq, *The Impossible State*, 49–53.

[52] Makau Mutua, *Human Rights: A Political and Cultural Critique* (University of Pennsylvania Press, 2013), 151–53.

appears in the statement of Nicholas Howen, Secretary-General of the International Commission of Jurists (ICJ), following the sentencing of several men for homosexual conduct in Saudi Arabia. In his 2000 press release, Howen declared:

"These convictions and sentences are unacceptable. Even worse is that they were imposed based on actual or perceived sexual orientation or consensual sexual conduct. Saudi Arabia is a member of the United Nations Human Rights Commission, and we call on the government to halt such practices, which violate fundamental principles of human rights law.[53] Likewise, in a 2003 press release of the HRW, 'Egypt: End Internet Entrapment, Homosexual Prosecutions,' quotes Joe Stork on the harassment of suspected homosexuals.[54]

These assertions show that moral and legal pluralism is increasingly subject to global institutional authority, challenging jurisprudential autonomy. They also reflect how opposition to religious structures is framed as necessary for human rights, reinforcing a divide between secular liberalism and religious morality.

The emergence of the term "gender role" in the 1950s, replacing "sex role," marked an epistemological shift. John Money and Robert Stoller argued that gender identity is socially constructed,[55] paving the way for legal recognition of gender categories detached from biology.[56]

Prominent feminist theorists have long critiqued organized religion, particularly Islam, as structurally patriarchal. Susan Moller Okin, in her influential essay "Is Multiculturalism Bad for Women?" argues that religious traditions subordinate women under the guise of cultural preservation.[57] From an Islamic perspective, such critiques often project European historical experiences onto societies in which religion historically functioned as a framework for justice and ethical order.[58]

The term *dawla madaniyya* originates from Enlightenment theory but can obscure the integration of religion and governance in Islam. Charles Taylor and John Dunn trace the term's intellectual genealogy to early modern struggles against theocracy in Europe.[59]

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[53] "Sexual Orientation and Gender Identity Archives," *International Commission of Jurists*, April 11, 2005, https://www.icj.org/issue/sexual-orientation-and-gender-identity/.

[54] "Egypt: End Internet Entrapment, Homosexual Prosecutions," Human Rights Watch Press Release, New York, February 21, 2003, https://www.hrw.org/legacy/press/2003/02/egypt022003.htm?

[55] John Money and Anke A. Ehrhardt, *Man & Woman, Boy & Girl: Gender Identity from Conception to Maturity* (Bloomsbury Academic, 1996), 56–58.

[56] Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 2006), 6–7.

[57] Susan Moller Okin et al., *Is Multiculturalism Bad for Women?* (Princeton, N.J: Princeton University Press, 1999), 9–13.

[58] Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (Yale University Press, 2021), 5–9.

[59] Charles Taylor, *Modern Social Imaginaries* (Duke University Press, 2004), 23–25; John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"* (Cambridge: Cambridge University Press, 2010), 11–14.

When transposed into Islamic discourse, however, *dawla madaniyya* can obscure the integration of religion and governance (*dīn wa dawlah*).[60]

"Political Islam" is often an external label (Olivier Roy),[61] while al-Ibrāhīmī affirmed that politics is intrinsic to religion. Western notions of faith contrast with the Qurʾānic concept of īmān, which integrates *ʿilm* and yaqīn (Q 2:260).[62] Syed Muhammad Naquib al-Attas emphasizes that Islamic faith is grounded in cognitive and moral knowing.[63]

2. Gender and sexuality in united nations discourse

Among the most consequential developments in contemporary international law discourse is the normative redefinition of gender and sexuality within United Nations (UN) frameworks. Beginning with the International Conference on Population and Development (ICPD, Cairo 1994) and the Fourth World Conference on Women (Beijing 1995), UN agencies promoted a vocabulary centered on *sexual and reproductive health and rights (SRHR)*, sex education, and gender equality as universal entitlements.[64]

The UN has consistently urged member states to incorporate "comprehensive sexuality education" (CSE) into national curricula. The ICPD Program of Action states that governments should "provide education and services to help adolescents understand their sexuality and protect themselves from unwanted pregnancies and sexually transmitted diseases." The Beijing Platform for Action reiterates this, calling on states to "design programs for the education of adolescents," emphasizing mutual respect and responsibility.[65]

In Arabic, this policy is often rendered as thaqāfah jinsiyyah ("sexual awareness"), which can obscure the scope of UN usage. UN materials indicate that CSE includes human anatomy, contraception, and sexual behavior in a rights-based framework. UNESCO defines it as a curriculum-based process addressing cognitive, emotional, physical, and social aspects of sexuality.[66]

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[60] Muhammad Asad, *The Principles of State and Government in Islam* (Gibraltar: Dar al-Andalus, 1980), 29–31.

[61] Olivier Roy, *The Failure of Political Islam* (Boston: Harvard University Press, 1994), 2–5.

[62] Muḥammad al-Bashīr Ibrāhīmī, *Āthār Al-Imām al-Bashīr al-Ibrāhīmī* (Wizārat al-Thaqāfah, 1997), 2:145.

[63] Syed Muhammad Naquib Attas, *Islam and Secularism* (Kuala Lumpur: International Institute of Islamic Thought and Civilization (ISTAC), 1413), 49–50, https://www.icit-digital.org/books/islam-and-secularism; Ahmed Ekşi, "Comparing Dowry System and Mahr: Cultural Practices Versus Ottoman Law in Turkish Matrimonial Traditions," *Islamiyyat* 46, no. 2 (December 2024): 17–28, https://doi.org/10.17576/islamiyyat-2024-4602-02.

[64] United Nations Population Fund (UNFPA), *Report of the International Conference on Population and Development*, Cairo, 5–13 September 1994 (New York: United Nations, A/CONF.171/13, 1995), para. 7.3–7.47.

