

The Approach to Homosexuality in Contemporary *Fatāwā*: Sexual Practices or Sexual Orientation?

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Introduction

In recent years the interrelation between sexuality, culture and power has been widely explored by both gender and sexuality studies, and over the last two decades, the field has been enriched by studies, which specifically focused on homosexuality and queer identities in the Middle East.¹ In this field, it is possible to identify several lines of re-

search: some scholars focused on the possibilities to reconcile Islam and homosexuality;² others focused on same-sex practices in literary studies, the emergence of LGBTQI (Lesbians, Gays, Bisexuals, Transsexuals, Queer and Intersexuals) identities in the contemporary Middle East or European homosexual Muslims,³ while still others looked at the LGBTQI community in the virtual sphere.⁴

¹ I would like to thank Ashraf Hassan, the editorial team of the *Zeitschrift für Recht & Islam* and the two anonymous reviewers for their attentive reading and their comments and suggestions on earlier drafts of this article.

For historical and literary works see for example Everett K. Rowson's contributions, and particularly his *The Traffic in Boys: Slavery and Homoerotic Liaisons in Elite 'Abbāsids Society*, in: *Middle Eastern Literatures* 11 (2/2008), pp. 193–204; id.: *The Effeminate of Early Medina*, in: *Journal of the American Oriental Society* 111 (1/1991), pp. 671–693; J. W. Wright Jr. / Everett K. Rowson (eds.): *Homoeroticism in Classical Arabic Literature*, New York 1997; Samar Habib: *Female Homosexuality in the Middle East: Histories and Representations*, London 2007; id. (ed.): *Islam and Homosexuality*, Santa Barbara 2009; Kathryn Babayan / Afsaneh Najmabadi (eds.): *Islamicate Sexualities: Translations across Temporal Geographies of Desire*, Cambridge 2008; Khaled El-Rouayheb: *Before homosexuality in the Arab-Islamic world, 1500–1800*, Chicago 2005; Stephen O. Murray / Will Roscoe (eds.): *Islamic Homosexualities: Culture, History and Literature*, New York 1997. For the history of ideas see Joseph Massad: *Desiring Arabs*, Chicago 2008. For religious aspects see

for example Scott Siraj al-Haqq Kugle: *Homosexuality in Islam: Islamic Reflections on Gay, Lesbian, and Transgender Muslims*, Oxford 2010. For a general introduction in Italian see Jolanda Guardi / Anna Vanzan: *Che genere di Islam. Omosessuali, queer e transessuali tra shari'a e nuove interpretazioni*, Roma 2012.

² See especially Scott Kugle's volume *Homosexuality in Islam*, but also his *Sexual diversity and ethics in the agenda of progressive Muslims*, in: *Progressive Muslims: on Justice, Gender, and Pluralism*, ed. by Omid Safi, Oxford 2003, pp. 190–234.

³ See for example Andrew Kam-Tuck Yip: *The quest for intimate/sexual citizenship: lived experiences of lesbian and bisexual Muslim women*, in: *Contemporary Islam* (2/2008), pp. 99–117 or Omar Nahas: *Yoesuf*, in: *Journal of Gay & Lesbian Social Services* 16 (1/2003), pp. 53–64. On the debate on Islam and homosexuality in the Netherlands, see also Gert Hekma: *Imams and Homosexuality: A Post-gay Debate in the Netherlands*, in: *Sexualities* 5 (2/2002), pp. 237–248.

⁴ See for example Grant Walsh-Haines: *The Egyptian Blogosphere. Policing Gender and Sexuality and the consequences for Queer Emancipation*, in: *Journal of Middle East Women's Studies* 8 (3/2012), pp. 41–62; Roxanne D. Marcotte: *Gender and sexuality online on*

If we restrict our attention to the legal aspects, Vanja Hamzić recently analyzed sexual orientation in International human rights law and in Muslim legal contexts.⁵ For what regards Islamic Law specifically, in 2002 Arno Schmitt looked at the discussion on *liwāt* in *fiqh*,⁶ while in 2003 Camilla Adang focused on the *ẓāhiri* approach to homosexuality.⁷ In 2008, Mohammad Mezziane looked at sodomy and masculinity according to Muslim jurists from the ninth to the eleventh centuries, trying to collocate the discussion on *liwāt* within the wider framework of the

coeval patriarchal vision of the sexes.⁸ In the same year, Amr A. Shalakany used *liwāt* as a case study to discuss “scriptural”, “anti-orientalist” and “new” approaches to the study of Islamic law,⁹ while Scott Kugle looked at LGBTQI-friendly interpretations of Islamic law.¹⁰ Sara Omar and I looked at both *liwāt* (sodomy) and *siḥāq* (tribadism) in *fiqh*,¹¹ and I also looked at the contemporary judicial practice on same-sex practices in Egypt and Lebanon, and at the emerging LGBTQI movement in the middle East.¹² In 2010, Mohammad Samy looked at the representation of

Australian Muslim Forums, in: Contemporary Islam (4/2010), pp. 117–138; Lenie Brouwer: Dutch-Muslim on the internet: a new discussion platform, in: Journal of Muslim Minority Affairs 24 (1/2004), pp. 47–55; Rodney Collins: Effeminés, Gigolos and Msms in the cyber-networks, coffeehouses and “secret gardens” of contemporary Tunis, in: Journal of Middle East Women’s Studies 8 (3/2012), pp. 89–112; Serkan Gorkemli: “Coming Out of the Internet”: Lesbian and Gay Activism and the Internet as a “Digital Closet” in Turkey, in: Journal of Middle East Women’s Studies 8 (3/2012), pp. 63–88.

⁵ Vanja Hamzić: The Case of ‘Queer Muslims’: Sexual Orientation and Gender Identity in International Human Rights Law and Muslim Legal and Social Ethos, in: Human Rights Law Review 11 (2/2011), pp. 237–274 and id.: Sexual and Gender Diversity in the Muslim World: History, Law and Vernacular Knowledge, London 2015.

⁶ Arno Schmitt: *Liwāt* im *fiqh*: Männliche Homosexualität?, in: Journal of Arabic and Islamic Studies (4/2001–2002), pp. 49–110.

⁷ Camilla Adang: Ibn Ḥazm on homosexuality. A case study of *ẓāhiri* legal methodology, in: Al-Qanṭara 24 (1/2003), pp. 5–31.

⁸ Mohammed Mezziane: Sodomie et masculinité chez les juristes musulmans du IX^e au XI^e siècle, in: Arabica (55/2008), pp. 276–306.

⁹ Amr A. Shalakany: Islamic Legal Histories, in: Berkeley Journal of Middle Eastern & Islamic Law (1/2008), pp. 1–82.

¹⁰ Here I refer particularly to Kugle’s interpretative effort in his abovementioned “Homosexuality in Islam”, but I also have in mind the entire network of individuals or associations which strives to offer an interpretation of the sources of Islamic Law, which would make homosexuality compatible with Islam. Scott Kugle gave voices to this network of people in his *Living out Islam: Voices of Gay, Lesbian and Transgender Muslims*, New York 2014.

