

BIOETHICS AROUND THE GLOBE

Edited by Catherine Myser

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Published by Oxford University Press, Inc.
198 Madison Avenue, New York, New York 10016

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Library of Congress Cataloging-in-Publication Data

Bioethics around the globe / edited by Catherine Myser.

p. ; cm.

Includes bibliographical references.

ISBN 978-0-19-538609-7

1. Bioethics. 2. Bioethics—Developing countries. 3. Globalization. I. Myser, Catherine.

[DNLM: 1. Bioethics. 2. Developing Countries. 3. Internationality. WB 60]

QH332.B51718 2011

174:957—dc22 2010041917



11- A 112

9 8 7 6 5 4 3 2 1

Printed in the United States of America on acid-free paper

NE/2012/00245

This book is dedicated to my father, John T. Myser, Sr., for his 75th birthday. Thank you for teaching ocean magic through Pacific Ocean tidepools and scuba, and for inspiring a lifelong passion for global explorations. You are always at the core of every new adventure I undertake!

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NEGOTIATING ISLAMIC IDENTITY IN EGYPT THROUGH BIOETHICS

CONTESTING “THE WEST” AND SAUDI ARABIA

Thomas Eich and Björn Bentlage

Introduction

A North African country with a population of approximately 70 million, Egypt is the most populous country in the Middle East/North Africa region. The population is growing at a rapid 2% per annum, and the religious breakdown is roughly 90% Sunni Muslim, with the remaining 10% predominately Christian. In recent decades, Egypt's economy has suffered from large deficits. A high inflation rate posed enormous challenges in the 1980s and 1990s, but has more recently been on significant decline. Officially, Egypt is a presidential democracy. The country has been led by military officers since the 23rd of July revolution in 1952, with president Hosni Mubarak holding office from 1981 until 2011. Parliamentary elections are routinely criticized by opposition political forces, as well as by international organizations, for being illiberal and unfair. Still, Egypt's multiparty parliament is far from a mere puppet in the president's hands. Paired with an increasingly important modern mass media, parliamentary plurality placed constraints on Mubarak's political power. Therefore, it had become increasingly important for Mubarak to present his political decisions as *legitimate* to Egypt's large population. Although socialist/secularist ideologies have heavily influenced the military government since the 1952 revolution, governments have swayed back and forth between attempts to exert control over religious life via funding, appointment, cooptation, and nationalization of its institutions, and granting influence and independence in return for legitimization. Egypt's legal system is based on the *šari'a*, as declared by an amendment to the constitution in 1981. The conformity of laws to the *šari'a* is usually certified by the leading religious institutions,

and mosques and the al-Azhar's religious education system play a determinant role in social life.¹

We will show that bioethics functions as *the* place for Egyptians to freely negotiate their values and vision of Egyptian society.² It is true that other issues, such as the recent constitutional changes—most likely intended to prepare the transferral of the presidential office from Hosni Mubarak to his son, Gamal—are also fervently contested by Egypt's public. However, until recently, issues directly related to Mubarak's position and power cannot really be discussed freely as a means of negotiating and *shaping* Egyptian identity.

First, we will briefly characterize the key actors in the field of Egyptian bioethics (without any claim to completeness, of course). In the second part, we present two case studies to show how institutions and individuals interact. These cases are public debates about medical personnel wearing face veils (*niqāb*) and female genital mutilation (FGM). These cases are not meant to represent bioethics in Egypt as a whole. Bioethics as a discipline in its own right is just beginning to emerge in Egypt. As in many other Muslim-majority countries, bioethics is largely considered a branch of the ethical reasoning inherent to Islamic law. Hence, Egyptian bioethics effectively "functions" by treating individual issues in order to identify specific rules, rather than "developing independent reflection with respect to the clinical decision-making phase."³ Therefore, we have chosen to present some of the most recent and public debates relating to bioethics at large, in order to illustrate the many possible ways in which the key actors of Egyptian bioethics interact. The fact that they both relate to sexuality, and the role of women in society, certainly limits the scope of observations we were able to make in this article. However, we think that this common link appears to be an important point in the current development that ought not to be neglected.⁴

We will argue that the social functions of bioethics in Egypt, by and large, provide powerful symbols in public debates to negotiate what it means

1. Moustafa, 2000.

2. Many bioethical discussions in the Middle East are similar to debates in Europe and the United States, because certain assumptions and concepts questioned by scientific and medical developments are common to both regions, as can be seen in the debates about the brain death criteria for example. Other discussions clearly differ because they arise particularly from concepts, beliefs, or regulations in the Islamic faith—whether Muslims may receive organs transplanted from a non-Muslim, for instance—or from developments and factors special to the regional or national history, like the importance of prenatal diagnosis due to a relatively high percentage of marriage among relatives.

3. Atighetchi, 2007: 19.

4. There are other currently hotly debated issues in Egyptian bioethics, such as the government's plans to reform the health insurance system, or organ transplantation, which are not genuinely linked to gender issues.

(or should mean) to be Egyptian today. As we will show, Egyptians' reactions to these changes do not create a binary paradigm of secularism or even laicism versus a religiously oriented society. Alternatively, it is largely agreed upon that the fundamental referential framework for defining Egyptian identity is Islam. Therefore, Egyptians do not negotiate "how Islamic do we want to be?" but rather "in any given situation, what does it mean to act as a good Muslim?"

The Actors

Government Religious Actors

Ministry of Religious Endowments (*wizārat al-awqāf*)

The Ministry of Religious Endowments (*awqāf*) is the state's most important instrument to centralize authority over the religious sector. The Ministry channels state funding, and is involved in licensing and appointing preachers and deciding the topics to be covered in state-controlled mosques.⁵ The current minister of *awqāf* is Dr. Maḥmūd Ḥamdī Zaqqūq (often also rendered as Zakzouk). He is a multilingual theologian and philosopher by training, holding a PhD in philosophy from the University of Munich.