[65] United Nations, Report of the Fourth World Conference on Women: Beijing, 4–15 September 1995 (New York: United Nations, A/CONF.177/20, 1996), para. 108(e).

[66] UNESCO, *International Technical Guidance on Sexuality Education: An Evidence-Informed Approach* (Paris: UNESCO, 2018), 7–8.

Safe sex, central to UN and WHO frameworks, is based on sexual freedom and choice regardless of cultural or religious conventions. The World Health Organization defines it as instruction[67] on "the consistent and correct use of condoms and other preventive measures." The Beijing Platform (para. 108(m)) calls for "universal access to affordable, quality health services," including reproductive health care.[68]

Although advanced as public-health measures, these initiatives institutionalize a rights-based model of sexuality that detaches ethics from familial and moral frameworks in many non-Western societies. Critics such as Allison Jagger and Ruth Lister argue that this agenda universalizes Western liberal assumptions about autonomy and desire.[69] From an Islamic perspective, sexual dignity is realized within marital relations governed by Sharīʿah principles.[70]

This redefinition forms part of a broader global trajectory reflected in UN treaties and mechanisms, aiming to universalize contested social norms under legal obligations. The Vienna Convention on the Law of Treaties (1969) affirms that once ratified, treaties must be performed in good faith: "Every treaty in force is binding on the parties to it and must be performed by them in good faith."[71]

This principle is implemented through bodies such as CEDAW, which requires reporting and legislative reform. Upon ratification, states assume:[72]

- *Legal Commitment*: Revising laws to eliminate discrimination. Articles 2(d), 2(f), and 2(g) require states to refrain from engaging in any act or practice of discrimination," to modify or abolish existing laws," and to "repeal" discriminatory provisions.[73]
- *Practical Commitment:* Reforming cultural practices. Article 5(a) obligates states to "modify the social and cultural patterns of conduct."

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[67] World Health Organization, Comprehensive Sexuality Education: Key Messages (Geneva: WHO, 2021), 3.

[68] United Nations, *Report of the Fourth World Conference on Women* (A/CONF.177/20, 1996), para. 108(m).

[69] Alison M. Jaggar, *Feminist Politics and Human Nature (Philosophy and Society)* (Bloomsbury Academic, 1983), 283–87; Ruth Lister, *Citizenship: Feminist Perspectives* (NYU Press, 2003), 89–92.

[70] Ahmet Ekşi and A. H. M. Ershad Uddin, "Application of Maintenance During the Waiting Period ('Idda'): A Perspective From Ottoman and Turkish Civil Law," *IIUM Law Journal* 31, no. 2 (December 2023): 2, https://doi.org/10.31436/iiumlj.v31i2.792.

[71] United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969, United Nations Treaty Series, vol. 1155, p. 331, Art. 26.

[72] OHCHR, *Treaty Bodies and Their Monitoring Functions*, Office of the High Commissioner for Human Rights, 2022, available at: https://www.ohchr.org/en/treaty-bodies

[73] United Nations, *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), 18 December 1979, United Nations Treaty Series, vol. 1249, p. 13, Arts. 2(d), 2(f), 2(g).

CEDAW General Recommendation No. 21 (1994) further emphasizes equality in family and marital relations, including removing distinctions between men and women and withdrawing reservations to Article 16.[74]

3. Legal and institutional mechanisms: CEDAW and UN bodies

Complementing CEDAW, the Beijing Platform for Action (1995) expanded the gender-equality agenda by urging state parties to adopt "laws, policies and programs that ensure equality in rights, responsibilities and opportunities of women and men." Article M/15 emphasizes that "equality in rights, opportunities, access to resources, and shared responsibility between men and women in the family is essential for their well-being."[75]

Although framed in terms of equality, this framework encourages a reorganization of family units and gender concepts, where a redefinition of societal and moral standards replaces legal equality. In this context, SOGI norms have been institutionalized within the UN. A turning point was Toonen v. Australia (1994), where the Human Rights Committee held that criminalizing consensual same-sex relations violated ICCPR Article 17 and that "sex" under Article 26 includes sexual orientation.[76]

Building on this precedent, Human Rights Council Resolution 32/2 (2016) established the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI).[77]

The OHCHR report "Born Free and Equal" (2012) urged states to adopt "education and awareness programs to combat attitudes rooted in homophobia and transphobia" and to "counter negative stereotyping in media representations."[78] UN agencies and NGOs have expanded this approach through advocacy, including UNESCO's "Out in the Open" report (2016), which called for campaigns promoting positive representations of LGBT persons in education and media.[79]

These developments represent a coordinated institutional effort to reshape social and moral categories in international law and public discourse. Although framed as universal human rights reforms, they raise questions about cultural sovereignty, moral pluralism, and the limits of international standardization, particularly in religious or traditional societies.

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[74] Committee on the Elimination of Discrimination against Women, *General Recommendation No. 21: Equality in Marriage and Family Relations*, UN Doc. A/49/38 (1994), para. 7.

[75] United Nations, *Report of the Fourth World Conference on Women:* para. 15.

[76] Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, CCPR/C/50/D/488/1992, 31 March 1994, paras. 8.2–10.

[77] United Nations Human Rights Council, *Resolution 32/2: Protection against violence and discrimination based on sexual orientation and gender identity*, A/HRC/RES/32/2, 30 June 2016.

[78] OHCHR, *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law* (Geneva: United Nations, 2012), 47–49.

[79] UNESCO, *Out in the Open: Education Sector Responses to Violence Based on Sexual Orientation and Gender Identity/Expression* (Paris: UNESCO, 2016), 25–27.

