

Abstract

In Egypt—which has been carrying on a crackdown on homosexual conduct for three years—men suspected of engaging in “debauchery” (the term used for sex between men in Egyptian law) are subjected to anal examinations at the hands of the Forensic Medical Authority. These examinations, carried out without consent, are invasive, intrusive, abusive, and a form of torture. They are, furthermore, predicated on a 19th-century medical mythology about the effect of homosexual sex on the body. This article investigates the examinations, which take place in other countries as well, and urges a campaign to end them. It also looks at their roots in the creation of the “prostitute” as a medical as well as legal category in the 19th century. The article contends that the generation of such sexual categories was integral to the development of the modern nation-state and its powers—and that medicine has been deeply imbricated in the assertion and extension of state authority.

En Égypte—où une répression des activités homosexuelles se poursuit depuis trois ans—les hommes soupçonnés de s'engager dans des actes de « débauche » (terme utilisé en droit égyptien pour décrire les rapports sexuels entre hommes) sont soumis à des examens anaux relevant de l'Autorité de médecine légale. Ces examens, effectués sans consentement de l'intéressé, sont invasifs, intrusifs et abusifs, et constituent une forme de torture. De plus, ils sont basés sur une mythologie médicale remontant au dix-neuvième siècle en ce qui concerne l'effet des rapports homosexuels sur le corps. Cet article reprend les résultats d'une enquête sur ces examens, qui ont également lieu dans d'autres pays, et il encourage le lancement d'une campagne pour y mettre fin. Il examine aussi leurs racines dans la création de la « prostituée » comme catégorie médicale, ainsi que comme catégorie légale au 19^e siècle. L'article présente le point de vue selon lequel la création de telles catégories sexuelles était liée au développement de l'État nation moderne et de ses pouvoirs—et que la médecine était profondément imbriquée dans l'affirmation et l'extension de l'autorité de l'État.

En Egipto, donde por tres años se ha estado efectuando una campaña en contra de la conducta homosexual, a los hombres sospechosos de haber participado en "depravación" (el término utilizado en la ley egipcia para referirse al sexo entre hombres) se les sujeta a exámenes anales por parte de la Autoridad Médica Forense. Esos exámenes, que se efectúan sin consentimiento, son invasivos, molestos, abusivos y una forma de tortura. Están, además, fundados en una mitología médica del siglo diecinueve acerca del efecto que tiene el coito homosexual en el cuerpo. En este artículo, se investigan tales exámenes, que también se efectúan en otros países, y se insta a una campaña para erradicarlos. También se estudian las raíces de la aparición de la "prostituta" como una categoría tanto médica como legal en el siglo XIX. En el artículo, se sostiene que la aparición de tales categorías sexuales fue parte integral del desarrollo de la moderna nación-estado y sus poderes, y que la medicina ha estado profundamente implicada en la afirmación y extensión de la autoridad del estado.

WHEN DOCTORS TORTURE: The Anus and the State in Egypt and Beyond

Scott Long

This was no ordinary doctor's office. His sarcophagal desk made him look like a statue on a gravestone. His card announced he was a Deputy Minister of Justice. The walls bore awards from international associations, a reliquary of professional renown. He headed Egypt's national Forensic Medical Authority, an agency responsible for scientific investigation of crimes—and for evaluating allegations of official torture.

We were interviewing this plump man with salt-and-pepper hair, who answered in alternate, brusque Arabic and English, and curtly tried to change the subject. No more at ease than he, we shifted in our seats. In a corner, half-concealed behind a tactful curtain like the Wizard of Oz, was a small examining table. We knew it was the scene of the crime, where the doctor committed torture.

Penetrating Practices

In 2003, I spent three months in Egypt, investigating the country's crackdown on men who engage in homosexual conduct.¹ That violent campaign has lasted three years. Since the Queen Boat case in 2001—a trial of dozens of men for homosexual acts and "Satanism" that the state press whipped into a national scandal—police have broken both laws and bodies to root out men who have sex with other men. Hundreds have been savagely tortured: police use beatings, whippings, electroshock. Informers prowl streets to

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identify victims and help officers raid private homes. The tentative community of men having sex with men, which sprouted in Cairo and some other Egyptian cities in the 1990s (centered around a few cruising areas and pubs, but sheltering a new sense of shared identity), disintegrated in brutality and fear.

Less public is the role of medicine in the crackdown. Prosecutors routinely refer arrested men to state forensic doctors for a forced anal examination. The naked, humiliated subject is made to bend, while multiple doctors pursuing “marks” of “sodomy” dilate, peer into, and in some cases insert objects into his anal cavity.

These examinations are profoundly intrusive, invasive, and abusive: they are medically valueless, and, by international standards, a form of torture. Telling their story here will, I hope, help to end them. Yet it may also raise questions about a convenient, palliative, and common narrative—one separating the state’s history and power from that of medical authority.