National Fatwa Office (*dār al-iftā'*)

The *dār al-iftā'*, the office of the Grand Muftī, is Egypt's principal institution for the issuance of religious expertise, or *fatwās*. Appointed by the *wizārat al-awqāf*, the Grand Muftī is routinely addressed by the government to establish conformity of laws, regulations, or public policies to the *ṣarī'a*. The current Muftī, Dr. 'Alī Ġuma'a has held office since September 2003. Unlike many religious scholars at al-Azhar, Ġuma'a didn't initially devote himself to Islamic studies, but rather began his religious scholarship only after receiving a BA degree in commerce. In polemics against him, this is often used as a pretext to question his competence on issues of Islamic law.⁶ Both he and his predecessor in office, the recently deceased Ṣayḥ al-Azhar Muḥammad Sayyid Ṭanṭāwī, are often criticized for serving the government's interests too freely.⁷

5. After a wave of nationalization under President Mubarak, 71% of Egypt's mosques were state-owned by 1994. Moustafa: 2000

6. *Rūz al-Yūsuf*, 2007/06/16 (No. 4123)c.

7. *al-maṣrī l-yawm* 2007/05/16a; 2007/07/07a; 2007/07/11b; and 2007/10/19; *al-ibwān al-muslimūn*: 2008/08/011.

al-Azhar

Al-Azhar today stands for an entire religious education system, from kindergarten to universities all over Egypt, encompassing subjects from theology to medicine and engineering. The al-Azhar university is praised as arguably the most prestigious institute of Islamic scholarship in the world.

Since 1952, the state has made increasing efforts to control and subdue al-Azhar, culminating in a 1961 law which put al-Azhar under direct government regulation. It now stands under the jurisdiction of the Ministry of *awqāf*, and its highest ranking religious scholar is the appointed Šayḥ al-Azhar. While al-Azhar has lost independence and legitimacy with the people, it gained access to more government funding, allowing the institution to extend its role in society. In 1996, President Mubarak appointed the pro-government Muḥammad Sayyid Ṭaṭṭāwī as Šayḥ al-Azhar, a move leading to tensions with the state and within al-Azhar.⁸ In 2010, after Ṭaṭṭāwī died unexpectedly, Aḥmad al-Ṭayyib followed him in office. Like the Grand Muftī, the Šayḥ al-Azhar is often asked by the government for expertise regarding legislation and public issues.

The *mağmaʿ al-buḥūt al-islāmiyya*

Al-Azhar's Council for Islamic Studies, the *mağmaʿ al-buḥūt al-islāmiyya*, is directed by the Šayḥ al-Azhar and is largely composed of Egyptian Islamic scholars. Legally, the *mağmaʿ* is the binding authority in all questions regarding Islamic dogma, and has a loosely defined obligation to watch over public discourse, which can, and has, bordered on censorship.

New members to the *mağmaʿ* must be nominated for election by at least one member of the *mağmaʿ* and receive a majority of votes from its members. Only the Šayḥ al-Azhar and the Grand Muftī are members qua office.⁹ According to the Azhar law of 1961, members must hold a diploma from al-Azhar.¹⁰

The relations between these religious institutions are not always cordial. The appointed Grand Muftī and the Šayḥ al-Azhar have both criticized each other on several issues, and the *mağmaʿ* sometimes openly opposes the two other institutions.¹¹ In January 2007, it claimed for itself the exclusive right to criticize *fatwās* by the *dār al-iftāʿ* and tried to set rules for issuing *fatwās* in the media.¹² Since the

8. Moustafa: 2000; Kienle: 2000: 113f.

9. *Rūz al-Yūsif*, 2007/06/16 (No. 4123)a; *Rūz al-Yūsif*, 2007/06/16 (No. 4123)c, where it is also claimed that the election process is manipulated at times.

10. Skovgaard-Petersen: 1997: 187.

11. *al-maṣrī l-yawm*: 2007/12/20

12. *al-maṣrī l-yawm*: 2007/02/21.

Šayḥ al-Azhar heads the *mağma*¹³, of which the Grand Muftī is only an “ordinary” member, the position of the Šayḥ al-Azhar in the religious hierarchy of Egypt has to be viewed as higher than the Grand Muftī’s. This is also accounted for in official protocol, where the Šayḥ al-Azhar is in the ranks of ministers, whereas the Muftī—since he is essentially working *for* a ministry—is ranked below that.¹³

Nongovernment Religious Actors

These are primarily individual actors whose influence stems mainly from their use of modern mass media. A prominent example in Egypt is Dr. Su‘ād Šāliḥ, former dean of the women’s branch of the faculty for Islamic studies at al-Azhar. Dr. Šāliḥ is one of the few female religious scholars who appear regularly in the mass media, and is usually consulted on questions involving religion and women. She has made repeated attempts at proposing organizational reforms in the largely male-dominated religious establishment of the country.¹⁴

Šāliḥ is part of a larger trend, present since the 1980s, in which non-state religious scholars have by and large marginalized the state *‘ulamā*¹⁵ in the Egyptian mass media.¹⁵ One example is the relatively new and extremely popular TV channel, al-Nās (“The People,” shut down in late 2010), which features non-state scholars with obvious links to Saudi Arabia exclusively offering religious advice and guidance. In addition, telephone *fatwā*-enterprises, which offer religious consultation over the phone within 24 hours of request, are now a growing industry. The result is an increasing number of contradictory *fatwās*, which all claim to be authoritative.¹⁶

Another type of individual nongovernment religious actor is the member of parliament Yūsuf Badrī, a religious scholar with Islamist leanings. Badrī campaigns

13. *Rūz al-Yūsif*, 2007/06/16 (No. 4123) a; *Rūz al-Yūsif*, 2007/06/16 (No. 4123) c.

14. For example, she tried to get elected as first female member of the *mağma*¹³. See *Rūz al-Yūsif*, 2007/06/16 (No. 4123)c.