4. Regional and global enforcement mechanisms

LGBTQI+ rights have gained prominence in shaping international and regional institutions within legal, economic, and social frameworks. In Europe, this has been spearheaded by the European Union (EU) and the Council of Europe (CoE) through legislative resolutions, policy guidelines, and judicial rulings. The European Parliament has consistently restated that LGBTQI rights are human rights and encouraged member states to guarantee legal equality and freedom from discrimination based on sexual orientation and gender identity.[80]

The Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 1728 (2010), calling on member states to "address discrimination on grounds of sexual orientation and gender identity" and harmonize domestic laws accordingly.[81]

The European Court of Human Rights (ECHR) has extended protections under the European Convention on Human Rights (ECHR, 1950) to include discrimination based on sexual orientation and gender identity. Key precedents include:

- *Dudgeon v. United Kingdom* (1981), where criminalizing consensual same-sex conduct violated Article 8 (right to private life).[82]
- *Oliari and Others v. Italy* (2015), ruling that failure to recognize same-sex unions breached Article 8.[83]
- *Fedotova and Others v. Russia* (2023 Grand Chamber), affirming that legal recognition of same-sex couples is required under the Convention.[84]

Beyond Europe, the Inter-American Court of Human Rights (IACtHR), in Advisory Opinion OC-24/17 (2017), recognized same-sex marriage and legal gender identity as protected under the American Convention on Human Rights, affirming that states "must recognize and guarantee all the rights derived from a family bond between persons of the same sex."[85]

These jurisprudences have influenced other legislatures and entrenched the perception that protections for LGBTQI+ people are inherent to evolving human rights law.

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[80] European Parliament, *Resolution of 14 September 2021 on LGBTIQ Rights in the EU*, 2021/2557(RSP), para. 2.

[81] Parliamentary Assembly of the Council of Europe, *Resolution 1728 (2010): Discrimination on the Basis of Sexual Orientation and Gender Identity*, adopted 29 April 2010, Strasbourg.

[82] European Court of Human Rights, *Dudgeon v. the United Kingdom*, Application No. 7525/76, Judgment of 22 October 1981, Series A no. 45.

[83] European Court of Human Rights, *Oliari and Others v. Italy*, Applications Nos. 18766/11 and 36030/11, Judgment of 21 July 2015, para. 185.

[84] European Court of Human Rights, *Fedotova and Others v. Russia*, Applications Nos. 40792/10 and others, Judgment of 17 January 2023, paras. 165–172.

[85] Inter-American Court of Human Rights, *Advisory Opinion OC-24/17: Gender Identity, and Equality and Non-Discrimination of Same-Sex Couples*, 24 November 2017, Series A No. 24, para. 199.

The inclusion of LGBTQI+ communities in economic governance and development policy represents a further expansion. The World Bank Group has linked discrimination based on sexual orientation or gender identity with negative economic performance and reduced human capital.

In "The Economic Cost of Homophobia," the World Bank claimed that exclusion of LGBTQI+ individuals reduces productivity and harms education and public health, estimating losses in the billions.[86] The World Bank SOGI Global Report (2024) emphasizes that "inclusive development" requires eliminating structural discrimination, with LGBTQI+ inclusion as "a fundamental aspect of sustainable economic growth."[87]

This transformation makes LGBTQI+ rights not only legal or moral but also economic and developmental, becoming part of project appraisal, country diagnostics, and funding requirements, with human rights criteria functioning as conditions for financial cooperation and aid.

The International Commission of Jurists (ICJ) and the International Service to Human Rights (ISHR) codified these principles in the Yogyakarta Principles (2006),[88] later expanded in YP+10 (2017) to include gender expression and sex characteristics.

These principles have become a normative reference for UN bodies, national human rights institutions (NHRIs), and NGOs, guiding legal interpretation, reporting, and policy formulation at domestic and global levels.

Through this multi-layered network:

- Regional organizations incorporate SOGI principles into monitoring frameworks.
- NGOs integrate them into programming and reporting.[89]
- NHRIs promote awareness and implementation.[90]
- Professional associations revise ethical codes, such as the World Medical Association's non-discrimination policies.[91]

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[86] M. V. Lee Badgett, "The Economic Cost of Homophobia: How LGBT Exclusion Impacts Development," World Bank, The Economic Costs of Homophobia, A Case Study of India, Washington, DC, March 12, 2014, 5–7.

[87] Clifton Cortez, *Equality of Opportunity for Sexual and Gender Minorities* (Washington DC: World Bank Group, 2024), 11–13, https://www.worldbank.org/en/publication/equality-of-opportunity-for-sexual-and-gender-minorities.

[88] International Commission of Jurists (ICJ) and International Service for Human Rights (ISHR), *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (Geneva: March 2007).

[89] See, for example, Human Dignity Trust, *Mapping SOGI in International Human Rights Law* (London: Human Dignity Trust, 2020), 8–10.

[90] Global Alliance of National Human Rights Institutions (GANHRI), *Position Paper on the Role of NHRIs in Promoting the Human Rights of LGBTI Persons* (Geneva: GANHRI, 2021), 2–4.

[91] World Medical Association (WMA), *Statement on Natural Variations of Human Sexuality*, adopted at the 70th WMA General Assembly, Tbilisi, October 2019.

This diffusion embeds SOGI principles across legal, economic, and professional domains within global and domestic systems.

A key finding is the systematic use of UN-related institutions to advance an integrated ideological perspective on gender and sexuality across multiple levels. While treaties bind states, NGOs, academic institutions, and media networks mediate between global norms, domestic law, and public consciousness.

From religious and anthropological perspectives, particularly in Islamic thought, this restructuring challenges fiṭrah (the innate moral nature) and reshapes the ethical premises of human identity and family life, redefining both moral categories and the ontological foundations of law and ethics.