The idea of being “modern” is inextricably tied to that of a qualified realm of “freedom”: the relaxation of material and social constraints on mobility and desire. Political power is presumed to genuflect before the bounds of privacy, a shell around intimate life within which possibilities open. Examining interior existence is left to specialized discourses—the physician’s or the psychologist’s—that operate only therapeutically and under the aegis of consent. The very term “torture” suggests something old to most people in the industrialized West: an antiquated assertion of the state’s power over the body, egregious amid the diverse ministrations of modern life.

News reports suggest otherwise. So, too, did what I learned in Cairo. To explain Egypt’s general panic over “sexual perversion”—whether political calculation or spontaneous scapegoating underpin it—lies beyond my scope here. Yet the scale of the crackdown suggests a historical crossroads: one where twinned anxieties about cultural vulnerability and sexuality (triggered partly by women’s empowerment, as well as mutations in family structure accelerated by economic change) abruptly coalesced, acquired a narrative, and found victims. The crackdown rode on rhet-

oric that defended “cultural authenticity” against corroding alien values possessed of invasive power. It told a story of safeguarding the inside against the outside, of policing what seemed less the perimeter of the permissible than its actual epidermis. The men’s own acts, luridly alluded to in the press and imagined as the abnegation of their masculinities, became a metaphor for that penetrating danger.

My subject is narrower. Yet those tropes, of bodies broached and porous powerlessness, should remain in mind. The crackdown is not archaic: contemporary anxieties power it. Similarly, the examinations are not merely outmoded pseudoscience. They crudely reclaim a crucial state imprimatur over the skin itself, and its all-too-ambiguous contents. Inspecting the examinations’ history—their origin in discredited medical theory—shows medicine’s fingerprints upon the genesis both of modern sexualities, and of the modern state and its powers.

“The Signs Which Can Make Pederasts Recognizable”

The Forensic Medical Authority is part of Egypt’s Ministry of Justice.² It points proudly to its independence from the police, which allegedly enables it to investigate torture cases with relative freedom.³ Yet at the behest of police and prosecutors, its doctors also torture. The Authority’s staff, and its Director, regularly subject prisoners to anal examinations without consent. Based on super-annuated 19th-century medical mythologies about the effects of anal intercourse, these examinations violate both professional ethics and human rights standards.⁴

We interviewed both Dr. Fakhry Saleh, Director of the Forensic Medical Authority, and Dr. Ayman Fouda, its Deputy Director, about these examinations. “When prosecutors need to investigate a [debauchery] case,” Dr. Saleh told us, “we provide a medical examination known worldwide.”⁵ Dr. Fouda, who described the procedures with an avid pride, confirmed that “in this kind of investigation there are six criteria which were established by the celebrated Frenchman—what was that name? ‘Tarday,’” Dr. Fouda kept saying.⁶ It took a little research to find the source.

Auguste Ambroise Tardieu (1818-1879), a forensic doctor, published his *Étude médico-légale sur les attentats*

aux mœurs ("Forensic Study of Assaults against Decency") in 1857. Coupling scientific tenor with a near-pornographic drive to detail behaviors it insisted were abhorrent, it ran through manifold editions over decades. The book provided guidelines for investigating sexual assault and rape on the one hand, and, on the other, for investigating "pederasty and sodomy," terms it used interchangeably for adult male same-sex sexual acts.

True, the Revolution had decriminalized sodomy. Yet Napoleon's Criminal Code, promulgated in 1810, penalized "public offenses against decency." This rubric was used well into the Second Empire against those seen as addicted to homosexual behavior.⁷ It redefined the crime as an assault on society itself, and the criminal virtually as a liminal character, a walking boundary zone where private acts and public exigencies met and came into conflict.

To Tardieu, "habitual pederasty," a tendency outwardly often undetectable, had infiltrated all social classes. His aim was to help justice "pursue and extirpate, if possible, this shameful vice."⁸ His obstacles were the slippery masquerades in which a protean pederasty hid. He warned of "habitual pederasty among married men, among fathers of families."⁹ The treacherous skill by which pederasty concealed its public marks lent urgency to the "precise and certain declaration of the signs which can make pederasts recognizable"—pinning down the tendency's spoor upon the skin itself. Tardieu aimed:

to establish through positive facts and multiple observations that the vice of pederasty leaves material traces on the forms of organs which are much more numerous and much more significant than has been believed until now, and the knowledge of which will permit the forensic doctor, in the great majority of cases, to direct with sureness the pursuits which involve public morality to such a high degree.¹⁰

Tardieu believed "pederasts" to be either exclusively active or passive. Passives, who predominated, showed six "characteristic signs," including "excessive development of the buttocks; funnel-shaped deformation of the anus; relax-

ation of the sphincter; the effacement of the folds, the crests, and the wattles at the circumference of the anus; extreme dilation of the anal orifice; and ulcerations, hemorrhoids, fistules."¹¹ Among these, the funneled anus was "the unique sign and the only unequivocal mark of [passive] pederasty."¹² Meanwhile, active pederasts bore penises deformed to correspond to this cone: either a slim, attenuated member, or a glans tapered like "the snout of certain animals."¹³

