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Some notes on the Egyptian criminalization of homosexuality

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by
Serena Tolino
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The legal attitude toward homosexuality in the Middle East and North Africa is usually considered a consequence of the approach to same-sex acts in Islamic law (šarī'a). But it should be remarked that the issue is more complicated and that the criminalization of homosexuality derives from an interaction between different elements: Islamic law, of course, but also colonial law and cultural and moral issues, which directly influence the application of law through the impact of public opinion. How are these elements inter-related and how do they contribute to the punishment of homosexuals? I do not have yet a clear answer to this question, which I will try to find during my PhD, but I still have some notes to present on the topic.

Although the general attitude of Islamic jurists is strongly contrary to both men-men intercourses (liwāṭ) and women-women intercourses (siḥāq), these norms have been scarcely applied in pre-modern times, due to the difficulties to verify these acts, that are considered both sins and crimes. On the contrary, nowadays Islamic countries are quite strong, in their juridical practice, to condemn homosexuals. Nevertheless it should be remarked that in many cases they are not applying Islamic norms, but colonial anti-sodomy laws, which have been inherited and simply absorbed into the national Penal Codes.1 The application of these laws is then captured into a religious discourse that is dense of elements of public discourse and tries to revitalize the Islamic theory on homosexual acts using the arms of State law.

In this paper I present some notes on the punishment of liwāṭ and siḥāq in Islamic law, and then on the criminalization of homosexuality in Egypt, trying to show how marginal is the impact of the first on the second one.

The Egyptian legislation does not provide any law against homosexuality, but a law against the exploitation of prostitution (10/1961) is used to punish homosexuals. I try to investigate what strategies Egyptian judges use to punish homosexuals, and I present the Queen Boat case to show how judges are influenced by the public debate on homosexuality in their application of law 10/1961.

1 This is true also for non Islamic countries. For example in Angola, that inherited the Portuguese Penal Code, who “habitually practice acts against the order of nature”, is punished. The same happens in India, where section 377 of the Penal Code states “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with 1°[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine”. Ottoson D., State-sponsored homophobia: a world survey of laws prohibiting same sex activity between consenting adults, ILGA 2008, www.ilga.org, and Human Rights Watch, This alien legacy: the origins of sodomy laws in British colonialism, New York 2008, in www.hrw.org.
Theories and practices

The Islamic position on homosexuality is partially justified by the Qur’ānic story of Lot and his people:

“And Lot! (Remember) when he said unto his folk: Will we commit abomination such as no creature ever did before you? Lo! Ye come with lust unto men instead of women. Nay, but ye are wanton folk. And the answer of his people was only that they said (one to another): Turn them out of your township. They are folk, forsooth, who keep pure. And We rescued him and his household, save his wife, who was of those who stayed behind. And We rained a rain upon them. See now the nature of the consequence for evil-doers”. (Cor VII, 80-84).²

The Qur’ān does not mention explicitly the reason at the basis of the condemnation of the people of Lot, but jurists and interpreters of Qur’ān considered that they have been condemned because of ḥawā.³ This term has sometimes been translated with “homosexuality”. The translation is incorrect: the term has been coined from the root ḥawā meaning “to plaster”, “to smooth”. Afterwards it has been used to refer to the sexual anal intercourse, linking the root to the name of the Prophet Lot and to his people.⁴ The term does not make sense if we connect it to the meaning of “sexual orientation”: it refers to an act (sodomy) and not to a sexual orientation, which is a modern concept.

When approaching the issue of homosexuality in Islamic countries it is necessary to be aware of this distinction: classical jurists deal only with same-sex intercourses.