¹¹ Sara Omar: From Semantics to Normative Law: Perceptions of *Liwāt* (Sodomy) and *Siḥāq* (Tribadism) in Islamic Jurisprudence (8th–15th Century CE), in: Islamic Law and Society (19/2012), pp. 222–256; Serena Tolino: Homosexual acts in Islamic Law: *siḥāq* and *liwāt* in the legal debate, in: GAIR-Mitteilungen 6 (2014), pp. 187–205.

¹² Serena Tolino: Omosessualità e atti omosessuali tra diritto islamico e diritto positivo: il caso egiziano con alcuni riferimenti all’esperienza libanese, Naples 2013. For a focus on judicial contemporary practices ead.: *Identità omosessuale in tribunale nell’Egitto e nel Libano contemporanei*, in: Genesis. Rivista delle Storie Italiane 11 (1–2/2012), pp. 115–140, while for the emergence of counter-discourses on homosexuality in the Middle East see ead.: *Homosexuality in the Middle*

homosexuality in a number of Islamic websites.¹³

Building on all these contributions, in this article I look at contemporary *fatāwā*. My main point is to show that there are two different approaches to homosexuality which co-exist in the contemporary Arab-Islamic world: a more “traditional” one, according to which homosexuality is represented as an “act” (and namely a sinful act), which is committed by a free-willing person, and another one that approaches homosexuality as an issue of sexual identity, as the growing LGBTQI movement in the Middle East demonstrates. In the article, I will investigate what happens when these two approaches meet, as we can see when a person asks a *fatwā* on homosexuality and the *mufti* comes back to him/her discussing instead sexual acts, namely *liwāṭ* and *siḥāq*.

This article is divided into three main parts: in the first part, I discuss the theoretical challenges of using “homosexuality” as a category of analysis when studying Islamic Law. In the second part, I present my sources and my methodology. In the third and last part of the article, I focus on the actual contents of the discussion on homosexuality in contemporary *fatāwā*.

Homosexuality in Islamicate Societies: Strengths and Risks of a Concept

The scholars working on homosexuality in Islamicate societies used different approaches, scrutinized different sources, applied different methodologies, worked with different languages, and came from different fields of research (Islamic studies, anthropology, history, sociology, literary studies etc.). Nevertheless, on the theoretical level, they all had to deal with the issue of defining their analytical categories, either in an explicit or in an inexplicit way.

The identification of proper analytical categories is always a challenge for the researcher, but this becomes even more complicated when “established” categories, like gender and sexuality, have to be applied beyond the fields of research from which they originated,¹⁴ and when these categories do not only define “objects of research”, but also “subjects,” which have and use their own voices to define and shape their own subjectivity and their own “categories”.

In looking for analytical approaches to the study of sexuality, the first challenge one faces is the essentialist/constructivist debate. The scientific *querelle* between essen-

East: An Analysis of Dominant and Competitive Discourses, in: DEP. Deportate, Esule, Profughe 25 (2014), pp. 72–91.

¹³ Mohammed Samy: Homosexualité, Islam et Internet, in: COMMposite 13 (2/2010), pp. 181–197.

¹⁴ On the usefulness of gender as a category of analysis, see Joan W. Scott: Gender: A Useful Category of

Historical Analysis, in: The American Historical Review 91 (5/1986), pp. 1053–1075. On the use of the category of gender and sexuality beyond “The West”, see instead Afsaneh Najmabadi: Beyond the Americas: Are Gender and Sexuality Useful Categories of Analysis?, in: Journal of Women’s History 18 (1/2006), pp. 11–21.

tialists and constructivists studying sexuality was particularly relevant in the 80s and the 90s and has been properly discussed elsewhere.¹⁵ For this reason, here I will only briefly summarize (and maybe even simplify) the main aspects of these two approaches, without aiming at being exhaustive.

According to essentialism, certain phenomena “are natural, inevitable and biologically determined.”¹⁶ There are three main aspects which an essentialist approach would include: “(a) a belief in underlying true forms or essences; (b) a discontinuity between different forms rather than continuous variation, and (c) constancy, that is the absence of change over time”,¹⁷ where “time” refers both to “historical time” and to the “the life of the individual.”¹⁸ Sexual orientation is one of these phenomena: an essentialist would consider that homosexuals always existed, in the past as in the present (and they will also exist in the future), in “the West” as elsewhere. Moreover, an essentialist would assume that a homosexual always remains as such, sexual orientation being a consequence of biological determinism.

On the opposite, social constructionism assumes that reality is “socially” construct-

ed, and gives high relevance to discourse and language in its construction. In addition, sexuality is considered a social construction: there is no such thing as a “universal” sexual identity or as a universal sexual orientation. As such, homosexuality did not always exist, sexuality being subject to many variables, like the social, cultural, economic, geographical and historical contexts. Probably in many of these contexts, there are people, which have sexual relations with people of their sex, but this does not mean that all of them would define themselves as “homosexuals”.

Indeed, using the categories of homosexuality and heterosexuality involves their conceptualization as “sexual orientation,” which includes not only sexual behaviours, but also affectional and romantic aspects, and a sense of personal and social identity based on the attraction for/to people of the same sex. This understanding of homosexuality is inextricably linked to the context it originated from, namely the Western world between the end of the 18th century and the beginning of the 19th century, during what Michel Foucault has described as the “psychiatrization of perverse pleasure”.¹⁹

¹⁵ As an example of an essentialist approach to sexuality and homosexuality, see the controversial book by John Boswell: *Christianity, Social Tolerance, and Homosexuality*, Chicago 1980, while for a constructivist approach to homosexuality, see David Halperin: *One Hundred Years of Homosexuality*, New York 1990. For a good overview on both approaches, see John D. Delamater / Kanet Shibley Hyde: *Essentialism vs. Social*

Constructivism in the Study of Human Sexuality, in: *The Journal of Sex Research* 35 (1/1998), pp. 10–18.

¹⁶ Delamater / Hyde: *Essentialism vs. Social Constructivism*, p. 10.

¹⁷ *Ibid.*, p. 11.

¹⁸ *Ibid.*, p. 15.

¹⁹ Michel Foucault: *The History of Sexuality* 1, transl. by Robert Hurley, New York 1978, p. 105 (original edition *La Volonté de savoir*, 1976).

If one applies a constructivist approach, and if homosexuality is not a universal phenomenon, for the purposes of this paper it becomes relevant whether it would be possible to apply this category to the Middle East or not. This issue has been widely debated in the field of Middle Eastern and Islamic studies. Indeed, as pointed out by Afsaneh Najmabadi,

some scholars have emphasized the utility of the concept of homosexuality. Others have argued that we would be better in tune with the ‘Islamicate cultures’ own sensibilities if we focused on sexual practices.²⁰

A historical approach to sexuality in Islamicate societies reveals that in the pre-modern Islamic world the homosexuality/heterosexuality binary was not relevant at all. Instead, the main criteria of distinction was the type of role each person was supposed to play in a sexual relation, with the main alternatives being the active role, the only “honorable” choice for men, and the passive role, the normative choice for women, either wives or concubines (this constituted a “licit” intercourse), or for young boys (an “illicit” intercourse). These binary distinctions (active / passive; licit / illicit) pertained only to the sexual act and did not refer to the sexual

identity of the subject, what we would call today “sexual orientation”.