Tardieu's beliefs on the effects of homosexual conduct are recognized today, when remembered, as without medical worth.¹⁴ Dr. Robert Nye, a historian of sexology, wrote to me, "The famous six 'signs' of passive sodomy were questioned and disregarded by the very next generation of forensic doctors and sexologists." He called Tardieu "utterly discredited," and the Egyptian examinations based on the six signs "horrific in the extreme."¹⁵ Dr. Lorna Martin, Professor of Forensic Pathology at the University of Cape Town, South Africa, finds Tardieu's theories "bizarre and antiquated rubbish," and adds, "it is impossible to detect chronic anal penetration; the only time the [forensic anal] examination could be of any use is for acute non-consensual anal penetration, when certain injuries may be seen."¹⁶

Yet, 150 years later in Egypt, Tardieu's theories survive to support brutal bodily intrusions.¹⁷

One must detail their grounding in the law. Egypt prohibits homosexual conduct under the description of "debauchery," or *fujur*, banned by a 1951 law on the "Combatting of Prostitution."¹⁸ The law was passed amid nationalist agitation before the 1952 Revolution, in part as a reaction to licensed brothels maintained by the British army that had long rankled as a national humiliation. Yet, in a fit of moral fervor, legislators not only barred female prostitution, or *di'ara*, but *fujur*, a word more broadly encompassing unspecified "immorality." They may have meant the term to prohibit commercial sex between men. However, court decisions since the 1970s have established that *fujur* criminalizes consensual, *non-commercial* homosexual sex by men.¹⁹ The law requires that such conduct be "habitual" and "indiscriminate"—that it happen more than

once over three years, with more than one person.²⁰

These are the legal stipulations that undergird the Authority's examinations. Dr. Fouda detailed the medical beliefs behind them:

Whenever a penis comes to enter an anus, there is a concentrated spasm due to the instinctual desire to prevent penetration. The anus closes itself. Thus, the first time an anus is penetrated by another person's penis, it is always by force. It causes a tearing of the muscle in the pelvic diaphragm.

Recurrent use causes multiple tears in the muscle and this makes the anal orifice weak. . . . [It also causes] dissolving of the perianal fat around the rectum. Due to the latter, you can observe a loss of the corrugation around the anus. And when you grip the buttocks hard there is passive dilation, revealing a funnel-shaped anal cavity, with weak reflexes.²¹

Dr. Fouda accompanied this description with helpful diagrams and what can only be described as a sort of hand-puppetry. Nonetheless, we questioned whether penetration always encountered a spasm of refusal. Dr. Fouda insisted, "There is *never* consent for an erect penis to penetrate the anus . . . due to the instinctual reflex of rejection."²²

Faced with the claim that anal sex is always, in effect, rape, we asked whether the examination could tell "signs" of penetration by a penis from those of a dildo. (The question is legally significant because only the former is criminalized.) The signs would differ measurably, Dr. Fouda said. There would be no instinctual spasm if the penetratee wielded the dildo himself, "because then there is consent."²³

The fictions here—that anal sex cannot be consensual, "tears" the rectum, and smoothes the anal area—are manifold. Even more disturbingly, Dr. Fouda spoke of "advanced methods" to investigate prisoners' anuses: "I have developed two additional methods that involve the use of electricity."²⁴ He explained that Tardieu's "criteria may in fact sometimes be produced by other causes. We must be sure that there is no other disease that can cause this." Thus, the necessity of new techniques:

If you pass an electrical current through the anal region, the area of healed, scarred muscle tissue will not pass the current [or pass it imperfectly]. We study the impulses to differentiate the obstruction from any other neurological conditions or causes, and with this method, we can be extremely precise in identifying the causes.²⁵

Dr. Fouada advocated electrical testing in an article he coauthored.²⁶ A number of methodological errors beset this study.²⁷ Factual misrepresentations also mar the text.²⁸ It should suffice to note, however, that the study proposes the use of electromyography on incarcerated subjects: "The process of recording the electrical activity of muscle," which "may be done in an unanesthetized humans [sic] by using small metal disks on the skin overlying the muscle as they pickup electrodes or by using hypodermic needle electrodes."²⁹ What results is a fully technologized violation of the subject's integrity, dignity, and privacy.

The same may be said of other methods Dr. Fouada described as under development, methods in which "we investigate the state of the anal muscle and the pelvic muscle, whether they are firm or flaccid."³⁰ Among these are sonograms of the anal area, and rectal manometry, where a tube to measure levels of pressure is inserted in the anus. According to Dr. Fouada, "Rectal manometry is being applied now, selectively, in the administration of these tests."³¹ Research on these methods is being conducted at Ayn Shams University in Cairo.³²

"I have never heard of such a wild notion" as mapping the electrical conductivity of anal tissue, Professor Nye told me.³³ Yet, the technological elaborations of medical misconduct under study in Egypt are more mechanized, but no less appalling, than what is now usual in "debauchery" cases—where multiple doctors open and investigate a stripped subject's anal cavity.