5. Mechanisms of Terminological Engineering: Case Illustrations

The reconstruction of gender and sexual norms has spread through a strategically designed terminological architecture. This paradigm, grounded in postmodern and egalitarian ideologies, operates as a linguistic system that legitimizes new moral categories while marginalizing established ethical vocabularies. Its core is a discursive shift in the meanings of words related to morality, identity, and family, producing a global linguistic regime that reshapes ethical reasoning.

a. Lexical Selection: Adopting neutral or positive terminology for previously restricted practices.
b. Semantic Association: Reframing meanings beyond traditional metaphysical frameworks.
c. Standardization: Codifying terms in UN and regional legal documents.
d. Legal Entrenchment: Embedding definitions in treaties and human rights law.
e. Discursive Immunization: Equating critique with intolerance or hate speech.

In Islamic legal-ethical terms, this is not linguistic evolution but a subversion of moral ontology, as language is used to redefine truth itself. International institutions elevate ideological constructs to universal norms, narrowing religious discourse in the name of equality and inclusion.

The formal legalization of advocacy groups has become central to the institutionalization of SOGI rights, extending beyond recognition to funding, consultative status, and integration into treaty frameworks:

a. 2011 OHCHR Report on SOGI:

The UN High Commissioner for Human Rights issued a report on violence and discrimination based on sexual orientation and gender identity in response to Human Rights Council Resolution 17/19 (2011). It marked the first system-wide acknowledgment of SOGI rights within human rights law. The report, "Discriminatory

Laws and Practices and Acts of Violence Against People based on their sexual orientation and gender identity", became a standard reference for subsequent legal developments.[92]

b. 2016 Creation of the UN Independent Expert on SOGI:

Human Rights Council Resolution 32/2 (2016) established the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, tasked with investigating abuses, engaging governments, and recommending policy reforms. This mandate was renewed by HRC Resolutions 41/18 (2019) and 50/10 (2022), institutionalizing SOGI protection within the UN system.[93]

c. Organization of American States (OAS):

1) European Court of Justice (ECJ) – Asylum Ruling (2014):

The Court of Justice of the European Union (CJEU) ruled in A, B, and C v. Staatssecretaris van Veiligheid en Justitie (2014) that intrusive medical or psychological examinations to verify sexual orientation in asylum cases violate human dignity and privacy under EU law.[94]

2) UN Committee on Economic, Social, and Cultural Rights (CESCR):

In General Comment No. 20 (2009), the CESCR stated that "sexual orientation and gender identity are included among prohibited grounds of discrimination under Article 2(2)" of the Covenant, guiding later recommendations encouraging recognition of same-sex partnerships.[95]

c. UNICEF and the Committee on the Rights of the Child (CRC):

Both institutions have condemned discrimination against children raised by same-sex couples, urging equal access to education, health care, and family protections.[96] UNICEF affirms that "all children, including those of LGBTI parents, must enjoy protection from stigma and discrimination."[97]

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[92] Office of the High Commissioner for Human Rights (OHCHR), *Discriminatory Laws and Practices and Acts of Violence Against Individuals Based on Their Sexual Orientation and Gender Identity*, A/HRC/19/41, 17 November 2011.

[93] United Nations Human Rights Council, *Resolution 41/18*, A/HRC/RES/41/18, 12 July 2019; *Resolution 50/10*, A/HRC/RES/50/10, 7 July 2022.

[94] Court of Justice of the European Union (CJEU), *A, B and C v. Staatssecretaris van Veiligheid en Justitie*, Joined Cases C-148/13, C-149/13 and C-150/13, Judgment of 2 December 2014.

[95] Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights* (Art. 2, para. 2 of the Covenant), E/C.12/GC/20, 2 July 2009, para. 32.

[96] Committee on the Rights of the Child (CRC), *General Comment No. 15: The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health*, CRC/C/GC/15, 17 April 2013, para. 8.

[97] UNICEF, *Position Paper: Eliminating Discrimination Against Children and Parents Based on Sexual Orientation and/or Gender Identity* (New York: UNICEF, 2014).

d. Recognition of Sexual Orientation and Gender Identity as Integral to Human Dignity:

The UN Human Rights Committee (HRCtee) clarified in Toonen v. Australia (1994) that "sexual orientation" is encompassed within "sex" in Article 26 of the ICCPR, affirming its status as a protected category.[98] Subsequent HRCtee views and OHCHR guidance confirm that public morality cannot justify discrimination on these grounds.[99]

A key function of contemporary international discourse is the valorization of identities and practices formerly regarded as outside normative ethics, reframing them as part of human dignity.[100]

State affirmations reinforce this framework: the United States government issues recurring statements recognizing LGBTQI+ persons in conjunction with observances (e.g., IDAHOBIT on May 17) and UN-aligned campaigns,[101] framing this messaging around dignity and equality.[102]

Media and cultural normalization extend this process, with increased LGBTQ representation in television and campaigns[103] (e.g., UN Free & Equal) shaping public attitudes beyond law.[104]

UN reports characterize the repeal of criminal prohibitions, enactment of anti-discrimination laws, and creation of specialized mechanisms as "positive developments." Country engagement also serves as a model: during his 2018–2021 engagement, culminating in a June 2021 visit to Tunisia,[105] the Independent Expert commended Tunisia's openness and situated its reforms within a human rights leadership framework.[106]

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98 Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, CCPR/C/50/D/488/1992, 31 March 1994, para. 8.7.

99 OHCHR, *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law* (Geneva: United Nations, 2012), 13–16.

100 OHCHR, *Discriminatory Laws and Practices and Acts of Violence Against Individuals Based on Their Sexual Orientation and Gender Identity*, A/HRC/19/41 (17 November 2011); see also Human Rights Council, *Discrimination and violence against individuals based on their sexual orientation and gender identity*, A/HRC/29/23 (4 May 2015), "Positive developments since 2011".