15. It has to be reiterated that Su‘ād Šāliḥ, as a female religious scholar, is really exceptional in this context. The overwhelming majority of independent preachers and scholars are male, like the late Šayḥ ‘Abd al-Ḥāmid Kišk (having died 1996, his influence rested largely on audio-tapes), ‘Amr Ḥālid and Yūsuf al-Qaraḏāwī (only the latter is a religious scholar by training, and both have extremely popular TV shows).

16. *al-Aḥrār*, 2007/02/26; *al-maṣrī l-yawm*: 2007/02/07 and 02/21; *aš-šarq al-awsat*: 2007/05/25; *al-ğazira*: 2006/05/31; *Rūz al-Yūsif*, 2007/06/16 (No. 4123)b. The repeated emphasis of the *mağma*¹³ on its role as the highest religious institution of the country and its attempts to establish itself and the *dār al-iftā*¹³ as the only *fatwā* bodies in Egypt must be interpreted within this context.

for his cause mainly by means of litigation against institutions and individuals on issues pertaining to public mores and Islam.¹⁷

Government Nonreligious Actors

Founded in 1988, the National Council for Children and Motherhood (NCCM) is composed of several ministers, an advisory committee of experts, prominent public figures, and the office of the general secretary. Its decisions are binding for all ministries and institutions of state in matters related to motherhood and the welfare of children. The Council aims to lay out a national plan in order to achieve the goals set by international conventions on children's rights, and is also obliged to prepare for all international conferences in this respect.¹⁸

In bioethical discussions involving medical issues, the Ministry of Health and Population (MOHP) is the most important state actor. Directly administrating state clinics, the MOHP watches over the quality of treatment generally, and can immediately influence the entire health sector with executive decrees. In addition, the MOHP is responsible for family planning and related services, frequently cooperating with the NCCM, of which the MOHP minister himself is a member, and is involved in international conferences.¹⁹

Not a state actor in the strict sense, but an intermediate, is the doctors' syndicate. In line with the nature of Egyptian corporatism, the doctors' syndicate is as much a tool to control the medical sector as it is a functionary for members to communicate and even enforce their interests. The syndicate is to be consulted in all legislation involving the medical sector, and represents its members vis-a-vis the state. It also watches over professional regulations, has provided binding ethical guidelines, and has the legal capacity to take disciplinary action against its members that can lead to an effective employment ban.

The syndicate, just like medical faculties and individual doctors, may play an important role in debates as a source of both expertise and moral authority. In the case studies given in this article, however, they hardly play a role on the debate level. Nevertheless, one should bear in mind that actual, practical decision making

17. *Al-Abram Weekly Online*: 2006/04/13; *islamonline*: 2006/11/17; *islamonline*: 2007/08/8.

18. NCCM 2005a-c; *Al-Abram Weekly Online*: 1998/11/19.

19. MOHP 2007; *al-maṣri l-yawm*: 2006, February 18; 2007/07/2; Huntington: 2003.

and ethical reasoning is often bestowed upon doctors and medical faculties by both legislators and by religious experts.²⁰

Non-Egyptian Actors

Egypt is regarded a key state for the MENA region. Because the government is conscious of its dependency on good international relations, Egypt has become the field for activities of a vast variety of local and international NGOs. According to Law no. 83, of 2002, all the 16,000 NGOs active in the country must register with the Ministry of Social Affairs and secure its permission for foreign funding.²¹ In context with international agreements, the state works alongside NGOs willingly, as long as its immediate political interests are not harmed, and the NGOs' activities steer clear of the most divisive issues. NGOs are often attacked for serving a foreign agenda.²²

The same holds true for the government, which, as legislation shows time and again, strives to implement provisions directly inspired by international agreements. This occurs despite the fact that Egyptian public debates often follow patterns of argument different and at odds with the secular rhetoric of international conferences. Egypt routinely cooperates with organizations of the United Nations and hosts several regional and cluster offices in Cairo. It established a National Bioethics Committee in accordance with the UNESCO's bioethics program, and the first regional meeting of national bioethics committees was held in Cairo in May of 2007.²³

The Media

Despite the autocratic nature of the country's political regime, the Egyptian media enjoys a high degree of freedom and independence. While state-owned

20. See, for example, Hamdy: 2006: 268–316. Much the same can be said about the International Islamic Center for Population Studies, situated at Azhar University and headed by Gamal I. Serour, a gynecologist. The Center regularly arranges conferences on (bio)ethical issues, and serves as a communication platform between religious scholars and scientists.

21. *Al-Abram Weekly Online*: 2003/06/12; *babeyya*: 2005/09/3.

22. Walker: 2004; *al-maṣrī l-yawm*: 2006/11/21; *Al-Abram Weekly Online*: 2003/06/26; Ercevik Amado: 2004; *al-iḥwān al-muslimūn*: 2003/11/7; 2007/07/11 and /08/21; 2008/02/25 and March 26.

23. To the best of our knowledge, the Egyptian National Bioethics Committee does not play a significant role in the public debates about bioethical issues.

newspapers and TV channels²⁴ may still be predominant, the advent of each new technology (cheap audiotapes, satellite TV, the Internet) has led to further media diversification, with which the state's formerly strict censorship program could not keep up. In an age of Internet and widely available international satellite programs in Arabic language, censorship on the national level seems out of date. Nevertheless, transnational players have not diminished the role of Egyptian local media. The number of local and national newspapers has risen to over 500, due to partial liberalization since the 1980s, the majority of which are independent. Even relatively small papers have displayed a capacity to trigger national debates.²⁵ Egypt's movie industry and print media market remain the largest players in the Arab world, widely consumed at home and abroad. With regard to public discussions, and even political consequences, the art and entertainment sectors play a role no less important than producers and presenters of hard news, especially when it comes to hot topics that border on the taboo.²⁶

The Cases

The following two short case studies illustrate the interactions of the described actors. We aim to show how bioethical debates in Egypt have to be situated in their wider sociopolitical context, in order to grasp their deeper implications that turn them into loci of negotiating Egyptian identity at large. The first case study can be seen as the result of a friction between different orientations of and in Egyptian society, namely toward international and scientific standards on one side, and notions labeled "Islamic" and often identified with a Saudi Arabian influence on the other.