The procedure is as much an assertion of power as an investigation. It clearly parallels both the forced gynecological examinations imposed on non-conforming women in the 19th century, and the contemporary practice of forced virginity tests—both of which have been criticized as forms

of sexual violence.³⁴ Implicitly, Dr. Fouda admits the procedure's similarity to rape. His article names the first sign of "habitual use," or "anoreceptivity," as the patient's "response to the lying-down order for examination . . . considered positive when the patient spontaneously lies in the proper decubitus [position on all fours] for anal examination."³⁵ Dr. Fouda explained to us that the examining position is the sexual position: "To assent quickly is a sign of having been used—if they have practiced perversion before, they assume [the position] spontaneously because they know it."³⁶

The tests are used to prove guilt—not innocence. The Prosecutor General of Egypt told me that forensic medical reports "are very important to establishing criminality" in homosexual-conduct cases.³⁷ Yet Dr. Fouda admits they cannot show "whether the vice is practiced 'without discrimination,' with multiple partners. . . . circumstantial or other evidence is needed."³⁸ Such disclaimers, however, rarely follow the reports to court. If anal exams can be said to have face value, judges routinely take them at such. Moreover, doctors confirming that a defendant has *not* been "habitually used" invariably add an escape clause—for instance, "It is scientifically known in the case of adults that sexual contact from behind in sodomy with penetration can happen—through full consent, taking the right position, and the use of lubricants—without leaving a sign to indicate it."³⁹

These words are used to convict defendants in and of themselves—mocking any scientific value the exams might pretend to possess. Thus in one Cairo trial, the judge's verdict dismissed a medical report favoring the defendant, because it also "stated that taking an adult male in sodomy with penetration does not leave a sign in case of consent between the two parties, use of lubricants, and full caution."⁴⁰ The man received three years.

Enforcing Humiliation

Dr. Fakhry Saleh, the Forensic Medical Authority's head, claims the Authority's "sole concern is to provide the test in a humane and non-degrading way, and with full respect for the right to refuse the investigation. . . . We always

ask consent before the test." The doctor illustrates in English: "If you please, I want to examine your anus."⁴¹

Deputy Director Fouda was more frank, however: "Consent differs from person to person. It may be written consent or simply implicit consent. Implicit consent in the case of a defendant is derived from referral from the prosecutor's office. *The very fact that they are referred is proof of consent.*"⁴²

We examined nearly 100 court files of men subjected to anal examinations; in only one had written consent been obtained. And "implicit consent" in prison conditions—for patients led to prosecutors and the exam in chains—amounts to no consent at all.

I asked 21 men who had been arrested and anally examined to respond to Dr. Saleh's assurances. Their anger speaks for itself.

One man exclaimed when told of Saleh's words: "Oh, they show you a lot of respect! Grabbing your neck, shoving your back, spreading your buttocks. . . . The forensic exam—it's butchery, not a forensic exam. Those doctors treated us like pigs."⁴³ Still another said:

There was no respect. They can't say that. They hit out at us with their words. I cried at their words. "How long have you been used? What have you stuck up your ass? How many men have [in English] slept with you?" That wasn't what they said. It was worse. I found myself crying. And when they saw me crying, they said, "That's enough, little girl." . . . It was a sort of sofa. You bend over and raise your bottom; they massage and spread your cheeks. Then he put something inside. It was cold. And he said, "Get up, you're OK."⁴⁴

Another man recounted being examined by Dr. Saleh himself.

Fakhry Saleh walks in. "Strip, kneel." Oh, he talked to me like a dog, the lowest form of address possible. I got down on all fours. I'd taken my pants off. I assumed the position. He said, "No, no, no, this won't do. Get your chest down and your ass up."

I said, "I can't." I started crying hysterically. And he said, "All these things you're doing won't cut any ice with me. Be quick about it, we've got work to do." I still

couldn't control myself at all. He said, "Shut up. Everything is clear and we can see it in front of us." First he looked, and he felt me up. Suddenly six doctors came in. What is there about my anus? They all felt me up, each in turn, pulling my buttocks apart.

They brought this feather against my anus and tickled it. Apparently that wasn't enough. So they brought out the heavy artillery. After the feather came the fingers. Then they stuck something else inside. I would cry and he would stick stuff inside, and I'd cry and he would stick stuff inside.

I hoped they'd feel sorry from all that crying, but they didn't. They didn't seem to feel anything. Fakhry said after, "Why didn't you cry when men put their things in you?" I wanted to spit on him. But I was still crying.⁴⁵

Patients who resist the examination—consciously or through an "involuntary spasm" against the doctors' near-rape—are further humiliated. One told us,

They had to examine me and re-examine me. The head of the Forensic Medical Authority had to examine me. They tried several times to open the anus. And they told me, "We'll make you stay till it opens and we're able to examine you." They tried to open it up. They called on another person to look. I can't talk about this. I can't.⁴⁶

I could not ask him to continue.