101 U.S. Department of State, "On the International Day Against Homophobia, Biphobia, Interphobia and Transphobia," 17 May 2024; The White House, "A Proclamation on Lesbian, Gay, Bisexual, Transgender, and Queer Pride Month, 2021," 1 June 2021.

102 xios, "Pride flags will fly again at U.S. embassies around the world," 23 April 2021.

103 Heidi Spillum Producer Web, "Where We Are On TV Report 2021–2022," February 2, 2022, https://glaad.org/wherewareontv21/; Mahita Gajanan, "LGBTQ Characters on TV Hit Record High, GLAAD Survey Finds," *TIME*, November 3, 2016, https://time.com/4556362/lgbtq-characters-television-glaad/.

104 UNHR, "Free and Equal," OHCHR, 2025, https://www.ohchr.org/en/get-involved/free-and-equal.

105 OHCHR, "Tunisia: UN expert praises democratic progress since revolution, says more needed for LGBT persons," 18 June 2021.

106 Human Rights Council, *Discrimination and violence*…, A/HRC/29/23 (4 May 2015)

Case Study – Algeria. Algeria's constitutional order defines Islam as the state religion (1996 Const., as amended 2016, Art. 2), shaping family law and ethical boundaries.[107] Algeria ratified CEDAW with reservations to provisions that conflict with the Family Code, including Articles 2, 15(4), and 16, and a declaration on Article 29(1).[108] The Family Code was amended by Ordonnance n° 05-02 du 27 février 2005, retaining Sharīʿah-grounded structures in personal status law.[109]

In 2012, the CEDAW Committee urged Algeria to narrow reservations and align personal-status rules with equality standards, highlighting guardianship, marriage eligibility, and inheritance.[110] Algeria later provided follow-up information while reiterating its constitutional and cultural framework.[111]

Terminological divergence persists: SOGI incorporation has not altered Islamic legal identity, and assessments note reservations and selective conformity. Support for LGBTQI+ activists reflects an institutional ideology, with UN bodies elevating actors as authorities shaping global standards.

This trend was most explicitly institutionalized through UN Human Rights Council Resolution 32/2 (2016), establishing the Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity (SOGI),[112] later renewed by Resolutions 41/18 (2019) and 50/10 (2022). This represents formal recognition of SOGI as protected categories within the UN framework, described by advocacy groups as "the clearest institutional expression" of commitment to LGBTQI+ equality.

Similarly, UN Secretary-General Ban Ki-moon, at the *Oslo Conference on Human Rights, Sexual Orientation and Gender Identity* (2013), described homophobia and transphobia as "among the great, neglected human rights challenges of our time" and pledged intensified UN efforts toward decriminalization worldwide.[113]

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[107] Constitution of the People's Democratic Republic of Algeria (2016), Art. 2.

[108] UN Treaty Collection, CEDAW (IV-8), Algeria – Reservations and declarations (country profile page)

[109] Ordonnance n°05-02 du 27 février 2005 modifiant et complétant la loi n°84-11 du 9 juin 1984 portant Code de la famille (JO n°15), official text (French)

[110] CEDAW, *Concluding observations on the combined third and fourth periodic reports of Algeria*, CEDAW/C/DZA/CO/3-4 (23 March 2012), esp. paras. 29–32, 44–45

[111] CEDAW, *Concluding observations… Addendum: Information provided by Algeria*, CEDAW/C/DZA/CO/3-4/Add.1 (29 May 2015).

[112] United Nations Human Rights Council, *Resolution 32/2: Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity* (A/HRC/RES/32/2, 30 June 2016).

[113] United Nations Secretary-General Ban Ki-moon, "Address to the Oslo Conference on Human Rights, Sexual Orientation and Gender Identity," 15 April 2013, United Nations Press Release, Oslo.

OHCHR reports further consolidate this discourse by framing legislative changes and increased visibility of LGBTQI+ actors as "positive developments."[114] In this framework, restrictions on LGBTQI+ expression or assembly are categorized as human rights violations.[115] In 2013, OHCHR launched the Free and Equal campaign, a media-based initiative using digital storytelling, celebrity endorsements, and educational materials under the slogan "inspiring global change."[116]

This process exceeds symbolic recognition, creating a transnational web of authority in which NGOs and advocacy leaders gain institutional access and moral influence. The outcome resembles normative consolidation, where opposing or religious perspectives are framed not as alternatives but as breaches of universal human rights norms.

The expansion of terminology within UN frameworks serves strategic purposes by identifying "gaps" in existing human rights treaties and introducing categories such as sexual orientation, gender identity, transgender, and intersex. Once embedded in resolutions, educational materials, and treaty interpretations, these terms acquire institutional legitimacy and become resistant to critique.

This process can be observed in a series of definitional texts and campaigns:

- *Persecution:* UNHCR statements marking the *International Day Against Homophobia, Transphobia, and Biphobia* (IDAHOBIT) highlight "people forced to flee their homes because of persecution based on sexual orientation, gender identity, or sex characteristics,"[117] effectively equating moral or cultural disapproval of non-normative sexual conduct with persecution under international refugee law.
- *Right to Marriage:* In Sweden, same-sex marriage (2009) is promoted as a human right grounded in the "freedom to love whom one chooses,"[118] described by state institutions and RFSL as a hallmark of equality and inclusion.
- *Rainbow Flag:* The UN's *Free & Equal* campaign defines it as "a symbol of pride, diversity, and respect for human rights," using it across official events and media campaigns.[119]

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[114] United Nations, *Discrimination and Violence against Individuals Based on Their Sexual Orientation and Gender Identity: Report of the High Commissioner for Human Rights* (A/HRC/29/23, 4 May 2015), sec. "Positive Developments."