If we stick to the field of Islamic Law, which is the field of interest of this paper, we can say that pre-modern jurists never dealt with cases of “homosexuality”, but only with cases of men penetrating other men (*liwāt*) or women having sex with other women (*siḥāq*).

Therefore, also the terms, which were used for these sexual acts, *liwāt* and *siḥāq*, should not be translated, linguistically and conceptually, as homosexuality,²¹ but instead as “sodomy” and “tribadism”. In this sense, I agree with Khaled el-Rouayheb, who states that homosexuality, when used in reference to the Medieval Islamic world is, “anachronistic and unhelpful”.²²

However, also when following this argument the question still arises when looking at the modern Middle East: can we speak of homosexuality and LGBTQI people in the Middle East today?

Some authors, like Samar Habib and Scott Kugle, talk about homosexuality in the Middle East or homosexuality in Islam,²³ and use this category when looking both at pre-modern and the modern period, “essentialising” the concept of homosexuality, while others,

²⁰ Afsaneh Najmabadi: Types, Acts or What? Regulation of Sexuality in Nineteenth-Century Iran, in: *Islamicate Sexualities: Translations across Temporal Geographies of Desire*, ed. by Kathryn Babayan and Afsaneh Najmabadi, Cambridge 2008, pp. 275–296 (276).

²¹ For a philological analysis of the formation of the term *liwāt* in Arabic see Pierre Larcher: *Liwāt*: “agir

comme le peuple de Loth [...]”. Formation et interprétation lexicales en arabe classique, in: *Journal of Arabic and Islamic Studies* (14/2014), pp. 213–227.

²² El-Rouayheb: *Before homosexuality*, p. 3. See also Schmitt: *Liwāt im fiqh*.

²³ Habib: *Female homosexuality in the Middle East*; Kugle: *Homosexuality in Islam*.

like Khaled el-Rouayheb,²⁴ Arno Schmitt,²⁵ or Bruce Dunne²⁶ take a constructivist approach to homosexuality and are more careful in the use of this category as a trans-historical and trans-local one. Others do not “essentialise” homosexuality, but they still take an essentialist approach to the issue. This is the case of the Palestinian-US historian Joseph Massad, who in his book “Desiring Arabs” claims that what he calls the “Gay International” (a group of Western male white-dominated gay activists) produces, through discourses, homosexuals in the Middle East, where there were instead only same-sex practices:

It is the very discourse of the Gay International, which both produces homosexuals, as well as gays and lesbians, where they do not exist, and represses same-sex desires and practices that refuse to be assimilated into its sexual epistemology.²⁷

Even though the so-called “Gay international” would have had an impact in the re-

shaping of sexual identity, Massad’s approach is “essentialist,” at least in two ways: (a) He does not allow for the possibility of “change” to sexual identities, and (b) He reifies the distinction between the “West” and the “East,” without taking into account the impact that globalization and the transnational movements of people, concepts and ideas have on identities (including sexual identities).²⁸

If we look at the Middle East and North Africa not only as an object of study, and instead we focus on the local actors, we see that several facts confirm the emergence, today, of homosexual communities in the region: in Egypt in 2000 a website for homosexuals was created (www.GayEgypt.com), and a movement, which is active in Egypt and Sudan was established (Bedaaya) in 2010.²⁹ More recently, in 2012, a magazine entitled *Iḥnā. Mağallat ṣawt al-miṭliyya fī Miṣr* (We, the magazine of the voice of homosexuality in Egypt) was published (but then

²⁴ El-Rouayheb: Before homosexuality.

²⁵ Schmitt: *Liwāṭ im fiqh*.

²⁶ Bruce Dunne: Homosexuality in the Middle East: an agenda for historical research, in: *Arab Studies Quarterly* 12 (1990), pp. 55–83.

²⁷ Massad: *Desiring Arabs*, pp. 162 f. For a reaction to this approach from one of the founders of the Lebanese organization *Ḥelem*, see www.resetdoc.org/story/0000001542 (last access 16. 8. 2016), while for a reaction from a member of the Lebanese lesbian organization *MEEM*, see Sarah Hamdan: Re-Orienting Desire from With/In Queer Arab Shame: Conceptualizing Queer Arab Subjectivities through Sexual Difference Theory in a Reading of Bareed Mista3jil, in: *Kohl: a Journal for Body and Gender Research* 1 (1/2015), pp. 55–69.

²⁸ There is extensive scholarship on the impact of globalization on sexual identities, which does not only mean that there is a one-way movement or influence, but a continuous tension between the global and the local. See for example Inderpal Grewal / Caren Kaplan: *Global Identities: Theorizing Transnational Studies of Sexuality*, in: *GLQ, A Journal of Lesbian and Gay Studies* 7 (4/2001), pp. 663–679; Carla Makhoul Obermeyer: *Sexuality in Morocco: Changing Context and Contested Domain*, in: *Culture, Health & Sexuality* 2 (3/2000), pp. 239–254; Dennis Altman: *Sexuality and Globalization*, in: *Agenda* (62/2004), pp. 22–28.

²⁹ See www.freewebs.com/bedayaa (last access 16. 8. 2016).

closed down for “security reasons”).³⁰ One could also mention *Aṣwāt*,³¹ an organization of Palestinian lesbians based in Haifa, *al-Qaws*,³² a group of LGBTQI Palestinian activists, *Abū Nuwās*³³ in Algeria, the group *Kifkif*³⁴ in Morocco, or *Helem*³⁵ and *MEEM*,³⁶ both based in Lebanon.³⁷

If on the one hand the emergence of this LGBTQI movement represents an element of innovation which makes it possible to speak of “homosexuality” in the contemporary Middle East and North Africa, on the other hand also the “traditional” categorization of homosexuality as an issue of sexual acts did not disappear, as we will see in contemporary *fatāwā*.

Sources and Methods

A *fatwā* (pl. *fatāwā*) is a juridical opinion on a topic given by an expert in Islamic law (the

muftī) on request of someone who is technically called the *mustaftī* (the person that ask a *fatwā*).

Fatāwā are a good source for observing the transformations of Islamic jurisprudence. Indeed, instead of dealing with “theoretical” questions, as in a manual of *fiqh*, a *muftī* has to deal with questions that are posed by people. The questions which are asked are not always the same: they change over time and over geographical contexts. Therefore, an analysis of *fatāwā* can shed a light on what is relevant for people in a given historical moment and in a given context, and can become a useful source for social and cultural history.

It is interesting to note that neither books of *fatāwā* published before the end of the 90s, nor the impressive collection of *fatāwā* published by al-Azhar, the most important religious institution in the Sunni world, be-

³⁰ Eman el-Shenawi: The curious case of Egypt’s first gay magazine, in: al-Arabiya News. See english.alarabiya.net/articles/2012/08/24/233994.html (last access 16. 8. 2016).