The Niqāb Debate

The *niqāb* is a veil, either covering the face beneath the eyes or the whole face, usually worn by women. It is generally combined with a head scarf (*ḥimār*

24. As of 2008 there were two national and six regional channels owned by the state; the same holds true for the country's biggest newspapers, news agency and radio stations, BBC News 2008/04/18.

25. Pintak: 2007; Lynch: 2007.

26. For example the seemingly non-issue (*Al-Abram Weekly Online*: 2007/10/18; *al maṣrī l-yawm*: 2005/12/05) of abortion that was taken up by at least three major cinema productions in 2006 (*al-maṣrī l-yawm*: 2006/07/12; *Al-Abram Weekly Online*: 2006/02/22 and /06/29) and a Ramadan series in 2007, setting off a heated discussion among religious scholars and probably leading soon to the first major legal change regarding abortion since 1937 (*al-maṣrī l-yawm*: 2007/10/11 and 2008/02/01; *al-iḥwān al-muslimūn*: 2007/12/31).

or *hiġāb*) to cover the hair, and sometimes gloves, in order to cover every part of the body in public.

In November 2007, the Egyptian magazine *Rūz al-Yūsif* published several articles (Edition 4144, November 16, 2007) documenting the increasing trend among nurses to wear the *niqāb* during their working hours in hospitals, which was criticized for several reasons.²⁷ The basic problem of the whole situation would be that no official document whatsoever explicitly regulated and defined the nurses' dress code. This made it impossible to forbid the *niqāb* (p. 24).²⁸ In this context, several nurses and medical doctors were cited, terming the *niqāb* a question of personal freedom (pp. 19, 24f). Against this, authors of *Rūz al-Yūsif* reiterated that hospital personnel had to conform to global standards of their profession. Consequently, the *niqāb* was not a question of personal freedom in this context (pp. 17, 27f). This last opinion was also stated in a short article describing the Muftī 'Alī Ġuma'a's stance on the issue, who added that the detailed regulations had to be spelled out by the organizations of the respective professions (p.29).

This *Rūz al-Yūsif* issue provoked public debate in other forms of media, and the MOHP promised to issue a decree by 2008.²⁹ In addition, *Rūz al-Yūsif* devoted several lengthy articles to the issue in the following weeks. In early 2008, a decree standardizing dress code for medical personnel and prohibiting the *niqāb* was announced, to be put into effect by June of the same year.³⁰

The Background

The *niqāb* is considered by those endorsing it, as well as those opposing it, as a kind of "religiously loaded part of a woman's way of dressing."³¹ The difference

27. For the different points, such as security and hygiene issues, see *Rūz al-Yūsif*: 2007/11/16 (4144), pp. 19, 20f, 24f. In what follows, we will mostly simply refer to certain pages in the respective issues of *Rūz al-Yūsif*. Only the most important articles from the journal's *niqāb* campaign in Fall 2007 are referenced in the bibliography.

28. This statement was modified in the following issue (*Rūz al-Yūsif*: 2007/11/23 (4145), p. 20). The health ministry's decree 140 from 1997 would regulate standardized clothing for medical doctors and nurses. In addition, there were several decrees and laws from the 1970s to the same effect.

29. *Rūz al-Yūsif*: 2007/11/23 (4145), p. 4.

30. *Rūz al-Yūsif*: 2008/03/17 (4171), pp. 59ff.

31. This is also true, though to a much lesser extent, for the *hiġāb*. For example, critical comments about the *hiġāb*, from Egypt's minister of culture in 2006, caused some public debate to that effect (see *al-maṣrī l-yaum*, 2006/11/20 and /12/02). For reasons of space we leave the *hiġāb* debate aside.

between the two opinions is whether wearing the *niqāb* is a custom (‘*āda*) without genuine connection to the religion of Islam, or an Islamic obligatory religious act (‘*ibāda*). The latter view was expressed explicitly several times, by the medical personnel supporting the *niqāb*, in *Rūz al-Yūsif*. The former view was taken by Egypt’s *awqāf*-minister Zaqzūq, *Rūz al-Yūsif*, and Su‘ād Šāliḥ.

The interaction of these two opposing views can be illustrated with several public debates that have taken place in Egypt since 2006, and illustrate how the debate about the *niqāb* in hospitals is not restricted to bioethics, but serves as a locus to negotiate Egyptian Islamic identity. For example, in 2007, Zaqzūq took several measures against female religious tutors (*mursīdāt*), working for the *awqāf* ministry, who wore *niqābs*,³² with the Šayḥ al-Azhar publicly expressing disagreement.³³ Also, in 2006, Su‘ād Šāliḥ had caused some debate by stating on TV that she considered the *niqāb* to be un-Islamic, and expressed that she felt contempt for women wearing it. (Later, she apologized publicly for the latter part of her statement.) Yūsuf al-Badrī replied by accusing Šāliḥ of intolerance, stating that in his eyes the *niqāb* was a religious duty, and he threatened to sue the TV channel in court if they did not offer space for voices to express this view.³⁴

The difference between the two views of the *niqāb*, being either ‘*āda* or ‘*ibāda*, is fundamental in Egypt: especially in the court decisions, it was mentioned explicitly that the Egyptian constitution described the *šarī‘a* as the major source for Egypt’s legal system. If the *niqāb* is termed ‘*ibāda*, a religious duty, it has to be considered as a central part of the *šarī‘a*. The opposite is the case if it is seen as ‘*āda*. This is essential, because nobody wants to deny that Egypt’s identity is largely Islamic. Therefore, those opposing the *niqāb* have to argue that it is not pivotal to Islam.