[115] United Nations Office of the High Commissioner for Human Rights (OHCHR), *Discriminatory Laws and Practices and Acts of Violence against Individuals Based on Their Sexual Orientation and Gender Identity* (A/HRC/19/41, 17 November 2011), paras. 78–88.

[116] OHCHR, *UN Free & Equal Campaign Overview* (Geneva: Office of the High Commissioner for Human Rights, 2013), accessed May 2025, https://unfe.org.

[117] United Nations High Commissioner for Refugees (UNHCR), "Statement on the International Day Against Homophobia, Transphobia and Biphobia," 17 May 2023.

[118] Government Offices of Sweden, "Chronological Overview of LGBT Persons' Rights in Sweden," 12 July 2018; RFSL, "Marriage in Sweden," accessed May 2025.

[119] OHCHR, *UN Free & Equal: The Rainbow Flag as a Global Symbol of Pride*, press release, 2021.

- *Sexual Orientation*: The *Yogyakarta Principles* define it as "each person's capacity for profound emotional, affectional, and sexual attraction… to individuals of a different gender or the same gender or more than one gender,"[120] transforming private desire into a human-rights category.
- *Gender Identity:* Defined by the *Yogyakarta Principles* and OHCHR as "each person's deeply felt internal and individual experience of gender… not corresponding with the sex assigned at birth."[121]
- *Transgender/Intersex:* OHCHR defines transgender persons as those whose gender identity differs from assigned sex, and intersex persons as those "born with sex characteristics that do not fit typical binary notions," affirming legal recognition, bodily integrity, and inclusion.

The outcome is an epistemological reorientation: morality is framed in terms of self-determination, independence, and bodily passion rather than metaphysical or theological terms. Conventional moral orders, especially those rooted in religious anthropology (e.g., *fiṭrah* in Islam), are recast as retrogressive or discriminatory. Terminological expansion thus functions not only as linguistic innovation but as moral and civilizational re-engineering.

IV. Islamic Legal-Ethical Critique

1. Epistemological tensions: fiṭrah vs. Secular constructs

According to Islamic jurisprudence, such a transformation is not just a change in politics but a shift in the world's knowledge paradigm. The deep relationship between law and ontology has always existed in the tradition of Islamic law, which is founded on fiṭrah (innate disposition of humans), divine revelation, and rational morality. Such concepts as *ʿirḍ* (honor), *ʿiffah* (chastity), *zawāj* (marriage), and *liwāṭ* (sodomy), which were used in classical jurisprudence, were not neutral terms but normative terms that were based on a divinely ordained moral order. The fact that these terms are being redefined in terms of secular-humanist thought, as exemplified by the Yogyakarta Principles (2007), CEDAW (1979), and the Beijing Platform for Action (1995), shifts the epistemological grounds of moral discourse itself.

In this study, the author highlights that Islamic jurisprudence provides an essential opposition to this story. The internationalization of the human conception of sexual autonomy as the ultimate form of freedom discourages the Islamic definition of freedom based on agreement with moral and divine purpose. According to Islamic thought, true

[120] International Commission of Jurists (ICJ) and International Service for Human Rights (ISHR), *The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (Geneva: March 2007), Principle 2.

[121] OHCHR, "Gender Identity and Human Rights," UN Human Rights Office, Geneva, 2022.

freedom is not being free from restraint, but having one's actions align with Allah's moral order. Accordingly, the secular-humanist paradigm propagated by international law conflicts with the *maqāṣid al-sharīʿah* (the higher goals of Islamic law) and the Qurʾānic anthropology of the human soul (nafs).

2. Implications for legal and moral pluralism

To Muslim-majority states, this move not only comes with legal and ethical issues but also ontological issues. The conflict between global normative expectations and Islamic constitutional identity, as seen in case studies such as Algeria, necessitates epistemic sovereignty. Linguistic and legal reservations of terms like "gender equality" and "sexual orientation" are statements of this sovereignty, protecting the moral grammar of sharīʿah in the face of global governance.

The research proposes that a more nuanced approach to cross-civilization legal discourse is necessary, one that avoids both cultural relativism and moral imperialism. These conversations can be informed by the Islamic legal tradition, which provides an abundant epistemology of language, law, and ethics. Classical scholars such as al-Kāsānī, al-Qarāfī, and Ibn Taymiyyah anticipated contemporary anxieties over semantic integrity in jurisprudence by resurgent assertions of the relevance of linguistic precision (taḥrīr al-alfāẓ). Their teachings remind us that legal terms are not entirely separate from moral content.

Lastly, the paper recommends that epistemological pluralism should be appreciated in international law. Universalization of human rights can no longer afford to exclude different conceptions of the good but must incorporate ethics grounded in fiṭrah into global discussions of law and morality. Only in this case can we build something truly inclusive that will strike the right balance between autonomy and responsibility, freedom and restraint, and diversity and truth.

V. Conclusion

This paper illustrates that the global discourse on gender and sexuality, influenced by the United Nations and its institutions, extends beyond the history of human rights discourse and constitutes a broad normative program aimed at generalizing a particular moral ontology through legal codification, terminological engineering, and institutional promotion. In this process, international law has transformed not only human behavior but also the meaning of the human being by replacing culturally embedded ethical concepts with terms such as "gender equality," "sexual orientation," and "bodily autonomy."

The study highlights the need for a more nuanced and epistemologically plural approach to international law that recognizes diverse moral and legal traditions. It argues

that universal human rights discourse should not exclude alternative ethical frameworks but rather engage with them meaningfully, including those grounded in fiṭrah and Islamic legal thought. Such an approach can contribute to a more balanced and inclusive global legal order that accommodates differences in moral reasoning while sustaining dialogue between competing conceptions of human identity, freedom, and responsibility.