³¹ See the website of the association at www.aswat-group.org/en (last access 16. 8. 2016).

³² See the website of the association at www.alqaws.org (last access 16. 8. 2016).

³³ See the website of the association at abunawas-algerie.e-monsite.com (last access 16. 8. 2016).

³⁴ See the website of the association at www.kifkif.lgbt (last access 16. 8. 2016).

³⁵ See the website of the association at www.helem.net (last access 16. 8. 2016). For an introduction to the history of the group, see Ghassan Makarem: The story of Helem, in: Journal of Middle East Women’s

Studies 7 (3/2011), pp. 98–112; and Lara Dabaghi / Alena Mack / Doris Jaalouk: A Case Study of the First Legal, Above-Ground LGBT Organization in the MENA Region, Beirut 2008.

³⁶ See the website of the association at www.meemgroup.org (last access 16. 8. 2016). See also Sarah Hamdan: Becoming-Queer-Arab-Activist: The Case of Meem, in: Kohl: a Journal for Body and Gender Research 1 (2/2015), pp. 66–82.

³⁷ For a comprehensive overview of Queer life in the Beirut, see Sofian Merabet: Queer Beirut, Austin 2014; and id.: Disavowed Homosexualities in Beirut, in: MERIP (230/2016), special issue Sexuality, Suppression and the State. See www.merip.org/mer/mer230/disavowed-homosexualities-beirut (last access 16. 8. 2016).

tween 1980 and 1998, mention homosexuality.³⁸ While the argument of sodomy, of *li-wāṭ*, was debated in manuals of *fiqh* by *fuqahā'* as a matter of penal law, *muftīs* do not seem to have answered many questions regarding this topic in the past. My assumption is that this was a consequence of neither *liwāṭ* nor *sihāq* being a matter on which to ask for a *fatwā*, and of homosexuality as a sexual identity having not yet entered the public discourse.

In this paper I focus mostly on *fatāwā*, and especially on online *fatāwā*, because it is especially on the internet that, around the end of the 90s, an Islamic discourse on homosexuality flourished.

The use of online *fatāwā* poses a number of methodological problems. For example, as Gary Bunt put it, a question is whether

an online opinion is binding or not, and the moral implications on the person making the petition or asking the question. Should an opinion solicited by e-mail be followed?³⁹

Clearly, this is more of an issue for the *mustaftī* (the person requesting a *fatwā*) than for the researcher. Moreover, considering that nowadays even an institution like al-Azhar offers the possibility to ask for a *fatwā* by email, I would say that this is not a controversial issue anymore. Working with the virtual sphere also poses other challenges: for

example, it can become difficult to trace the sources, once a website goes offline. It is difficult to assess the qualifications of the *muftī* (is the writer really an expert in Islamic Law or not?), but also the “reality” and the correct identity of the *mustaftī* (is the *mustaftī* a real believer or not? Is he/she a researcher? Is he/she only a provocative troll? Does he/she even exist or has the *fatwā* been published only of the *muftī*'s own accord?).

Nevertheless, even if these aspects are important, I believe that the advantages of studying online *fatāwā* are still greater than the disadvantages: irrespective of the identity of who asked for a *fatwā*, and whether he/she is going to follow it or not, still the *fatwā* will continue to exist. Moreover, thanks to the internet, this *fatwā* can circulate much more easily than a “traditional” *fatwā*, which often remains a private issue between *muftī* and *mustaftī*.

This is particularly relevant here, because I argue that there is a “dominant homophobic discourse” on homosexuality in contemporary *fatāwā*. With this expression I build on the Foucauldian understanding of discourses not only as linguistic tools or signs, but

as practices that systematically form the objects of which they speak. Of course, discourses are composed of signs; but what they

³⁸ See for example Maḥmūd Šaltūt: *al-Fatāwā*, Cairo 182004; Muḥammad Mutawalli al-Šarāwī: *al-Fatāwā*, Cairo 21998; Muḥammad Sayyid aṭ-Ṭanṭāwī: *Fatāwā šarʿīya*, Cairo 1989; *Dār al-Iftāʾ: al-Fatāwā al-Islāmiya*, 20 vols., Cairo 1980–1998.

³⁹ Gary Bunt: *Islam in the Digital Age. E-Jihad, Online Fatwas and Cyber Islamic Environments*, London 2003, p. 136.

do is more than use these signs to designate things.⁴⁰

This homophobic discourse is dominant because it has been created by religious actors that are influential and that use their (religious) authority as a tool to silent alternative approaches to sexuality. Moreover, this discourse spreads also to other less “religious” sources, like newspapers, books, TV broadcasts and even legal verdicts,⁴¹ confirming that discourses do not only have theoretical and linguistic consequences, but also non-linguistic consequences (as it happens for example when homosexuals are imprisoned).

For this article I basically analyze *fatāwā* published in Arabic and English on the websites *IslamOnline* and *IslamQA* (*Islam Question & Answer*) in the time-span between 1997, year of the foundation of the two web-

sites, and 2016.⁴² Moreover, I also consulted *fatāwā* and articles that appeared over the same period on the *Mağallat al-Azhar*, the magazine of the University of al-Azhar, and a number of books that approach homosexuality (and/or homosexual intercourse) from a religious perspective.⁴³

I decided to focus on the two websites *IslamOnline* and *IslamQA* for several reasons: (a) they are both particularly popular; (b) on both websites the flux of information remains mostly “vertical”, moving from one expert (or from a group of experts) to many readers, which are basically passive. This constitute what Cristopher Holland defines as a “religion-online” website, created “to present religion based upon a vertical conception of control, status and authority”.⁴⁴

⁴⁰ Michel Foucault: *The Archeology of Knowledge*, transl. by A. M. Sheridan Smith, New York 1971, p. 49 (original edition *L'Archéologie du Savoir*, Paris 1969).

⁴¹ I am referring here to a number of cases, and especially to the Queen Boat case, a famous case in 2001 in which 52 alleged homosexuals were arrested and prosecuted in Egypt. For more details on the case, see Tolino: *Omosessualità e atti omosessuali fra diritto islamico e diritto positivo*, pp. 218–233.

⁴² Part of these sources have been collected during the research for my Ph.D. thesis, defended in 2012. Moreover, I also collected *fatāwā* that appeared after that date. Some of these sources have also been analysed in Serena Tolino: *Omosessualità e atti omosessuali tra diritto islamico e diritto positivo and/or in ead.: Homosexuality in the Middle East: An Analysis of Dominant and Competitive Discourses*. Whenever available, I use the English translations of the *fatāwā* by *IslamOnline* and *IslamQA*, even though I always refer to the Arabic version when this seems relevant to

me. I did not change the transliteration of the Arabic terms when these were already transliterated in the English text. When not otherwise explicitly stated, all other translations from Arabic are mine.