One important aspect to this is the repeated observation that the spread of the *niqāb* in Egypt would be a comparatively recent development, with origins

32. For example, at a meeting in January 2007, he ordered a *mursīda* either to take off her *niqāb* or to leave. (See lakii.com/vb/archive/index.php/t-257427.html, accessed March 2008). In March 2007, he canceled a competition between *mursīdāt* in order to avoid giving *munaqqabāt* a public arena. (See okaz.com.sa/okaz/osf/20070315/Con2007031595247.htm; accessed March 2008). Zaqzūq reiterated his opinion of the *niqāb* being ‘*āda* and not ‘*ibāda* several times (for example, *al-mašrī l-yawm* 2007/08/13a).

33. See, for example, okaz.com.sa/okaz/osf/20070315/Con2007031595247.htm; accessed March 2008. Another example was a widely reported court case between the American University of Cairo (AUC) and a *munaqqaba* student, who was forbidden entrance to the campus.

34. See his interview in *al-mašrī l-yawm*, 2006/10/23.

in Saudi Arabia.³⁵ This line of presenting the issue is further elaborated in a *Rūz al-Yūsif* piece, which was obviously intended to close the media campaign on the issue in December 2007,³⁶ and portrayed the preacher Abū Ishāq al-Ḥuwaynī, whose teachings are said to be linked to the spread of the *niqāb*.³⁷ Al-Ḥuwaynī is characterized as being well connected to conservative religious circles in Saudi Arabia, as well as the *an-Nās* Channel. In this way, wearing the *niqāb* is depicted as not being genuinely Egyptian but of Saudi Arabian origin.³⁸

This case illustrates how a bioethical debate (nurses wearing the *niqāb*) is based on the understanding that Egyptian identity is basically Islamic, and thus can be turned into a discussion about national identity. Therefore, the argument that medical personnel dress code has to be in accordance with international standards, and would thus supersede personal religious beliefs, has to be legitimized by a religious scholar. The example also shows that negotiating Egyptian identity as an Islamic identity is not to be described in a neat binary of Islam vs. the West. Rather, this debate is about asserting Egyptian Islamic identity in the face of strong influences from Western countries as well as from Saudi Arabia. For this reason, religious actors can be found on both sides of the debate.

FGM

Our second case study, about Female Genital Mutilation (FGM),³⁹ is bioethics backwards, as it were. Rather than asking for the ethical application of a

35. *Rūz al-Yūsif*: 2007/11/16 (4144), p. 21; 2007/11/23 (4145), pp. 24f. In this context *Rūz al-Yūsif* also covered a Saudi debate between the liberal author ‘Alī al-Barāk and the conservative, high-ranking religious scholar Šāliḥ al-Fawzān about the *niqāb* in hospitals, which followed the same lines as in Egypt (No. 4147 (2007/12/01), p.23). This debate had taken place already in 2006. See *Ġarīdat ar-Riyāḍ*, Nos. 14009, 14016, 14021, 14024 (all from November 2006).

36. *Rūz al-Yūsif*: 2007/12/01 (4147). In the first of three extended articles on the *niqāb* in this issue, *Rūz al-Yūsif* looks back on the past weeks and sums up the results of the campaign.

37. *Rūz al-Yūsif*: 2007/12/01 (4147), pp. 28–31.

38. It is also interesting to see how the *niqāb* debate is sometimes directly linked to FGM, since al-Ḥuwaynī is said to support both in order to set Christians and Muslims apart from each other. For other examples, where the *niqāb* and the FGM issues are presented in connection to each other, see *Rūz al-Yūsif*: 2007/11/23 (4145), p.28, Rūla Ḥarsa’s critical analysis of patriarchal discourse in *al-maṣrī l-yawm*, 2007/07/11c or Zaḳzūq’s statement that FGM and the *niqāb* both had nothing to do with the religion of Islam (*al-maṣrī l-yawm* 2007/08/13a).

39. Female Genital Mutilation (FGM) is the general term for all procedures that partially or completely remove the external female genitalia for nontherapeutic reasons. Procedures range, according to the classification of the World Health Organization (WHO), from the excision of the prepuce (1st degree) to the excision of all the external genitalia and stitching or narrowing of the vaginal opening (3rd degree). See “Female Genital Mutilation...” in *JAMA*, 1995:

new technology against a specific cultural background, it presents a prominent example of a widespread custom at odds with medical findings. However, the question of what is the right thing to do in this situation is not one of medicine vs. Islam. The dominant referential framework is Islam. Rather, the question is whether the procedure is ascribed a status within that framework, which allows medically proven harmfulness to be an argument.

On June 22, 2007 the Egyptian daily newspaper *al-Maṣrī l-Yawm* reported the death of a teenaged girl, Badūr, who died in the course of an FGM operation,⁴⁰ the article marking the beginning of a national campaign against FGM that finally led to its legal prohibition in Egypt.⁴¹ The newspaper's efforts were immediately joined by the NCCM, who played a leading role in coordinating the state's actors throughout the ensuing action against female circumcision. At that time, the NCCM was preparing a draft for a new childrens' law that intended, accordant with international agreements, to outlaw FGM.⁴²

The weeks following Badūr's death witnessed a quick procession of actions against FGM. The doctors' syndicate started investigating against the doctor who had operated on Badūr, and, on grounds of existing regulations, warned its members against pursuing female circumcision.⁴³ A few days later, the Ministry of Health and Population, urged by the NCCM, issued a decree banning FGM from all public and private clinics, and announced that an overall prohibition within the penal code, independent of the ban already entailed in the draft for a new childrens' law, would follow during the next parliamentary season. The Ministry of Justice started to prepare the according draft in July.⁴⁴ All the while, NGOs, the Ministry of Health, and the NCCM conducted various activities to raise awareness about FGM,⁴⁵ such as conferences, demonstrations, or a hotline

WHO study group, 2006; Seif El Dawla, 1999. For statistics about the spread of FGM in Egypt see: *al-maṣrī l-yawm*: 2007/06/26c and /07/02. For FGM in European countries: *al-maṣrī l-yawm*: 2007/07/14; Gamble, 1995; *NZZ Online*: 2008/07/04).