Bibliography

Ahmed, Leila. *Women and Gender in Islam: Historical Roots of a Modern Debate*. Yale University Press, 2021.

Alston, Philip, and Ryan Goodman. *International Human Rights*. OUP Oxford, 2013.

Asad, Muhammad. *The Principles of State and Government in Islam*. Gibraltar: Dar al-Andalus, 1980.

Asad, Talal. *Formations of the Secular: Christianity, Islam, Modernity*. Stanford, Calif: Stanford University Press, 2003.

Attas, Syed Muhammad Naquib. *Islam and Secularism*. Kuala Lumpur: International Institute of Islamic Thought and Civilization (ISTAC), 1413. https://www.icit-digital.org/books/islam-and-secularism.

Badgett, M. V. Lee. "The Economic Cost of Homophobia: How LGBT Exclusion Impacts Development." World Bank. The Economic Costs of Homophobia, A Case Study of India, Washington, DC, March 12, 2014.

Benard, Cheryl. *Civil Democratic Islam: Partners, Resources, and Strategies*. 2004. https://www.rand.org/pubs/monograph_reports/MR1716.html.

Benhabib, Seyla. "The Legitimacy of Human Rights." *Daedalus* 137, no. 3 (July 2008): 94–104. https://doi.org/10.1162/daed.2008.137.3.94.

Butler, Judith. *Gender Trouble: Feminism and the Subversion of Identity*. New York: Routledge, 2006.

Charlesworth, Hilary, and Christine Chinkin. *The Boundaries of International Law: A Feminist Analysis*. Manchester University Press, 2000.

Cortez, Clifton. *Equality of Opportunity for Sexual and Gender Minorities*. Washington DC: World Bank Group, 2024. https://www.worldbank.org/en/publication/equality-of-opportunity-for-sexual-and-gender-minorities.

Ḍayf, Shawqī. *Tārīkh Al-Adab al-ʿArabī: Al-ʿAṣr al-Jāhilī*. Cairo: Dār al-Maʿārif, 1983.

Dijk, Teun A. van. *Discourse and Power*. Houndmills, Basingstoke, Hampshire ; New York: Red Globe Press, 2008.

Donnelly, Jack. *Universal Human Rights in Theory and Practice*. Cornell University Press, 2003.

Dunn, John. *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government."* Cambridge: Cambridge University Press, 2010.

Ekşi, Ahmed. "Comparing Dowry System and Mahr: Cultural Practices Versus Ottoman Law in Turkish Matrimonial Traditions." *Islamiyyat* 46, no. 2 (December 2024): 17–28. https://doi.org/10.17576/islamiyyat-2024-4602-02.

Ekşi, Ahmet, and A. H. M. Ershad Uddin. "Application of Maintenance During the Waiting Period ('Idda'): A Perspective From Ottoman and Turkish Civil Law." *IIUM Law Journal* 31, no. 2 (December 2023): 2. https://doi.org/10.31436/iiumlj.v31i2.792.

Fairclough, Norman. *Discourse and Social Change*. Cambridge: Polity Press, 2009.

Gajanan, Mahita. "LGBTQ Characters on TV Hit Record High, GLAAD Survey Finds." *TIME*, November 3, 2016. https://time.com/4556362/lgbtq-characters-television-glaad/.

Ghazālī, Abū Ḥāmid. *Iḥyāʾ ʿUlūm Al-Dīn*. Vol. 1. Beirut: Dār al-Maʿrifah, 1983.

Hallaq, Wael B. *Restating Orientalism: A Critique of Modern Knowledge*. Columbia University Press, 2018.

———. *Sharīʿa: Theory, Practice, Transformations*. Cambridge, UK ; New York: Cambridge University Press, 2009.

———. *The Impossible State: Islam, Politics, and Modernity's Moral Predicament*. Columbia University Press, 2012.

Human Rights Watch Press Release, New York. "Egypt: End Internet Entrapment, Homosexual Prosecutions." February 21, 2003. https://www.hrw.org/legacy/press/2003/02/egypt022003.htm?utm_source=chatgpt.com.

Ibrāhīmī, 18. Muḥammad al-Bashīr. *Āthār Al-Imām al-Bashīr al-Ibrāhīmī*. Vol. 2. Algiers: Wizārat al-Thaqāfah, 1997.

Jaggar, Alison M. *Feminist Politics and Human Nature (Philosophy and Society)*. Bloomsbury Academic, 1983.

Jalabī, Muḥammad. *Zubdat Al-Taʿrīfāt*. Beirut: Dār al-Kutub al-ʿIlmiyyah, 1998.

Jurjānī, ʿAlī ibn Muḥammad. *Kitāb Al-Taʿrīfāt*. Edited by Ibrāhīm Abyārī. Beirut: Dār al-Kitāb al-ʿArabī, 1985.

Kafawī, Abū al-Baqāʾ. *Al-Kulliyyāt: Muʿjam Fī al-Muṣṭalaḥāt Wa al-Furūq al-Lughawiyyah*. Edited by ʿAdnān Darwīsh and Muḥammad Miṣrī. Beirut: Muʾassasat al-Risālah, 1998.

Kamali, Prof Mohammad Hashim. *The Dignity of Man: An Islamic Perspective*. Cambridge: Islamic Texts Society, 2002.

Kāsānī, ʿAlāʾ al-Dīn. *Badāʾiʿ Al-Ṣanāʾiʿ Fī Tartīb al-Sharāʾiʿ*. Vol. 7. Beirut: Dār al-Kutub al-ʿIlmiyyah, 1986.

Khwārazmī, Muḥammad ibn Aḥmad. *Mafātīḥ Al-ʿUlūm*. Edited by Gerhard F. P. Sachs. Leipzig: Otto Harrassowitz, 1910.