² Qur’ān, Dār al kitāb al-Lubnānī, Beirut 1980, translated by Pickthall M.
⁵ When I speak of (homo)sexual orientation I refer to the definition that was given by a group of American associations and that is now worldwide accepted by experts of the field: “Sexual orientation refers to an enduring pattern of or disposition to experience sexual, affectional, or romantic attractions primarily to men, to women, or to both sexes. It also refers to an individual’s sense of personal and social identity based on those attractions, behaviors expressing them, and membership in a community of others who share them. Although sexual orientation ranges along a continuum from exclusively heterosexual to exclusively homosexual, it is usually discussed in terms of three categories: heterosexual (having sexual and romantic attraction primarily or exclusively to members of the other sex), homosexual (having sexual and romantic attraction primarily or exclusively to members of one’s own sex), and bisexual (having a significant degree of sexual and romantic attraction to both men and women). Sexual orientation is distinct from other components of sex and sexuality, including biological sex (the anatomical, physiological, and genetic characteristics associated with being male or female), gender identity (the psychological sense of being male or female), and social gender role (adherence to cultural norms defining feminine and masculine behavior)”, in Brief amici curiae of the American Psychological Association, California Psychological Association, American Psychiatric Association, National Association of Social Workers, and National Association of Social Workers, california chapter in support of the parties challenging the marriage exclusion in http://www.courthio.ca.gov/courts/supreme/highprofile/documents/Amer_Psychological_Assn_Amicus_CuriaeBrief.pdf.
Moreover, it is important to keep in mind that the concept of “homosexuality” started to be used at the end of 19th century in Europe.\(^6\)

The concept of homosexuality is completely out of the mind of Islamic jurists that instead have widely debated the punishment for homosexual acts: while *siḥāq*, although considered a sin, is usually punished with a discretionary punishment (*taʿzīr*), *liwāṭ* is considered a major sin and different punishments have been proposed by the sunni jurists. For example Abū Ḥanīfa\(^7\) does not compare *liwāṭ* and *zinā*\(^8\) and claims that the punishment to apply in the first case should be established by the judge, as long as it belongs to the group of *taʿzīr* punishments. Consequently only two witnesses are required to confirm such a crime. For Šāfiʿītes,\(^9\) Mālikites\(^10\) and Ḥanbalites,\(^11\) instead, the practice of *liwāṭ* falls under the umbrella of *zinā* and the same ḥadd punishment should be applied (death by stoning for a *muhṣan*, a person that concluded and consummated a valid marriage, and 100 lashes in other cases). For some jurists the punishment should be worse: stoning for *muhṣan* and non *muhṣan*. In this case four trustworthy Muslim men must testify that they have *seen* the act, or the guilty must confess four times. False accusations are punished with 80 lashes, exactly like in cases of *zinā*.\(^12\)

These are the theoretical principles, but what is interesting for the purposes of this paper is that, while juridical theory is very strict against *liwāṭ*, it scarcely became *praxis*: it is a matter of fact that texts are almost silent of cases where the penalties provided for cases of *liwāṭ* were applied. The exceptions are very rare: it is reported that Abū Bakr\(^13\) and ‘Ālī\(^14\) lapidated and then burnt sodomites,\(^15\) and that in 1807 two young men accused of sodomy were thrown off the minaret of the Umayyad Mosque.

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\(^6\) For example the first demonstrations for gay rights took place in Germany in 1897. Mieli M., *Elementi di critica omosessuale*, Einaudi, Torino 1977, pp. 13-17

\(^7\) Abū Ḥanīfa (699-767) is the eponymous of the Hanafi *madhab* (juridical school). The main characteristic of this school was the extensive use of the individual reasoning, *raʿy*, and of analogy, *qiyyāṣ*. Cf. Schacht J.: “Abū Ḥanīfa”, in *EI2*, vol. I, pp. 126-128.

\(^8\) An unlawful sexual intercourse. According to *ṣarīʿa* it should be punished with a ḥadd punishment consisting of death by stoning for a *muhṣan*, a person that concluded and consummated a valid marriage, 100 lashes for a non married person, 50 lashes for a slave.