⁴³ ‘Abd ar-Raḥmān al-Quḍā: *Qaum Lūṭ fi ṭaub ḡadīd*, Amman 2007, composed by a medical doctor and bacteriologist who decided to write this book “due to the appearance of homosexuality in our country, the increase of its damages, and the big ignorance on its harmful consequences from a medical, social and familiar perspective” (ibid., p. 8); Muntaṣir Maẓhar: *al-Mut‘a al-muḥarrama. Al-liwāṭ wa-s-sihāq fi-t-ta’riḥ al-‘arabī*, al-Ġīza 2006, written by an Egyptian author with Islamist tendencies; Al-Ḥāṭib al-‘Adnānī: *az-Zinā wa-š-šudūd fi-t-ta’riḥ al-‘arabī*, Beirut 1999, whose author, born in 1919 and dead in 2007, was a Bahrainī scholar with a strong educational profile in classical Islamic sciences, and particularly in Islamic law.

⁴⁴ Christopher Helland: *Surfing for Salvation*, in: *Religion* (32/2002), pp. 293–302 (294).

These kinds of websites are different from “online-religion websites”, where

the web traveller is allowed to network with the website in a variety of active and interactive ways, including online prayer, worship and even meditation. Through links, chat rooms and bulletin boards, the setting allows for the contribution of personal beliefs and can offer personal feedback.⁴⁵

Without dismissing the importance of online-religion websites, I preferred to focus here on religion-online websites because (c) counselling and offering *fatāwā*, the main focus of this article, is much more relevant. Finally (d), both websites aim at an Arab but also an international audience.

The foundation of *IslamOnline* in 1997 has been strongly supported by the famous media-mufti Yūsuf al-Qaradāwī.⁴⁶ As Bettina Gräf wrote:

A key difference between *IslamOnline* and its competitors is that *IslamOnline* invites not only sharia experts to give advice, but also academics from fields including sociology, political science, psychology, medicine and economy, and sometimes even from literature or the arts. This is due to a belief among

IslamOnline founders that muftis cannot often give answers to questions which require special knowledge outside the framework of Islamic jurisprudence and theology.⁴⁷

The headquarters of the website are based in Doha, but most of the contents were produced in Cairo, at least until 2009, when, due to a conservative change in the board of the holding company of the website, *al-Balāḡ Cultural Society*, many of the staff in Cairo went on strike and decided to found an independent website, *OnIslam*. This was due to their belief that the new board was not supporting the pluralistic approach that had been a characteristic of *IslamOnline* till then. At the time of the division, all the *fatāwā* published on *IslamOnline* were transferred to the website *OnIslam*. However, at the time of writing (August 2016) *OnIslam* is not accessible anymore, while *IslamOnline* is back, with a completely new layout and format, but with the possibility to have access to the old *fatāwā*, including those on homosexuality, using its archive.

While *IslamOnline* remains a “collective” website, *IslamQA*, also founded in 1997, is

⁴⁵ Ibid.

⁴⁶ Al-Qaradāwī is a theologian born in Egypt in 1926. He studied at the University of al-Azhar, from which he also obtained a doctorate. After that, he moved to Qatar. He is very active on different kinds of media, and conducts the famous broadcast on *Al-Ġāzira*, *aš-Šarī‘a wa-l-ḥayāt*. He published several books and he is also the president of the European Council for Fatwa and Research. For more information on him see Bettina Gräf: Medien-Fatwas@Yusuf al-Qaradawi. Die Popularisierung des islamischen Rechts, Berlin 2010; and Bettina Gräf/Jacob Skovgaard-Petersen

(eds.): Global mufti: The Phenomenon of Yusuf al-Qaradawi, London 2009. For his approach to homosexuality see Scott Kugle / Stephen Hunt: Masculinity, Homosexuality and the Defence of Islam: A Case Study of Yusuf al-Qaradawi’s Media Fatwa, in: Religion and Gender 2 (2/2012), pp. 254–279.

⁴⁷ Bettina Gräf: *IslamOnline.net: Independent, Interactive, Popular*, in: Arab Media & Society, 2008, p. 2, see www.arabmediasociety.com/articles/downloads/20080115032719_AMS4_Bettina_Graef.pdf (last access 17. 8. 2016).

more a personal website. All the *fatāwā* are supervised by the Saudi Ḥanbalī scholar Muḥammad Ṣāliḥ al-Munaḡḡid, a pupil of Ibn Bāz, the Grand Muftī of Saudi Arabia until his death in 1999. *IslamQA*

aims to provide intelligent, authoritative responses to anyone's question about Islam, whether it be from a Muslim or a non-Muslim, and to help solve general and personal social problems.⁴⁸

The website offers *fatāwā* in Arabic, English, Farsi, French, Chinese, Japanese, Russian, Uygur, Urdu, Indonesian, Turkish, German, Portuguese and Bangla, aiming at spreading its message to a transnational Muslim community.

Muftīs Dealing with Homosexuality: Sexual Orientation or Sexual Practices?

The *fatāwā* on homosexuality I could trace on both websites focus on different aspects, but they all seem to share a basic idea, which is that homosexuality is incompatible with Islam and is first of all, a serious sin, which will be punished in this world and in the Hereafter. This seems to be similar to the traditional prohibition of same-sex acts that we also find in pre-modern Islamic law. However, as we will see in this paragraph, there

are also differences, which depend on the mutated historical and social context in which modern jurists act.

Pre-modern jurists were basically interested in how same-sex acts should have been punished according to Islamic Law: the debate was on *liwāṭ* (sodomy), a juridical term which refers to the penetration of the anus⁴⁹ and *siḥāq*, which could be translated as “tribadism” and refers to the sexual act in which a woman rubs her vulva against her partner's body for sexual stimulation. The great majority of jurists believed that *siḥāq* should have been punished with a *ta'zīr* punishment, while the debate regarding *liwāṭ* revolved around whether to consider it a form of *zinā* or not, and whether to apply or not the *ḥadd*.⁵⁰

The idea of a *ḥadd* is that a punishment should be applied by humans for not respecting a right of God, for trespassing a divine “limit” (which is the first meaning of *ḥadd*), in order to purify the culprit from this sin. Nowadays, jurists do not focus so much on this argument. Sometimes the punishment is still mentioned, especially in those *fatāwā* where the *muftā* specifically asks how *liwāṭ* and *siḥāq* should be punished for Islamic law.⁵¹ Nevertheless, in most cases, if the issue of the “punishment” is mentioned, the main point of the discussion is not whether

⁴⁸ See islamqa.info/en/ref/islamqapages/2 (last access 18. 8. 2016).

⁴⁹ Some jurists distinguished between the “major *liwāṭ*,” referring to the penetration of a male's anus, and the “minor *liwāṭ*” referring to the penetration of a woman's anus.

⁵⁰ See Omar: From Semantics to Normative Law and Tolino: Homosexual acts in Islamic Law.

⁵¹ See for example IslamOnline: What Islam Says on Lesbianism, 64.91.225.208/webfiles/fatwa/lesbianism.pdf (last access 16. 8. 2016) and IslamOnline:

to apply the *ḥadd* or not. Probably also as a consequence of Islamic Law being not applied in most of the countries with a Muslim majority, the discourse switched from a mostly theoretical debate on whether or not to apply the *ḥadd* for *liwāt*, to a discussion on how, according to many *muftīs*, God himself practically punishes homosexuals: with sexually transmitted diseases.