Lister, Ruth. *Citizenship: Feminist Perspectives*. NYU Press, 2003.

MacIntyre, Alasdair. *After Virtue: A Study in Moral Theory, Third Edition*. Notre Dame, Ind: University of Notre Dame Press, 2007.

Manẓūr, Ibn. *Lisān Al-ʿArab*. Vol. 2. Beirut: Dār Ṣādir, 1990.

Martti, Koskenniemi. *The Politics of International Law*. Bloomsbury Publishing, 2011.

Maydānī, ʿAbd al-Raḥmān Ḥabannakah. *Mawārid Al-Bayān Li-Durūs al-Lughah Wa al-Balāghah*. Damascus: Dār al-Qalam, 1990.

Merry, Sally Engle. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago Series in Law and Society. Chicago, IL: University of Chicago Press, 2005. https://press.uchicago.edu/ucp/books/book/chicago/H/bo3636543.html.

Money, John, and Anke A. Ehrhardt. *Man & Woman, Boy & Girl: Gender Identity from Conception to Maturity*. Bloomsbury Academic, 1996.

Monshipouri, Mahmood. *Democratic Uprisings in the New Middle East: Youth, Technology, Human Rights, and US Foreign Policy*. New York: Routledge, 2016. https://doi.org/10.4324/9781315635224.

Mutua, Makau. *Human Rights: A Political and Cultural Critique*. University of Pennsylvania Press, 2013.

———. "Savages, Victims, and Saviors: The Metaphor of Human Rights." *Harvard International Law Journal* 42, no. 1 (2001): 201–45.

Nasr, Seyyed Hossein. *The Need for a Sacred Science*. Albany: State University of New York Press, 1993.

Okin, Susan Moller, Joshua Cohen, Matthew Howard, and Martha C. Nussbaum. *Is Multiculturalism Bad for Women?* Princeton, N.J: Princeton University Press, 1999.

Producer, Heidi Spillum, Web. "Where We Are On TV Report 2021–2022." February 2, 2022. https://glaad.org/wherewareontv21/.

Qarāfī, Aḥmad ibn Idrīs. *Al-Furūq*. Vol. 1. Beirut: ʿĀlam al-Kutub, 2001.

Rāfiʿī, Muṣṭafā Ṣādiq. *Tārikh Ādāb Al-ʿArab*. Vol. 1. Beirut: Dār al-Kitāb al-ʿArabī, 1989.

Roy, Olivier. *The Failure of Political Islam*. Boston: Harvard University Press, 1994.

Said, Edward W. *Orientalism*. New York: Vintage, 2014.

Sakkākī, Yūsuf ibn Abī Bakr. *Miftāḥ Al-ʿUlūm*. Edited by Nāṣir al-Dīn Asad. Beirut: Dār al-Kutub al-ʿIlmiyyah, 1987.

"Sexual Orientation and Gender Identity Archives." *International Commission of Jurists*, April 11, 2005. https://www.icj.org/issue/sexual-orientation-and-gender-identity/.

Slaughter, Anne-Marie. *A New World Order*. Princeton University Press, 2005.

Ṭabarī, Muḥammad ibn Jarīr. *Jāmiʿ Al-Bayān ʿan Taʾwīl Āy al-Qurʾān*. Vol. 4. Beirut: Dār al-Fikr, 1984.

Ṭahānawī, Muḥammad ʿAlī. *Kashshāf Iṣṭilāḥāt Al-Funūn*. Edited by Aḥmad Ḥanafī. Beirut: Maktabat Lubnān, 1996.

Taylor, Charles. *A Secular Age*. Cambridge, Massachusetts London, England: Belknap Press: An Imprint of Harvard University Press, 2018.

———. *Modern Social Imaginaries*. Duke University Press, 2004.

Taymiyyah, Aḥmad ibn. *Majmūʿ Al-Fatāwā*. Vol. 29. Riyadh: King Fahd Complex, 1995.

Uddin, Ahm Ershad. "Analyzing the Implementation of Shuf'ah 'Preemption Rights' in the Legal System of Bangladesh within the Framework of Islamic Law." *İslam Medeniyeti Araştırmaları Dergisi* 8, no. 2 (2023): 459–83. https://doi.org/10.20486/imad.1351411.

Uddın, Ahm Ershad. "Human Rights of Minorities in Islam: From the Perspective of Iraq." *İlahiyat Tetkikleri Dergisi*, no. 57 (June 2022): 55–62. https://doi.org/10.5152/ilted.2022.223077.

———. "The Practice and Legitimacy of Misyār Marriage: A Critical Analysis within Islamic Law." *Yakın Doğu Üniversitesi İslam Tetkikleri Merkezi Dergisi* 9, no. 2 (December 2023): 2. https://doi.org/10.32955/neu.istem.2023.9.2.06.

Ulugöl, Fatih. "Arap Dili Istilâhlarindaki İhtilaflarda Dînî Hassasiyetin Rolü." *Çukurova Üniversitesi İlahiyat Fakültesi Dergisi (ÇÜİFD)* 20, no. 2 (December 2020): 486–508. https://doi.org/10.30627/cuilah.722748.

UNESCO. *International Technical Guidance on Sexuality Education: An Evidence-Informed Approach*. Paris: UNESCO, 2018.

UNHR. "Free and Equal." OHCHR, 2025. https://www.ohchr.org/en/get-involved/free-and-equal.

ʿĀshūr, Muḥammad al-Ṭāhir ibn. *Al-Taḥrīr Wa al-Tanwīr*. Vol. 1. Tunis: Dār Sahnūn, 1997.

ʿAwaḍī, ʿAbd al-Raḥmān. *Al-Muṣṭalaḥāt al-Wāfida Wa Atharuhā ʿalā al-Huwiyya*. Riyadh: Maktabat al-Rushd, 2015.