\(^9\) This *madhab* was founded by al-Šāfiʿī, (767-820), author of a *Risālah* that strongly criticized the approach of those jurists that blindly imitated previous jurists (*taqlīd*), stressing the importance of the analogy (*qiyyāṣ*) based on a strong evidence. Chaumont E.: “al-Šāfiʿī”, in *EF*, vol. IX, pp. 181-185 and Chaumont E.: “al-Šāfiʿīyya”, in *EF*, vol. IX, pp. 185-189.

\(^10\) This *madhab* was founded by Mālik ibn Anas (708/716 ca-796), and one of its main characteristics is the importance given to the *sunna* of Medina. Schacht J., “Mālik ibn Anas “, in *EF*, vol. VI, pp. 262-265.

\(^11\) This *madhab* was founded by Ahmad ibn Hanbal (780-855). His thought, as reinterpreted by Ibn Taymiyya, has been the basis of *wahhābīsm*. The school focuses on the importance of the *sunna*. Laoust H.: “Ahmed ibn Hanbal”, in *EF*, vol. pp. 280-286

\(^12\) This discussions is summarized by al-Ğuzīrī, *Al-Fiqh 'alā al-Madhāhib al-arba’ah*, Al-maktaba al-‘aṣriyya, Beirut 2007, pp. 1178-1183.

\(^13\) Born in Mecca after 570, it seems that he has been the first man to become Muslim after Muḥammad, (although other sources suggest that the first was ‘Alī, nephew of Muḥammad, or Zayd ibn Ḥārīta). He has been the first caliph after the death of the Muḥammad, from 632 to 634. Montgomery Watt W., “Abū Bakr”, in *EF*, vol. I, pp. 112-114.

\(^14\) Cousin and son in law of the Prophet Muḥammad and fourth caliph.

in Damascus. Without excluding the possibility to run into other cases, it is evident that in a so wide temporal framework very few cases were effectively punished.

Another indirect confirmation that these norms were scarcely enacted is represented by the fact that the Ottoman kanunname, starting with Sulayman the Magnificent, punished sodomites with the application of fines for those that could not be punished according to šari‘a. 300 akçe for a rich married man, 200 for a person in average circumstances, 100 from a poor person. For a non married person the fines were even lower. The sodomites were punished with castration in the case of violent abduction. The creation of this system of fines was due, in my opinion, to the fact that a punishment according to the rule of šari‘a was almost impossible, but the act needed some forms of regulation by the State. A pecuniary fine could be easily applied without serious consequences like in šari‘a and could, moreover, benefit the State.

When we come to contemporary penal codes of Islamic countries, that are more or less influenced by Islamic law, we find a different situation, and homosexual acts are widely punished by the State. Moreover, sometimes homosexuality itself becomes object of criminalization: the interpreters of law start to condemn not only acts, but also (homo)sexual orientation.

The criminalization of homosexuality is a worldwide phenomenon that does not regard only Islamic countries: a report of the International Lesbian and Gay Association, ILGA, states that at least 86 members of the United Nations criminalize homosexual consensual acts, and seven of them impose the death penalty. Not all of these countries are part of the Islamic world or are subject to a strong Islamic influence. This is a confirmation that the criminalization of homosexuality is transversal to different religions and countries, and cannot be reduced to a problem of influence of Islamic law.

In Egypt, and generally speaking in Islamic countries, the problem of homosexuality is not simply a matter of law, but a topic that touches the core of morality. What it is discussed is not only a juridical matter, but a particular idea of sexuality, which we could define as “procreation-oriented”. Sex is indissolubly linked to marriage and the concept of heterosexuality. Out of this, there is no licit sexual intercourse. Heteronormativity totally permeates contemporary Egypt: any different way of approaching sexuality is refused and considered a form of perversion. Such forms of perversion are usually considered exogenous to Islamic society, as a virus propagated by the decadence (and the influence) of western society. In some cases, as we will see with regard to the Queen Boat case, homosexuality is considered part of a plot made by Israel or/and the West to undermine the Arabic values.