Indeed, as Ersilia Francesca noted:

AIDS has been mentioned in Muslim ethical literature since about 1985 as an illness pertaining to the western homosexual world [...]. Muslim ethical literature considers homosexual and extramarital relations as primary reasons for the spread of AIDS as well as contaminated syringes used by drug addicts.⁵²

Sexually transmitted diseases, and especially AIDS/HIV, are frequently mentioned as the divine punishment for non-Islamic sexual behaviours. According to one author, for example, AIDS is not even a disease, but a punishment, (*laisa maraḍ^{an}, wa-lākinnaḥu ‘iqāb^{un}*),⁵³ the “divine punishment for homosexuality” (*‘iqāb al-ilāhi*),⁵⁴ “God’s answer to the violation of divine law”.⁵⁵

Moreover, homosexuality itself is depicted as an illness. According to one author, the

desire to be penetrated is due to the presence of bacteria in the anal conduct, which at some point will also infect the active partner. However, no pity should be shown towards those afflicted by this illness, as it is easily avoidable by not practicing these unlawful sexual acts.⁵⁶ Various “remedies” on how to “recover” from this “illness” are suggested: praying, reading the *Qur’ān*, thinking about the punishment of the people of Lot, avoiding people who do not live according to Islam, marrying when this does not harm anyone etc.⁵⁷ Even if homosexuality is represented as an illness, still the human being has the possibility to avoid it, by not practicing the sinful acts which would infect him/her.

Here we see that what these scholars are describing is not homosexuality as a sexual orientation, but as an issue of practicing same-sex sexual acts. The co-existence of these two different approaches to homosexuality becomes particularly evident when we look at a *fatwā* by Ibn al-Munaḡḡid.

A person who defines himself as “*šādd ḡin-sīyan*”⁵⁸ informs the *muftī* that he will marry in three months, but he feels confused because he is more “inclined” to men than women, and is not sure whether he should

Death Fall as Punishment for Homosexuality, 2010, archive.islamonline.net/?p=659 (last access 16. 8. 2016).

⁵² Ersilia Francesca: AIDS in contemporary Islamic Ethical Literature, in: *Medicine and Law* 21 (2/2002), pp. 381–394 (383).

⁵³ Maḡhar: *al-Mut‘a al-muḡarrama*, p. 186.

⁵⁴ *Ibid.*, p. 191.

⁵⁵ *Ibid.*, p. 190.

⁵⁶ *Ibid.*, p. 126.

⁵⁷ IslamOnline: How to give up homosexuality, 2010, at archive.islamonline.net/?p=897 (last access 16. 8. 2016).

⁵⁸ This is one of the terms, which are used in Arabic for “homosexual”. The Arabic root *šdd* refers primarily to “singleness”, but also to perversion, and for that reason the term is often negatively perceived by LGBTQI groups.

inform the woman or not. Moreover, he does not want her to suffer, as “She is a very good girl and deserves someone who is much better than me”. After this introduction, the *mustaftī* asks Ibn al-Munaḡḡid:

We homosexuals are disgraced in Islam and have very limited options, we cannot marry like normal people, what is our fault? And what should we do? What is the wisdom behind us being created homosexuals? If you care about our matter and suffering tell us what shall we do?⁵⁹

The idea that homosexuals have been “created” as such by God, and therefore cannot do anything against their sexual orientation, is completely rejected by Ibn al-Munaḡḡid, who replies:

What we are really shocked by is what you say after that: ‘Is it our fault that we are like that? What is the wisdom behind a man being created like this?’ Yes, O slave of Allaah, the blame and consequences, the threat and punishment, all befall the one who *commits* the sin; he deserves it because of the *evil acts* that *he has done* and what his hands have earned.⁶⁰ [Italics mine].

Ibn al-Munaḡḡid refuses the *mustaftī*’s resignation:

One of the gravest mistakes is to think that there is no remedy for this disease, and that the homosexual can never become straight.

If that were the case, then Allaah would not have told the people of Loot to repent, and the Prophet of Allaah Loot (peace be upon him) would not have called them to give up their perversion.⁶¹

It is clear that here we see these two different approaches coming into contact. On the one hand, we see the *mustaftī*, who is asking about homosexuality as a sexual identity: he believes he has been created as such, and he is asking what should he *do* about the way he *is*. On the other, we see the *muftī*, who is speaking of *liwāt*, of a sexual act, of a “sin”, that a person can *do* or not, and is conflating sodomy and homosexuality.

Ibn al-Munaḡḡid also refers here to the story of the Prophet Lot, a story that is common to the Jewish, the Christian and the Islamic tradition. According to this story, God sent Lot to the people of Sodom to warn them about committing illicit acts, especially sodomy, but they did not obey to him and therefore were destroyed.⁶²

In the classical Islamic exegesis of the *Qurʾānic* verses, it is believed that the people of Lot committed several illicit acts, including sodomy of course, but also aggression to travellers, which was a much more serious crime.⁶³ Nowadays, pro LGBTQI-scholars stress exactly these arguments:

⁵⁹ Arabic version of the *fatwā*, Yuʿānī min aš-šudūd wa-yahša an yatazawwaḡa, at islamqa.info/ar/101169; English version, He is homosexual and is afraid to get married, at islamqa.info/en/101169 (last access 16. 8. 2016).

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² For the *Qurʾānic* version, see especially 11:74–83; 15:61–71; 7:80–84. For the Biblical version, see Genesis, XI–XIV and XIX.

⁶³ See for example Abū ʿAbd Allāh al-Qurṭubī: *Al-Ġāmiʿ li-Aḡkām al-Qurʾān*, Beirut 2006, 14, p. 232; or Muḡammad b. ʿAlī aš-Šaukānī: *Faṡḡ al-Qadīr*, Beirut 2007, p. 941. For more details on the interpretation of

Gay and lesbian Muslim activists counter this conventional interpretation by arguing that the people of Sodom and Gomorra were not destroyed due to homosexuality or same-sex acts. Rather they were destroyed because of their infidelity, just like all other ancient peoples destroyed by miraculous disasters cited by Torah and Qur'an.⁶⁴

In contrast, in contemporary *fatāwā* the story of Lot is used to confirm the religious prohibition of homosexuality, and sodomy is mentioned as the only reason why the people of Lot were destroyed. For example, a *muftī* writes that the people of Lot were condemned

for their homosexual behavior; as they were addicted to this shameless depravity (sodomy), abandoning natural, pure, and lawful relations with women in the pursuit of this unnatural, foul and illicit practice.⁶⁵

This position is also confirmed by Yūsuf al-Qaraḏāwī, who maintained that “the people of Lot committed the worse of moral perversions, homosexuality (*aš-šudūd al-ğinsī*)”,⁶⁶ and that “Prophet Lut’s people were addicted

to this shameless depravity, abandoning natural, pure, lawful relations with women in the pursuit of this unnatural, foul and illicit practice”.⁶⁷ Two elements are striking: the treatment of homosexuality as something to be “practiced”, to be “done”, and not as an identity, and the disappearance of any of the other sins committed by the people of Lot.⁶⁸

Muftīs also refer to *ḥadīṡ*s to strengthen their point: Even though it had been established in the Middle Ages already by experts of *ḥadīṡ*s that all the sayings attributed to Prophet Muḥammad on *liwāṡ* and *siḥāq* cannot be deemed authentic,⁶⁹ in contemporary *fatāwā* they are still reported as historical truths. In a *fatwā* we read for example that

In Hadith, the Prophet, peace and blessings be upon him, clarifies the gravity of this abomination by saying: ‘Allah curses the one who does the actions (homosexual practices) of the people of Lut’ repeating it three times; and he said in another Hadith: ‘If a man

the story of Lot see Jamel Amreen: The Story of Lut and the Qur’an Perception of the Morality of Same-Sex Sexuality, in: Journal of Homosexuality 41 (1/2001), pp. 1–88.