40. *al-maṣrī l-yawm*: 2007/06/22a.

41. *al-maṣrī l-yawm*: 2007/06/28a; 2008/06/18; *Al-Ahram Weekly Online*: 2008/03/13.

42. *al-maṣrī l-yawm*: 2007/06/22b, and 2007/05/18.

43. *al-maṣrī l-yawm*: 2007/06/24; *al-maṣrī l-yawm*: 2007/06/28b.

44. *al-maṣrī l-yawm*: 2007/06/23b; /06/29; 07/03; 07/23 and 07/29.

45. Some of these had been going on for quite some time, but only now came to the public's awareness (*al-maṣrī l-yawm*: 2007/06/26a and b; 2007/07/3 and 2007/04/10).

to report FGM-related cases,⁴⁶ while reports of new cases and investigations kept the public interest alive.⁴⁷

The public rhetoric employed throughout the campaign focused to a large extent on the question of religious permissibility of FGM; i.e., *fatwās* prohibiting or allowing the procedure.⁴⁸ Only one day after the initial report, ‘Alī Ğum‘a confirmed on TV that FGM was forbidden in modern times.⁴⁹ An official *fatwā* by the *dār al-iftā’* and the Šayḥ al-Azhar soon followed.⁵⁰

The *fatwā* by the *dār al-iftā’* recognizes FGM not as a religious issue (*qaḍīya dīniyya ta‘abbudiyya*) but as a matter of custom (*‘āda*), in which the judgment of medical doctors ultimately prevails. However, the main arguments against FGM note the lack of any authoritative text obligating FGM even in its mildest form, the lack of reports that the Prophet Muḥammad had his daughters circumcised, and the fact that FGM is not practiced in other Arabic countries, especially Saudi Arabia.⁵¹ These *fatwās* were a crucial element in the campaign. The Minister for Endowments demanded that Imāms refer to them in Friday prayers.⁵²

The *mağma‘* acted differently. It soon admitted that female circumcision wasn’t a duty in Islamic law,⁵³ but after long discussions decided not to issue a *fatwā* on the ban of FGM. It stated that no person within the *mağma‘*—headed

46. *al-mašrī l-yawm*: 2007/06/26b; /10/28 *Al-Ahram Weekly Online*: 2007/09/16; *al-mašrī l-yawm*: 2007/08/4 (conferences); *al-mašrī l-yawm*: 2007/07/19 and 2007/07/6 (demonstrations); *al-mašrī l-yawm*: 2007/08/13c (hotline). Other activities included workshops and public discussions (*al-mašrī l-yawm*: 2007/08/17b.), theatre plays (*al-mašrī l-yawm*: 2007/07/7b), special training for youths, nurses, doctors, and preachers, as emissaries to the provinces (*al-mašrī l-yawm*: 2007/07/3), a plan to supervise the ban in hospitals, TV spots (*al-mašrī l-yawm*: 2007/07/12 and 2007/07/2), and a special council with members of the Ministry of Health, the doctors’ syndicate, and the NCCM, to develop an overall strategy (*al-mašrī l-yawm*: 2007/08/10; *Al-Ahram Weekly Online*: 2007/11/23)

47. For example: *al-mašrī l-yawm*: 2007/06/25c; 07/29; 07/29; 08/11; 08/13b; 08/15; 08/16; 08/17a; 08/20; 08/23; 08/26; 09/02; 09/04b; 09/07; 11/09.

48. The NCCM had been trying for some time to win over the Islamic authorities for a religious ban of female circumcision, but only succeeded after Badūr’s death. (*al-mašrī l-yawm*: 2006/11/21; 11/26; 12/04; 2007/05/16b and 23; *al-iḥwān al-muslimūn*: 2006/11/23; *al-gumhūrīyya*: 2007/07/4).

49. *al-mašrī l-yawm*: 2007/06/23a; *al-mašrī l-yawm*: 2007/06/25b.

50. *al-mašrī l-yawm*: 2007/07/4; *Dār al-Ifṭā’* “Fiḥ al-Mar’a. Hitān al-Ināṭ”.

51. The latter argument was sometimes referred to as an indication that FGM is not an Islamic custom (*al-mašrī l-yawm*: 2007/08/13a and 12/19).

52. *al-mašrī l-yawm*: 2007/08/13a; August 14; August 17b; /12/17.

53. *al-mašrī l-yawm*: 2007/06/29.

by the Šayḥ al-Azhar—had the right to either forbid or obligate FGM on religious grounds, due to lack of normative texts.⁵⁴

Of course, opponents of the FGM ban exploited this dissent.⁵⁵ Apart from individual preachers,⁵⁶ it was mainly the Muslim Brotherhood who publicly denounced the prohibition in the media, as well as in parliament. They doubted the formal validity of the involved legislative procedures and of the financing of the campaign, explicitly questioned the authority of the Grand Mufti's and the Šayḥ al-Azhar's *fatwās*, and called for an independent body of Azhar scholars to assess the permissibility of FGM—which, according to studies presented by the Brotherhood's members of parliament, was not necessarily harmful, and for them was a valued part of the Islamic tradition. Yet, the Muslim Brotherhood's main argument was that female circumcision was a minor issue, neither forbidden nor obligatory, while the real problems of Egypt and Egyptian women were left unattended, that the ultimate motive of the campaign was Westernization and the weakening of Islam—as attested by international funding and the involvement of Western NGOs.⁵⁷

Fears of Westernization were easy enough to arouse in this case, mainly because of the prohibition campaign's ties to international agreements, which are often suspect of a hidden agenda. The NCCM and its higher staff are, in fact, strongly committed to the secular and rights-oriented framework set by international conferences, declarations, and relations, and previous as well as the current program against FGM are partly funded by UN organizations.⁵⁸ Additionally, the childrens' law prepared by the Council did indeed have its background in

54. *al-iḥwān al-muslimūn*: 2007/09/4; see also *aš-šarq al-awsaṭ*: 2007/07/19. See also *al-iḥwān al-muslimūn*: 2008/03/26 and *aš-šarq al-awsaṭ*: 2008/04/24.