In "debauchery," Dr. Fouda told Human Rights Watch, "both partners are criminalized, and we investigate the active partner also."⁴⁷ In fact, however, checking the penis as well as the anus is infrequent, even for men suspected of being "active" partners. Despite Tardieu's interest in "active" as well as "passive" "pederasts," the Forensic Medical Authority still primarily probes for evidence of penetration. This reflects a further inconsistency between the law and social stigma: both partners are legally culpable, both generally go to trial; but the passive partner still incurs disproportionate revulsion. Even self-professed active partners find the doctor fixates on the other orifice: "I told them I was the one who did it to him. They only examined me from the back, not the front. . . . They said, 'Pray to God to forgive you and get you out of this case.'"⁴⁸

Beyond Egypt: Bodies and Evidence

Sometimes, in human rights work, one stops, frozen by the complexity of the interlocked forces enabling abuse, and wonders: Why am I telling this story? What do I really want to change?

That is not the case here. I want the exams stopped, the practice discredited, the awards and certificates stripped from the doctors' walls, the practitioners to lose their reputations for dispassionate expertise and sample a small measure of the humiliation they have inflicted on countless men. The doctors who do this must be recognized as torturers.

That should not be difficult. The United Nations Committee Against Torture, in its 2002 review of Egypt, looked at the examinations and condemned "all degrading treatment on the occasion of body searches."⁴⁹ The United Nations' "Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment" declares it a contravention of medical ethics

for health personnel, particularly physicians . . . to apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments.⁵⁰

The British Medical Association (BMA) holds "that no medical practitioner should take part in an intimate body search of a subject without that subject's consent"—defining an "intimate search" as "a search which consists of a physical examination of a person's body orifices other than the mouth."⁵¹ The BMA observes, "A fundamental ethical principle guiding medical practice is that no examination, diagnosis or treatment of a competent adult should be undertaken without the person's consent."⁵²

Guidelines proposed by the International Dual Loyalty Working Group, an initiative of Physicians for Human Rights and South African medical experts, define principles

for physicians working in “difficult” settings, including carceral ones. Guideline 14 states, “The health professional should not perform medical duties or engage in medical interventions for security purposes.” The Working Group adds, “Health professionals should never engage in medical interventions that are not in the individual’s therapeutic interests, even when requested to do so by authorities for security purposes.”⁵³ Yet these examinations cannot even claim the pretext of security-related intent.

In fact, such principles are on record in Egypt itself. An eight-decade-old Egyptian commentary on forensic medicine and law declares, “A doctor has no right to inspect any person upon the request of his superior or any state employee, whether police or otherwise, except with the consent of the patient. Even a judicial order cannot authorize the inspection because the judge has no right to issue an order that violates law.”⁵⁴

Yet much remains to be said beyond condemning the exams. The practice may show something about how states categorize and construct bodies as different, “deviant,” excessively sexed. It also points to their motives for doing so.

The examinations in Egypt are not just local obscurantism: they occur elsewhere. Urgently needed is research revealing where Tardieu’s tests still take place. Equally urgent is a global campaign against them.

In Turkey, where homosexual acts are lawful but “a passive” male homosexual (*ibne*) is released from military service, state doctors constrain those claiming the exemption to certify passivity through anal probes.⁵⁵ My own research in Romania, which brutally repressed homosexual conduct into the 1990s, showed that prosecutors employed forensic doctors to search genitals and anus for “lesions” left by homosexual sex.⁵⁶ There is evidence similar examinations take place in “sodomy” cases in Zimbabwe.⁵⁷

Meanwhile, we discovered an Arabic text on *Forensic Medicine and Toxicology*, published by the World Health Organization’s Eastern Mediterranean Regional Office in 1993, edited by Prof. Dr. Ibrahim Mahmoud Wagih and written by “forensic medicine professors at medical schools in Arab universities.” A chapter on “sexual crimes” in-

cludes a section on “sodomy” [luat], defined simply as “male-to-male sex.” It details the “signs” of consensual sodomy, of the “habitual *obna*,” an old Arabic term for the penetrated partner:

- a) Total looseness of the anal muscle, leading to . . . lack of control over bowel movements;
- b) Absence of anal reflexes, to the extent that the muscle does not clench if the tissue around the anus is stuck with a pin;
- c) Excessively soft tissue around the anus, with no folds;
- d) Presence of multiple anal abrasions.⁵⁸

Science demands sacrifice of its subjects: note that pinprick.

Instead, overlook the indifference to pain. Observe that only the “funnel-shaped anus” is lacking among Tardieu’s criteria. And overridingly, see how the WHO, the organization issuing this text, condones categorizing consensual sodomy as a “crime,” and calls for torturous expeditions around the anus to prove it.

Tardieu endures. Yet Tardieu was not the first to look for physical traces of the point where private desires and society met. Behind him lay a genealogy of doctors and theorists who probed for ways in which unorthodox desire modified the body. In doing so, they helped make a medical and social identity for the “homosexual” arise from, and in parallel with, that of the “prostitute”—and created a significant sub-tradition and subtext in 19th-century public health.