⁶⁴ Kugle / Hunt: Masculinity, Homosexuality and the Defence of Islam, p. 271.

⁶⁵ IslamOnline: What Islam Says on Lesbianism. See 64.91.225.208/webfiles/fatwa/lesbianism.pdf (last access 16. 8. 2016)

⁶⁶ Yūsuf al-Qaraḏāwī: Fasād al-muğtama‘. See online www.maghress.com/almassae/28415 (last access 16. 8. 2016).

⁶⁷ Yūsuf al-Qaraḏāwī: al-Ḥalāl wa-l-ḥarām fi-l-Islām. There are several editions on this book, both in Arabic and in the English translation. The edition I am quoting

here is the English translation The Lawful and the Prohibited in Islam, Cairo 1997, p. 165.

⁶⁸ Moreover, the reference to the story of Lot does not only appear in a purely religious discourse: for example, during the very famous Queen Boat case in Egypt, several newspapers referred to the defendants as “the people of Lot”, and even the verdict itself makes mention of the story of the Prophet Lot. See for example Qaḏiyat ‘abadat aš-šayṡān, in: Aḥbār al-ḥawāḏiṡ (15th May 2001), and the verdict itself of the case, Maḥkamat ġunaḥ amn ad-daula ṡawāri’ Qaṡr an-Nīl, Verdict n. 600/2001, Cairo 2001, p. 55, on file with the author.

⁶⁹ For more details on this, see Kugle: Homosexuality in Islam, pp. 80 ff. and Tolino: Omossessualità e atti omossessuali fra diritto islamico e diritto positivo, pp. 72–84; 111–144.

comes upon a man then they are both adulterers'.⁷⁰

The same *fatwā* also speaks about *siḥāq*, conflating once again same-sex practices and sexual orientation, and mentioning that “the Prophet, peace and blessings be upon him, said about them: ‘If a woman comes upon a woman, they are both Adulteresses,’” which means that they both committed “*zinā*”.

The complete version of this *ḥadīth* also mentions *liwāṭ*, describing the person who commits it as a *zānī* (a person that committed *zinā*). Therefore, even though the same *ḥadīth* (which is not authentic anyway) equates both *liwāṭ* and *siḥāq* to *zinā*, I could not find any jurist who proposed to apply also to *siḥāq* the *ḥadd* for *zinā*, while many jurists did so for *liwāṭ*. This confirms once again that the presumed authenticity of a *ḥadīth* is not really the main point according to which Muslim jurists decide whether it can be used as a source for Islamic law or not.

Another argument, which is used in contemporary *fatāwā*, is the description of this act as an act against the *fiṭra*. The concept of *fiṭra* is mentioned in the *Qurʾān* and refers to the nature God created the man according

to. For example, in verse 30:30 we find:

So direct your face toward the religion, inclining to truth. [Adhere to] the *fiṭra* of Allah upon which He has created [all] people. No change should there be in the creation of Allah. That is the correct religion, but most of the people do not know.

While this verse has been interpreted as a natural disposition to believe in God, as Kugle and Hunt noted, Muslim traditional scholars dealing with homosexuality or same-sex practices equate it with an “innate heterosexual orientation, making homosexuality a form of *kufṛ* or infidelity”.⁷¹ According to traditionalist *muftīs*, because of the *fiṭra* men should be attracted by women and *vice versa*. Homosexuality is depicted as a “deviation from one’s natural disposition and a departure from the natural order”,⁷² a “dirty act against natural order.”⁷³ A person that practices homosexual acts is described as “an animal responding only to his sexual desires”,⁷⁴ and is therefore implicitly accused of renouncing to the divine gift of intellect, which should be used to restrain animal instincts. In addition, al-Qaraḍāwī, in his broadcast *Aš-šarīʿa wa-l-ḥayāt*, stated: “the man tends toward the woman and the

⁷⁰ IslamOnline: Death Fall as Punishment for Homosexuality, 2010. See archive.islamonline.net/?p=659 (last access 16. 8. 2016).

⁷¹ Kugle / Hunt: Masculinity, Homosexuality and the Defence of Islam, p. 269.

⁷² IslamOnline: Death Fall as Punishment for Homosexuality, 2010. See archive.islamonline.net/?p=659 (last access 16. 8. 2016).

⁷³ IslamOnline: Homosexuality and Lesbianism: Sex-

ual Perversions, 2004. See prophetmuhammadforall.com/media/fatawa/HomosexualityNLesbianis.pdf (last access 16. 8. 2016).

⁷⁴ ‘Abd ar-Raḥmān al-Quḍā: *Qaum Lūṭ fi ṭaub ḡadid*, p. 71. See also IslamQA: *Limādā ḥarrama al-Islām as-siḥāq wa-l-liwāṭ*, see www.islamqa.com/ar/ref/10050. For the English version see *Why does Islam forbid lesbianism and homosexuality?*, www.islamqa.com/en/ref/10050 (last access 16. 8. 2016).

woman towards the man. It is a natural fact,”⁷⁵ and in his book *Al-ḥalāl wa-l-ḥarām fi-l-Islām*, wrote that homosexuality is a “subversion of the natural order.”⁷⁶

This “against nature” rhetoric is quite recent, and is not found for example in classical *fatāwā* on *liwāt* and *siḥāq*, neither in pre-modern manuals of *fiqh*. On the contrary, one of the reasons why many pre-modern scholars equated *liwāt* with *zinā* is that

There is no difference between vagina and anus, because both are sexual organs that for the *ṣarīʿa* should be protected, and they are both naturally (*ṭabaʿan*) desired.⁷⁷

The alleged unnaturalness of homosexuality is considered to be confirmed by its sterility, an attack to one of the five *maqāṣid aš-ṣarīʿa*, the purposes of the *ṣarīʿa*, which require the protection of five elements: *ad-dīn*, *an-naḥs*, *an-nasl*, *al-māl* and *al-ʿaql* (religion, soul, progeny, ownership and intellect). The third point, *an-nasl*, would be threatened by homosexuality. Although Islam does not conceive of the sexual act as exclusively tied to reproduction, according to *muftis* it is a duty of the human being “to populate and culti-

vate the earth”, while homosexuality prevents the achievement of this goal, “adversely affecting the birth rate”.⁷⁸

Consequently, same-sex marriages are also strongly opposed and are considered only a way to “suit the unnatural and immoral desire of defiant and lost people”.⁷⁹ They are also rejected because “marriage in Islam, as in all divine religions, does not only mean sexual enjoyment but also the establishment of a family on hygienic and safe foundations”.⁸⁰

Another argument, which is pervasive in contemporary *fatāwā*, is the idea that the devil has corrupted homosexuals in order to make them practice sinful acts. In a *fatwā* requested by a 16-years old boy who says he is “*šadd ġinsīyan*” and asks for help to “get rid of this nasty desire,” Ibn al-Munaḡḡid answers him that

You should note that if you think little of this evil, this gives the Shaytaan an opportunity to make other actions that lie beyond that seem attractive to you, which is obvious. But he will do that because you gave in to him, even if that only happened once.