55. *al-iḥwān al-muslimūn*: 2007/09/04 and 2008/03/26.

56. Yūsuf al-Qaraḏāwī and Yūsuf Badrī filed a lawsuit against the health minister's ban of FGM (*aš-šarq al-awsaṭ*: 2007/07/19; *al-mašrī l-yaum*: 2007/12/13; and 2007/09/4a). And, of course, there were other *fatwās* contradicting the grand mufti's and the Šayḥ al-Azhar's judgments (*al-mašrī l-yaum*: 2007/07/7a), while anonymous pamphlets printed out previous rulings by the Šayḥ al-Azhar contradicting his current stance on FGM (*al-mašrī l-yaum*: 2007/10/14).

57. *al-iḥwān al-muslimūn*: 2008/03/26; 2007/08/21; 2007/06/27; 2007/07/11; 2007/07/25; 2006/12/04; and 2006/12/5; *al-mašrī l-yaum*: 2007/08/27; 2008/06/8.

58. This shows, for example, in an article by Dr. Vivian Fu'ād of the NCCM, shortly after Badr's death, in which she blames patriarchy, conservative and religious politics, medical doctors, and the education sector's failure to further the "scientific and civilized" awareness of the Egyptian people (*al-mašrī l-yaum*: 2007/06/25a). See also *al-mašrī l-yaum*: 2007/04/10 and for the funding by UN organizations *Al-Ahram Weekly Online*: 2003/06/19; *Al-Ahram Weekly Online*: 2007/09/16; *al-mašrī l-yaum*: 2007/09/16.

international agreements, and followed through on some of Egypt's obligations resulting from these agreements.⁵⁹

The childrens' law was passed after heated discussions in June 2008. It is the first comprehensive legal prohibition of FGM in Egypt.⁶⁰

The Background

Of course, that FGM is medically harmful has been known for decades. The first moves against this practice took place in the 1950s. However, the background for the first encompassing public discussion arose from the confrontation with rights-oriented notions maintained on the international level. The current debate about FGM has its roots in the 1994 International Conference on Population and Development in Cairo, where, besides abortion,⁶¹ FGM was the most divisive topic. The discussion was started by NGOs, but erupted on a larger scale only when CNN aired a documentary that graphically showed the circumcision of a young girl. The government immediately promised to prohibit FGM, yet, once the conference was over, faced a wide alliance opposing all attempts to ban this practice.⁶² It took until 1997 to come up with a ministerial decree prohibiting FGM. But the decree left a loophole and permitted the operation if medically indicated, which rendered the decision rather useless.⁶³

However, as the topic of FGM was raised during the conference, and put under attack by international NGOs and the Egyptian government itself,

59. *al-maṣrī l-yawm*: 2007/06/22b; *Al-Abram Weekly Online*: 2008/03/13. Other than the FGM ban it entailed stipulations to raise the minimum age for marriage to 18 years, gave children born out of wedlock the right to a birth certificate with the family name of the mother, and enhanced protection from physical abuse and child labor.

60. *Al-Abram Weekly Online*: 2008/03/13; *al-maṣrī l-yawm*: 2008/05/16; 2008/06/18; and 2008/06/13; *Al-Abram Weekly Online*: 2008/06/12.

61. *al-ḥayāt*: 1994/09/4; 1994/09/05; 1994/09/7; 1994/09/06; and 1994; Lee Bowen: 1997 and 2003)

62. The most prominent opponent was the Ṣayḥal-Azhar Ġād al-Ḥ aqq, who used this issue to confront the government and achieved concessions important for the interests of al-Azhar. He even issued a *fatwā* permitting FGM, and stating that uncircumcised girls would be subject to situations that would lead them to immorality and corruption. See Moustafa 2000: 13ff.; Ġād al-Ḥ aqq: 1981.

63. Dār al-Ifṭā' "Fiqh al-Mar'a. ḥitān al-ināṭ"; Seif El Dawla: 1999; *al-maṣrī l-yawm*: 2007/07/11a; the first survey by the Ministry of Health in 1995, shortly before the ministerial ban, showed that 97% of married women aged 15–49 were circumcised. Another survey in 2005 showed a decline among women younger than 18 years old, of whom only 75% were circumcised. The ratios shouldn't be compared directly, though, because of the different age groups (*al-maṣrī l-yawm*: 2007/07/2). In 2007 approximately 70% of FGM operations took place in clinics (*al-maṣrī l-yawm*: 2007/07/26), and large portions of society still support FGM (*al-maṣrī l-yawm*: 2007/11/20).

Islamic activists and some scholars defended what they saw as a valuable tradition. Just like abortion, FGM was turned into a symbolic issue, a border marker of the Egyptian Islamic identity vs. Western influence.⁶⁴

Its defenders claim that circumcision would limit women's sexual urges, thus safeguarding the chastity of women and society. But above all, it's part of an Egyptian tradition with some Islamic justification.⁶⁵

This case shows again the importance of Egypt's media, this time even successfully aiming at the introduction of a new law—forming a contrast to the *niqāb* debate, which merely aimed at the enforcing of already-existing codes. It is most likely for this reason that it was not sufficient in the FGM case to muster only the Mufti's public support. Rather, it was also important to at least secure the Šayḥ al-Azhar's consent, and although the attempt to also integrate the *mağma*⁶ failed, it is clear that it was considered useful to at least *try* to bring it into the coalition supporting the new law. Also, the pattern shows again how debating a bioethical issue quickly develops into negotiating Egyptian Islamic identity at large. This pattern is constructed not so much as a binary of Islam vs. West, but rather as a multilayered process in which the identity of the Self is contrasted to a variety of markers of Muslim and non-Muslim Others alike.