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17 According to Heyd, the criminal code of Sulayman was compiled between the end of 1534 and 1545.
18 It should be noticed that, although sodomy was considered a crime for itself, the fines were the same inflicted for zinā. Cf. Heyd U., *Studies in Old Ottoman Criminal Law*, Oxford, Clarendon Press, 1973, p. 103.
19 *ib.*, p. 97.
21 With this term I refer to the regulatory and discursive practices and institutions that legitimize heterosexuality as the only normal and natural way of intending and living sexuality.
Some notes on the Egyptian criminalization of homosexuality

Law 10/1961

Strictly complying with a legislative discourse, in Egypt there is not a law that explicitly condemns same-sex sexual relations. Nevertheless homosexuals, or alleged homosexuals, are arrested and sentenced according to law 10 of 1961, a law against prostitution, whose article 9.c prohibits the habitual practice of fuğūr and da’āra.

Punishment by imprisonment for a period not less than three months and not exceeding three years and a fine not less than 25 LE and not exceeding 300 LE in the Egyptian administration and not less than 250 Lira and not exceeding 3000 Lira in the Syrian administration or one of these two punishments applies in the following cases:

c. Whoever habitually engages in debauchery (fuğūr) or prostitution (da’āra).

The elements of the crime, according to the law, are two: the commission of an act of fuğūr or da’āra from one side, and the habituality.

The Court of Cassation has better defined the elements: a sexual act, to be defined fuğūr or da’āra should be committed with different persons, without distinction (duna tamîyûz), and at least two times. If it happens with the same person several times, it cannot be defined fuğūr or da’āra even if there is exchange of money.

At the beginning of my research, I naively supposed that the process of formation of this law was somehow influenced by šari’a. My opinion was confirmed by the Egyptian Constitution, whose article 2 states that “Islam is the religion of the state and Arabic its official language. Šari’a is the principal source of legislation”. When I discovered that this amendment was introduced in 1980, and that it applies only to laws promulgated after that date, my theory collapsed. Moreover I found that practically speaking, for what concerns criminal matters the sole reference to Islam is the duty to consult the muftī when a death penalty is handed down by a criminal court.

The Egyptian penal system belongs completely to the family of French law: in 1883 Egypt enacted a National Penal Code that was a transposition of the French Penal Code of 1810, and then substituted by a new Penal Code in 1937. This Penal Code has been amended several times, but the general system is still French. So, it is to the French Penal Code of 1810 that we have to go back to understand what acts that represent an “aggression against the dignity” should be punished in the intentions of the legislator. We would find that outrage against modesty, facilitation of prostitution or debauchery, adultery, rape, indecent assaults are mentioned, but nothing is said

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22 The root fğr means originally “to blossom”. From this sense the word fağr, dawn comes. Fağara, iatfğuru, fuğūr means to deviate from the right pattern, to make bad acts without shame or fear of the consequences. Ibn Manâr, Lisân al-‘Arab, Mu’assasah al-‘alamî lil-matbû‘ät, Beirut 2005, fğr. In the Egyptian jurisprudence, as stated by the Court of Cassation, fuğūr refers to a sexual commercial relation between two men. Court of Cassation, sentence n. 24450, 5th May 1994.

23 The Arabic term da’āra is used to refer to prostitution in the sense of commercial sex between a man (that pays) and a woman (that offers her body). See for example Court of Cassation, sentence n. 24450, 5th May 1994.

24 Court of Cassation, 2nd April 1945, Digesto of Legal Rules, part 6, n.534, p. 671.

25 The original version stated that šarî’a was a main source of law. Dupret B., “A return to the šarî’a? Egyptian judges and the reference to Islam”, in The šarî’a in the Constitutions of Afghanistan, Iran and Egypt. Implications for Private Law, ed. by Nadjma Yassari, Mohr Siebeck, Tubingen, 2005, p. 163.