⁷⁵ A transcription of the broadcast can be found at www.aljazeera.net/channel/archive-/archive?ArchiveId=336983#L2 (last access 16. 8. 2016). The broadcast has been analysed also by Kugle/Hunt: *Masculinity, Homosexuality and the Defence of Islam*.

⁷⁶ Al-Qaraḏāwī: *The Lawful and the Prohibited in Islam*, p. 164.

⁷⁷ Abū Bakr as-Saraḥsī: *Kitāb al-Mabsūt*, 31 vols., Beirut 1985, vol. 9, p. 77.

⁷⁸ IslamQA: *Mawqif al-Muslimin min fāḥiṣa al-liwāt*,

see islamqa.info/ar/2104, English version, Muslim attitude towards the sin of homosexuality, see islamqa.info/en/ref/2104 (last access 16. 8. 2016).

⁷⁹ IslamOnline: *Can Muslims Endorse Gay Marriages?* 2008. See archive.islamonline.net/?p=6734 (last access 16. 8. 2016).

⁸⁰ IslamOnline: *Gay Marriage: Islamic View*, 2004. See web.archive.org/web/20070814072435/www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask+Scholar/FatwaE/FatwaE&cid=1119503548496 (last access 16. 8. 2016).

Moreover, he invites the *muftā* to:

Remember when the idea of sin come to you, or the Shaytaan whispers to you to commit a sin, that the parts of your body will bear witness against you on the Day of Resurrection for this sin.⁸¹

One of the consequences of associating Satan with homosexuality is that of charging it with a moral value: this, once again, confirms that homosexuality is not seen as a “sexual orientation”, but as a sexual sin that for Islamic law should not be committed.

If homosexuality is seen as a sin, then it does not surprise that it is perceived as extraneous to the *umma*. Indeed, in contemporary *fatāwā* homosexuality is represented as coming mostly from the Western world, which is depicted as “immoral”, compared to the Islamic world, whose purity is assumed. When looking at the past, either the Graeco-Roman world or the Persian world have been considered responsible for the “spread” of homoerotic relations in the Arab-Islamic world,⁸² while nowadays the United States and Western Europe are considered to be the cause for its diffusion. We find this “import-theory” for example in an article on the “Mağallat al-Azhar”, whose author claims

that “after many centuries the heirs of the people of Lot have appeared, and they heavily influence American politics” and that “homosexuals represent an electoral force in the American society”.⁸³ Another *muftā* states that homosexuality

Finds a great resort and refuge in Western countries where it is accepted and legalized by the laws of these countries that put man in a position even worse than animals under the pretext of protecting human rights.⁸⁴

To summarize, we can say that in the religious Islamic discourse homosexuality is approached as a behavioural issue, which is depicted as being contrary to Islamic principles. Different arguments are used to stress this point: the reference to the *Qurʾānic* story of Lot, the use of (unauthentic) *ḥadīṡ*, the representation of homosexuality as external to the Islamic community and as imported, the association between homosexuality and Satan, the definition of homosexuality as “unnatural”. All these arguments contribute to a definition of homosexuality as an issue of sexual acts and not sexual orientation. Moreover, the use of these arguments contributes to a representation of homosexuality as incompatible with Islam.

⁸¹ IslamQA: Šādd ġinsīyan wa-yurīdu al-ʿilāğ, see [is-lamqa.info/ar/20068](http://islamqa.info/ar/20068) (last access 16. 8. 2016). For the English version see IslamQA: He is homosexual and wants a remedy, islamqa.info/en/20068 (last access 16. 8. 2016).

⁸² Al-Ḥāṡib al-ʿAdnāni: az-Zinā wa-š-šudūd, p. 108.

⁸³ As-Sayyid Taqī ad-Dīn: Waraṡat Qaum Lūt, in: Mağallat al-Azhar 77 (7/2004), pp. 1167–1169, here at 1167.

⁸⁴ IslamOnline: Homosexuality and Lesbianism: Sexual Perversions, 2004. See prophetmuhammadforall.com/media/fatawa/HomosexualityNLesbianis.pdf (last access 16. 8. 2016).

Conclusion

In conclusion, two different approaches to homosexuality are currently coexisting in the sources I analyzed: a more “traditional” one, which considers homosexuality as an issue of sexual acts only, and a second one, which sees homosexuality as a sexual identity, which also includes emotional and affective elements.

This is clear not only when looking at the local LGBTQI movement, but also when looking at a single individual which asks a *fatwā* on his sexual identity, as it happens in the *fatwā* of al-Munaḡḡid we discussed here. While the *mustaftī* asked a question about his sexual identity, al-Munaḡḡid answered him about *liwāṭ*, a strategy that is common also to other jurists.

Nevertheless, as scholarship on Islamic Law demonstrated over the last decade, one should not assume that Islamic Law, because of its being a “traditional” science, is also static. Even the simple fact that a *mustaftī* is asking a *fatwā* about homosexuality changed the terms of the discussion: the *mustaftī*

forced al-Munaḡḡid to reply to him and to face the argument of homosexuality as a sexual identity. To do so, al-Munaḡḡid had to revise his interpretation of the *Qurʾān*, the Sayings of the Prophet Muḡammad, books of former Muslims jurists that only deal with homosexual acts, in order to adapt them somehow to the concept of homosexuality. He clearly did not do that in a revolutionary or LGBTQI-friendly way, but still he had to do that.

Moreover, even though in this paper I focused on the “traditional” anti-homosexuality discourse, there are already alternative visions of homosexuality on the field. The LGBTQI community is looking for means of resistance also on the religious level, rejecting the assumption that one cannot be a “proper” Muslim and a homosexual. There are already pro-LGBTQI scholars who are trying to reinterpret the sources of Islamic Law with a non-homophobic approach, fighting what could be defined as a “queer-ḡihād”,⁸⁵ which certainly deserves to be the object of another study.

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⁸⁵ This expression on the one hand recalls Amina Wudud’s book *Inside the Gender Jihad: Women’s Reform in Islam*, London 2006 and on the other Parvez

Sharma’s film *A Jihad for Love*, a 2007 documentary on the coexistence of Islam and homosexuality.