Conclusion

How, then, can the contents of these debates, and thus of Egyptian bioethics, be characterized? First, with the exception of organ transplantation, the most fervently contested bioethical issues in Egypt are usually related to sexual mores and the role of women in society—often focusing on questions of how to control female sexuality.⁶⁶ Therefore, these debates are not perceived as issues of a sort of “compartmentalized ethics,” being of interest only to a select group of ethicists or researchers, but rather as societal ethics at large. Bioethical issues thus become symbolic issues, which are used to promote one's own values and vision of society.

64. Seif El Dawla, 1999: 130–133.

65. *ibidem*: 1999, 129; Ġād al-Ḥaqq: 1981.

66. Other examples are the abortion debate (see above Fn. 27) or the public discussion about hymenorrhaphy (see Eich, 2010).

Second, this society, and therefore Egyptian identity, is perceived to have faced significant challenges in recent years. On a socioeconomic level, these challenges can be swiftly described by pointing to high unemployment rates, low wages, scarcity of housing, and an education crisis.⁶⁷ On a value-oriented level, these challenges can be depicted as a fear of Westernization on the one hand, and of “Saudification” on the other.⁶⁸ Bioethical discussions in Egypt, then, are public negotiations about Egyptian identity.

Third, Islam—often in the sense of *šari‘a* as Islamic law—is the general framework of all these debates. This is because the Egyptian constitution identifies *šari‘a* as the main source of legislation, and because Egyptians see their country’s identity as largely shaped by Islam. Consequently, for Egyptians, the question of how to react to these changes does not present itself as a choice between secularism or laicism versus a religiously oriented vision of society. It is largely agreed that the fundamental referential framework for what it means to be Egyptian is primarily the religion of Islam. Therefore, Egyptians do not negotiate their “Egyptianness” as “how Islamic they want themselves to be,” but rather as “in such-and-such situation or issue, what does it mean, concretely, to act as a good Muslim?” For this reason, the opposition of essentially religious issues (*‘ibāda*) versus those pertaining to fields open for nonreligious arguments (*‘āda*) is most determinant and most contested in the process of reducing complex topics to a narrow spectrum of talking points (agenda-setting). It seems noteworthy that conceptions of local identity also contribute to the classification of *‘ibāda* and *‘āda*: While the somehow-foreign *niqāb* was quite easily termed *‘āda*, in the case of indigenous FGM, the perception of the practice as an Islamic tradition was hard to counter.⁶⁹ Since Islam is seen as the main component of Egyptian identity, claims to the Islamic nature of a custom in question focus on the potential consequences of its abandonment; i.e., that the entire Islamic order of society would cease to function. Theories of conspiracy against Islam are common in this context. On the other hand, exclusion of an issue from the religious sphere (opting to refer the

67. For example, in the Rūz al-Yūsif-issues of the *niqāb* campaign, the deplorable state of the education system for nurses repeatedly became an issue.

68. See for example *al-maṣri-l-yawm*: 2006/10/2, where the author terms the growing number of Egyptian women wearing the *hiğāb* a “Wahhābi [i.e. Saudi-Arabian] razzia on Egypt.”

69. Saudi Arabia served as a focal point against which to contrast the Egyptian identity in both cases, highlighting the foreignness in one case and signifying the original Islam in the other.

final decision to the medical profession, for example) seems to give more leeway to adapt to new situations, but must be legitimized by religious institutions.

Glossary

‘āda custom; the term is used to label habits as having no genuine connection to the religion of Islam

Al-Azhar University The leading university in Egypt; pronouncements by the religious head of al-Azhar have substantial authority in the Sunni Muslim world

al-Maṣrī l-Yawm Egyptian daily newspaper

al-Nās TV channel which features non-state scholars with obvious links to Saudi Arabia

Awqāf (sg. Waqf) Religious endowments

dār al-iftā’ Office of the grand muftī of Egypt

fatwā (pl. fatāwā) a non-binding legal opinion, rendered by a mufti

ḥarām forbidden; one of the five values of legal action

ḥiğāb Islamic headscarf

‘ibāda Islamic obligatory religious act

ICPD International Conference on Population and Development

iftā’ the giving of legal opinions (fatwas) by muftis

laicism absence of religious involvement in government affairs and of government involvement in religious affairs

mağma’ al-buḥūt al-islāmiyya Al-Azhar’s Council for Islamic Studies

munaqqaba pl. munaqqabāt Woman wearing the face veil

muršidāt female religious tutors, primarily working at Egyptian, state-run mosques

MENA Middle East and North Africa region

MOHP Ministry of Health and Population (Egypt)

muftī a jurisconsult; authoritative person who renders a legal opinion (fatwā) in response to a query

NCCM National Council for Children and Motherhood (Egypt)

niqāb face veil

Qur’ān God’s revelation to the Prophet Muhammad; the most authoritative document in Islam

Rūz al-Yūsif Egyptian weekly

Šayḥ al-Azhar religious head of al-Azhar University

šarī’a Islamic law; the correct path of action as determined by God

Sunni the majority sect of Muslims, as opposed to Shiite

‘ulamā’ religious scholars; lit. the people of knowledge

wizārat al-awqāf Ministry of Religious Endowments in Egypt. The minister of awqāf appoints the country’s grand muftī and also controls the state-run mosques of the country. By 1994 71% of Egypt’s mosques were run by the state.

zinā illicit sex in Islamic Law

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