26 Ibid., p. 162.

Some notes on the Egyptian criminalization of homosexuality

about homosexual acts: the general principle is that only those illicit sexual acts that represent a violation of the rights of another person or of the society should be punished. Homosexuality regards private consensual relationships, and does not violate the rights of others. Consequently the roots of law 10/1961, that is an addition to the Penal Code, should be searched somewhere else.

In fact the promulgation of this law made a long journey that dates back to 1895, when Egypt, still under British control, signed a convention with Great Britain for the suppression of slavery.

The Convention, signed in Cairo on 21st November 1895 by Lord Cromer, the Plenipotentiary and Britannic Majesty’s agent, and Boutros Ghali, Minister of Foreign Affairs for the Egyptian Khedivé, was intended to prohibit the importation of slaves into Egypt and its dependencies (namely Sudan) and the export from it of white, negro and Abyssinian slaves, whether by land or by sea.

In 1905 the Egyptian legislator attempted to regulate the exploitation of prostitution. In 1926 Egypt ratified the International Convention against Slavery and in 1933 the Convention for the Suppression of Trafficking in Women of Full Age. These steps left their mark on the related articles of the Penal Code of 1937, but when the Convention for the Suppression of Trafficking in Persons and Exploitation of Prostitution was promulgated in 1949, the Egyptian legislator felt the exigency to adequate the Egyptian legal system to it, with the promulgation of Law No. 68 of 1951, then replaced by Law No. 10 of 1961.

If a law mainly directed to contrast the exploitation of prostitution is used to punish homosexuals, the interpreters (the Courts) are enlarging the intentions of the legislator, forcing the spirit of the law with an analogical way of reasoning, considering that society should be protected from the risks of fujūr as a woman should be protected from the risks of prostitution.

This procedure is facilitated by the reference to elements of the public debate, and particularly to religious elements. To better understand this process, I will now present some notes on the Queen Boat case.

The Queen Boat case

This case has been widely discussed by scholars, human rights organizations and the media. This attention transformed it into a political case, but it is anyway a good example for my analysis.

The facts are well-known: on 11th May 2001, in the very first hours of the morning, police and State Security officers arrested about fifty men in the night club Queen Boat, in Cairo. Newspapers titled of a wedding between two boys and a satanic ceremony. At the beginning the attention was more on the satanic aspect than on

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29 Convention between Great Britain and Egypt for the suppression of slavery and the slave trade, signed in Cairo, 21st November 1895, printed for Her Majesty’s Stationery Office by Harrison and sons, St. Martin’s Lane.
30 Ib., art. I.
32 Ib., p. 279.
Some notes on the Egyptian criminalization of homosexuality

homosexuality. Ṭāhir Abū al-Naṣr, a lawyer of the Hišām Mubārak Law Center that represented twelve of the defendants declared:

At the beginning, as was clear also from the newspapers, the case was that of Satanic Organization II, to link it with a previous case of a satanic sect that was used to meet in the Palace of the Baron [...]. During the first three meetings of the Court, there was no mention of the habitual practice of fuğūr.34

Afterwards the charge changed: fifty-two people (four of them were arrested in their house and not in the Queen Boat) have been prosecuted for habitual practice of fuğūr. The fact that two of them were prosecuted for contempt of religion allowed the referral of the case to a State Security Court.35

The thesis of the Accuse was that the first defendant S. F. had created and spread a satanic cult, that was intended to defend the three Abrahamic religions (Islam, Christianity and Judaism) from the threats of a Kurdish boy. This Kurdish boy announced his arrival in 2010 to vindicate his people from the abuse of power of the three main Abrahamic religions. For this reason S. F. founded an “Agency of God on the Earth”, and built a sort of chapel in the house of the second defendant. The Accuse affirmed that homosexuality was a rite of this perverted cult, and that the other defendants practiced homosexual acts as members of this cult.36