One of the most influential works of the century in France, and throughout Europe, Alexandre-Jean-Baptiste Parent-Duchatelet’s *De La Prostitution dans la Ville de Paris, Considérée sous le Rapport de l’Hygiene, de la Morale, et de l’Administration*, published in Paris in 1837, studied female sex workers with an unsentimental eye less to their redemption than to their regulation. It served as a model of statistical method, and entwined a trinity of terms—“hygiene,” “morals,” and “administration”—that remained inseparable in the approach to sexual offences into the 20th century. Parent-Duchatelet did not merely record the habits and gathering-places of his research subjects. He looked for ways in which their social visibility—a moral and

legal problem in the policed contemporary city—could be turned into medical identifiability, a means to single them out and control their movements. One chapter of his book was devoted to the “physiology of prostitutes.” Parent-Duchatelet went beyond their overt attributes, the “color of their hair and eyes,” to specialized forms of surveillance: “the state of the clitoris among prostitutes; the state of their anus; the state of their menstruation.”⁵⁹

Parent-Duchatelet influenced more than lawmakers and doctors. Baudelaire would still have been Baudelaire, but not the same Baudelaire, had he not read Parent-Duchatelet. For both, the prostitute was a nexus between private desire and public life, a point where the two forces met and mediated one another—and, in meeting, transfigured or deformed the body that was their rendezvous. In the prostitute, sex and money, the libidinal and the supremely social, intertwined. That made her both analogue and symbol of the constant and troubled negotiations between the individual and society that made up modernity, and made lives lived within it so problematic and demanding.

Moreover, the prostitute figured as a parodic reflection of the bourgeois world. The demimonde in which prostitutes turned their solitariness into solidarity—making common currency of their inward urges, building makeshift communities out of their very outcast status, and colonizing public space with their intensely personal offenses—imitated the way the bourgeois, identified precisely by his competitive and asocial individualism, managed nonetheless to constitute a class and maintain hegemony over society. Policing the prostitute was both trial run and distillation of the larger task of patrolling the boundaries of modern life. It took its urgency from that necessity.

And the two had moved in tandem for some time. The instruments that made possible steady police intervention into the lives of prostitutes, and the intimacies of many others, were a product of the modern nation-state. In France, regulating prostitution (as opposed to sporadically and irregularly punishing it) had begun in the age of absolutism, and the state had cooperated with the church. Yet only the post-Revolutionary government—which fixed the

European model of the nation—instituted a fully secular legal regime governing prostitution. Prostitution was decriminalized but other regulatory instruments gradually encompassed it. In 1802, prostitutes were required to register and subjected to medical interventions; in the following years a vice squad was established, a parallel to Napoleon's creation of a secret police, and equally a tool for invading and controlling the citizen's life and movements.⁶⁰

The armament of laws behind these interventions included prohibitions on “outrages against decency” or “offenses to public morals,” language that was new to the 19th century. These provisions—some expressly sex laws, some not—would today be recognized as creating “victimless crimes.”⁶¹ The term is wrong. The victim is “society” or the “public.” That to the anomie of contemporary libertarians this seems an unacceptable abstraction should not distract from the concrete need the framers of such laws felt. In part, of course, regulating prostitutes was an eminently practical matter: one more instrument to manage an urban life which the post-Revolutionary period saw as increasingly menacing, full of detached individuals liable to dangerous liaisons, or to coalescing in insurgent crowds. Yet defining prostitutes as ambulatory assaults on a suddenly tangible “society” also served an ideological purpose.

Part of nation-formation was precisely to create a “society” or “public” as a credible entity—one capable of displacing the alternative, more traditional and believable solidarities citizens experienced in their daily lives.⁶² It is not too much to say that giving those abstractions a body in the law—making them substantive enough to undergo assault or take palpable offense—assisted the project of making imagined communities seem actual, corporeal, authentic. In the 16th century, “sodomy” was an offense against God alone: men anathematized it only as his proxies. That in the 19th century an anthropomorphized society could be said to emote with outrage and be insulted in the flesh at such offenses marked a major step in the cohesion of the state, and its capacity for control.

Parent-Duchatelet and Tardieu also took their places in this process. Indeed, perhaps the hidden insecurity—the

awareness of fictionality—beneath attributing concreteness to “society” and “public” led to the need to find real bodies upon whom to practice and display power. If the victim of the crime was secretly unreal and intangible, the criminal had better be as tangible as possible.

The prostitute and homosexual came into being as categories, and bodies, whom the state could define and defend itself against. And their control was clearly linked. Michael Foucault has sketched the emergence of the “homosexual” out of *medical* categories, from the masturbator to the hysteric.⁶³ An etiology yet to be studied is the “homosexual’s” emergence *in law* from the category, and treatment, of the prostitute. They were linked in analogy and practice. The similarity between beings defined by their intimate, veiled misconduct, who nonetheless formed illicit communities and improperly invaded the public sphere, increasingly impressed itself upon police and other authorities—as it did on Tardieu. And in practice, the same technology of criminal justice, supported by ideologies of public health, repressed each.