The strategy of the Defense was to deny the charges and to reply with procedural issues, namely the invalidity of the arrest and confessions, which were extorted through torture, and the use of anal examinations to “prove” homosexuality.37

The strategy adopted by the Defense itself was not that of “human rights”. No one claimed that having consensual relations with same-sex partners was legitimate or a right. As Ṭāhir Abū al-Naṣr declared:

As a lawyer, I must adhere to what the defendants say. None of them admitted his homosexuality. They refused to be defended as gay. [...] I can’t say that I was working on a personal right, because the defendant didn’t reclaim his right. My point of view as human rights activist may be different: I can approach the subject from this perspective. But, as a lawyer, the Defense was based on denying the allegations and not admitting them, even if they weren’t a violation of any law.38

The Accuse, the Defense and then the Court cooperated in one fundamental point, which is the categorization of this act as a form of perversion (fuğūr). If homosexuals are categorized under the definition of fuğūr, it becomes easy to condemn them. As Dupret pointed out “typifying someone as perverse serves as a scheme underlying the interpretation of facts and purporting to give them a legal value”.39

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34 Interview with Ṭāhir Abū al-Naṣr, lawyer at Markaz Hišām Mubārak lil-Qānūn, Cairo, 17th September 2007.
37 The legal physician visited the anus of the defendants. When he founded “evidences” that they were penetrated confirmed the charge of fuğūr. This procedure is a form of ill-treatment, and moreover has not any scientific basis.
38 Interview with Ṭāhir Abū al-Naṣr, lawyer at Markaz Hišām Mubārak lil-Qānūn, Cairo, 17th September 2007.
The verdict condemned twenty-three persons to jail sentences from a minimum of one year to a maximum of five, while twenty-nine were released. Twenty-one (including a minor) were condemned for "habitual practice of fuğūr" one for "contempt of religion" and another one for both the charges.

In the verdict the Court used clear religious references:

The Court recommends to the concerning apparatus of the State, to the religious class, to the intellectuals, to the media, to everyone, to take the necessary steps in order to avoid that this deviated and deviating thought can spread in this secure country and between the "best soldiers of the Earth" (the Egyptians) using the pretext of freedoms and human rights, because this has nothing to do with freedoms and human rights. At the end, the Court wants to renew the appeal that Lot, Prophet of God, the Peace being upon him, made to his people, in order to avoid them to do forbidden things, immoral sexual acts, reprehensible and bad acts. But, as long as they continued in their deviance, arrogance, perversion and ingratitude to God, He punished them in a way they didn’t expect, between all the punishments that they couldn’t defend themselves from, and made them a bad example between his creatures, an example that rational people should avoid.40

This language seems not appropriate for a Court, and clearly imitates the language used by the media during the months of the process,41 and generally speaking, elements of the Egyptian public debate. The categorization of homosexuals as perverted is paradoxically shared by the defendants. One of them stated to Tāhir Abū al-Naṣr that he preferred to be accused of being a pusher than a homosexual. This gives an idea of the general perception of homosexuality in the Egyptian society:

One of the defendants had penal precedents with drugs. He didn’t understand nothing of the whole matter, nothing of what means "contempt of religion", nothing of this story. But he understood the second accuse, because it makes sense also in Egyptian dialect (fuğūr). He told me: "I deal with drugs, and I did so here and there, selling also in prison. Sometimes I put drugs in my anus to hide them." So when he went to the legal physician for the examination, he found that he had been penetrated. He was bothered by this, and he told that it was better to be imprisoned for drug dealing. He said: “Drugs is a field that belongs to me".42

Moreover, as pointed out by Dupret, referring to Lot and his story the Court is not applying a law (that never refers to Lot and his people or to liwāḥ), but is using Islām to ensure a particular kind of public order.43 I’d add that the use of this reference is even more: the story of Lot is almost the same in the Bible and in the Qur’ān and the use of this religious message perfectly fits the aim to touch the general religious perception of Egyptians, being them Muslims or Christians, which represent the most important religious minority in Egypt.44