One can trace, in country after country, how anxieties about the emergence of other “deviant” sexualities took prostitution as a model for those identities. The ancestry of the present crackdown in Egypt shows precisely this process. Parent-Duchatelet’s implicit identification of prostitution with disease and disorder contributed to the adoption, in Britain between 1864-69 and in its colonies later, of Contagious Diseases Acts, which subjected women suspected of being sex workers to repeated medical inspection. These laws were eventually repealed in the metropolis but persisted in many outposts. Deploying medicine to justify policing, they powerfully bolstered systems of colonial control.⁶⁴ Their medical regimen became the pattern for regulating prostitution in Egypt under British rule.

After independence, criminalization replaced regulation. The vice squad, the laws on public conduct and public decency, the practices of surveillance and their inflection by medicine all remained in place. Moreover, they could readily be applied to new sources of “deviance” as those entered the state’s view. The notion of the “habitual” or “common” prostitute, the woman addicted to vice as a pro-

fession, could easily turn into that of the “habitual” sodomite, practicing “debauchery” not for a lark but for the love of it. With that, an identity approximating that of the “homosexual” had arisen in Egyptian law. The testing and supervision, the belief in bodies modified and marked out by their illicit traffic with the outside, the state’s drive to codify that deformity, the stethoscope’s twining round the police truncheon, became available for new uses. The invasive examinations for venereal disease to which generations of prostitutes had been subject metamorphosed into the practice of inspecting and judging men’s anuses.

Harvesting Assholes

“It was a great harvest of assholes for the doctors,” one victim of a mass “debauchery” arrest said of his visit to the Forensic Medical Authority.⁶⁵ The reaping goes on: the crackdown continues in Egypt.

I do not know what caused it, but I know what enables it: fear, the sense of country and culture vulnerable to penetration from outside. From its beginning—when the Queen Boat trial’s lead defendant appeared in the state press in a crudely doctored photograph, with an Israeli army helmet added on his head—the crackdown pictured sexual “deviance” as not an internal wrong turn but a foreign invasion. Dr. Fouda stressed this too. He said, “the aim of law is protecting social morality,” and he specified what it needed to be protected from: “In Europe, people write on their chests, I am a sodomist, I am a homosexual; in Egypt, this is prohibited.”⁶⁶

Around the world, metaphors burgeon which claim to capture the vulnerability and porousness of “states” or “cultures” against overwhelming threats from the empowered West. These promote a comprehensive defensiveness, including rooting out the deviant within. Often the trope is sexual in its implications, loaded with images of penetration and rape. Those whose sexual conduct falls under the shadow of stigma often suffer the most brutally from the metaphor’s effects.

Militarism menaces states; consumer blandishments transfigure cultures; capital flows allot misery to populations with indifferent abandon. All that is true. It is dis-

honest, though, to reduce international injustice to the monolithic simplicity of a physical metaphor, to the swift monstrosity of sexual violation. It is intolerable to enact that trope of penetration, that theater of rape, on individual bodies in revenge.

Perhaps the agonizing salience of all torture lies in its power to deform the intimate into the theatrical.⁶⁷ Invading the inmost recesses of the self, it *publicizes* them through pain, twists them to a floodlit, bloody stage for the fiats and fantasies of authority. Every secrecy becomes a bruited and degrading symbol, every orifice a proscenium. In Abu Ghraib now no less than in Cairo, this melodrama of penetration and discovery plays itself out. The almost-burlesque extremeness of the brutality adds to the humiliation through which politics takes control of the body's own frontiers.

The Forensic Medical Authority's examinations are not merely a breach of medical ethics and human rights norms. A disturbing moment in the intricate relationship between nation-state and body, they reveal profounder patterns and illuminate still other abuses. It is incumbent upon us to condemn them. It is still more important to realize that Tardieu's theories survive in Egypt not merely as holdout or hangover or vestige, but as a method for the state to continue its symbolic and literal control over the citizen's self, integument, and inwardness—over everything often depicted as the last frontier of integrity and solitude. Tardieu's exams are unfortunately not refuse from some dustbin of medical history. They are ancestral to modern means of, and aspirations to, authority. The Egyptian horror stories allow us to probe, to test—and if we combat them, to contest—the role medicine has played in solidifying state surveillance and state power.

References

1. The resulting Human Rights Watch report—Human Rights Watch, *In a Time of Torture: The Assault on Justice in Egypt's Crackdown on Homosexual Conduct* (New York: Human Rights Watch, 2004)—was published in 2004; this article draws on data collected during that research. The conclusions are my own responsibility. I am deeply indebted to Helmi al-Rawi and Hossam Bahgat of the Egyptian Initiative for Personal Rights for their own research into the forensic medical examinations. Mr.

Bahgat in particular accompanied me on interviews at the Forensic Medical Authority and extensively studied forensic reports and Egyptian legal standards. Any errors, however, are my own.

2. Established in 1931, the Authority draws on a tradition of forensic investigation active in Egypt (and derived particularly from French models) since the 1880s.