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42 Interview with Tāhir Abū al-Naṣr, lawyer at Markaz Hišām Mubārak lil-Qānūn, Cairo, 17th September 2007.
44 It is impossible to state accurately how many Copts are now living in Egypt, but the proposed percentage is between 10% and 18% of the Egyptian population. Boles I., “Disappearing Christians of the Middle East”, in Middle East Quarterly, winter 2001.
Another element which at first sight seems strange is the reference to Israel.

A connection between homosexuality (or, at this point, perversion) and Israel is given through the list of circumstantial evidences seized in the house of the first accused:

A star of David, photographs of soldiers in Jerusalem and the Occupied Territories, a series of hand-written reports and sketches of many stars of David, a series of photographs of the Jewish community in Egypt and of the Jewish cemetery of Basāṭīn, the Israeli national anthem, a copy of the book of Solomon's Temple, books about Jews, a postcard of the celebration of the 50th anniversary of the foundation of Israel.\(^{45}\)

The fact that the “Israeli national anthem” or “a postcard of the celebration of the 50th anniversary of the foundation of Israel” can be considered evidences confirms how this case and then the verdict have been influenced by elements of the public debate. If we consider how Israel is generally considered in Egypt, as an enemy of Arabs, a sort of substitute of the old colonial powers, we understand that this reference serves to close the circle: homosexuality is considered not a sexual orientation, but a perversion. Moreover, homosexuals are considered “an example that rational people should avoid”. This irrational perversion can not originate within the true Islamic society, but has to be linked to a perverted society, in this case Israel that, especially after the Egyptian defeat of 1967 is badly perceived by Egyptians.\(^{46}\)

Conclusions

As we have seen in the Queen Boat case, the interpreters of the law use religious references to justify the prosecution of homosexuals, recalling to mind of Egyptians the story of Lot and his people, which easily touch the conscience of Muslims (and also Christians). This can lead to a double threat for homosexuals. From one side their punishment is for itself a clear violation of their rights, but this is only the immediate and obvious consequence. The other consequence, less immediate, is the enforcement of the principle that considers homosexuals as perverted. If we consider that law is able to make social norms legally binding and that on the contrary the norms considered normal in law tend to represent social normality,\(^{47}\) we should consider that this is also true for the legal praxis, and so for the interpreters of the law.

The religious beliefs, legally speaking, should be represented by šari'ā. But as long as šari'ā is practically silenced in the Egyptian penal system, the interpreters look for other strategies to enforce at least its value message within the legal system. There is nothing of “Islamic” in the law 10/1961, but Islam is used by the accuse and the interpreters (and paradoxically, also by the defense) to justify human rights violations of homosexuals, that lose their status and also their right to be considered part of the community.

\(^{45}\) Other circumstantial evidences were: “copies of the booklet The Agency of God on Earth; numerous photographs of sexual activities of the prosecuted with other homosexuals and the corresponding negatives; numerous Islamic, Christian and Jewish books; a large number of photographs of parts of Cairo, and of churches, mosques and places of touristic interest and a synagogue in Cairo; documents of the Military base n. 1057 C; sheets written by hand; a photograph of His Excellency the President of the Republic and his wife; two maps of the city of Cairo and the region of Qanāṭīr al-Hairyya, Alexandria and al-Fayyūm; two maps of the Churches of Cairo; several maps of mosques in Cairo”. Maḥkamah Ğunaḥ ‘Amn-al-Dawlah Ṭawārīʿ Qaṣr al-Nīl: ḥukm 600/2001, p. 5.

\(^{46}\) The decision of Sadāt to stipulate a separated peace with Israel is still strongly criticized in Egypt.

\(^{47}\) Dupret B., “The categories of morality: homosexuality between perversion and debauchery”, p. 175.
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