3. Human Rights Watch interview with Deputy Minister of Justice Dr. Fakhry Saleh, Director of the Forensic Medical Authority of the Ministry of Justice, Cairo, Egypt, 2/26/03. In a sign of the weight the government, embattled by charges of torture, attaches to the Authority's reputation, Dr. Saleh was a member of the state delegation to the UN Committee against Torture's discussion of Egypt in November 2002.

4. The World Psychiatric Association removed homosexuality from its roster of mental illnesses in 1971. Where known among the medical profession in Egypt, the fact is widely disregarded. The Doctors' Syndicate, which sets standards for the medical profession, is dominated by the formally banned Muslim Brotherhood. This makes it a center of opposition to state domination, but also lends an ideological inflection to medical discussions of sexual behavior. Dr. Essam al-Arian, an official of the Syndicate who is also a spokesman for the Brotherhood, told the BBC in 2002, "From my religious view, all the religious people, in Christianity, in Judaism, condemn homosexuality. The temper in Egypt is against homosexuality." "Egypt Cracks Down on Homosexuals," *BBC World News*, 3/6/02.

In an extreme example of that "temper," a state newspaper cited Dr. Ahmed Shafiq, "professor of surgical medicine," on "methods of curing sexual perversion:" "The most successful among them has been cauterizing the anus, which, by narrowing the anus, makes it more painful for the passive homosexual to be penetrated, which makes the active homosexual also unable to penetrate, and causes the sexual encounter to fail. Dr. Shafiq assured us that the cauterizing treatment is not common in the Arab world because the homosexual does not expose himself, or admit his deviance, for fear of scandal." Dr. Shafiq's remarks would hardly dispel such diffidence. "The Manufacture of Perversion," *Al-Ahram al-Arabi*, 8/22/01.

5. Human Rights Watch interview with Deputy Minister of Justice Dr. Fakhry Saleh, Cairo, Egypt, 2/26/03.

6. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Deputy Director of the Forensic Medical Authority of the Ministry of Justice, Cairo, Egypt, 2/25/03.

7. See V. Thompson, "Creating Boundaries: Homosexuality and the Changing Social Order in France, 1830-1870," and W. Penniston, "Love and Death in Gay Paris: Homosexuality and Criminality in the 1870s," both in J. Merrick and B. Ragan (eds.) *Homosexuality in Modern France* (New York: Oxford University Press, 1996). See also V. A. Rosario II, *The Erotic Imagination: French Histories of Perversity* (New York, Oxford University Press, 1997).

8. A. A. Tardieu, *Etude Medico-Legale sur les Attentats aux Moeurs* (Paris: JB Bailliere, 1859, 3rd ed.), p. 156. Translations by Scott Long.

9. A. A. Tardieu (see note 8), p. 133.

10. A. A. Tardieu (see note 8), p. 135.
11. A. A. Tardieu (see note 8), pp. 142-43.
12. A. A. Tardieu (see note 8), p. 143. Tardieu is fixated on the “unique sign of the funneled anus,” so much so that in later editions he added language stressing that this “deformity”—which “results, in part, from a gradual driving back of the parts which are situated at the fore of the anus, and, in another part, from the resistance which the upper extremity of the sphincter poses to the complete insertion into the rectum”—is a “nearly constant, unsurpassably conclusive sign of the passive habits of pederasts.” A. A. Tardieu, *Etude Medico-Legale sur les Attentats aux Moeurs* (Paris: J. B. Bailliere, 1867, 5th ed.), pp. 201-02. It is, however, worth citing Tardieu’s detailed descriptions of other “signs,” as they indicate the obsessions that drove his “research.” Of the “effacement of folds” around the anus, he wrote that it in effect feminizes the male anatomy, turning the anal region into mock labia surrounding an ersatz vagina: “To the extent that the relations against nature are renewed, the relaxation becomes each time more considerable, all the much more in that ... the individuals given to these infamous practices, in order to escape the pains which the first approaches provoke, resort to laxative and emollient medicines, and above all to frequent lubrications with fatty substances. ... In certain cases, it forms a sort of creasing, composed of wattles or excrescences, which I have sometimes seen developed into the simulation of little lips, resembling those which in women form the entrance to the vagina.” A. A. Tardieu (see note 8), p. 146. The “dilation of the anus,” he wrote especially repellingly, “can reach in some individuals a point where the anal orifice is reduced to a gaping hole, sometimes enormous, which is no longer anything but a circular ring without contractility and without relief. Among the very thin pederasts, it looks like a hole which has been punched in a hanging hide. ... There follows almost inevitably a marked disposition toward. ... an habitual incontinence with fecal matter which, ... even without being complete, maintains those parts in such a state of filth and gives them an aspect so horrible that the spirit and the heart revolt at the thought that they can inspire anything other than violent disgust.” A. A. Tardieu (see note 8), p. 147. Such language evidently stems from an individual anxiety capable of blinding medical observation.
13. A. A. Tardieu (see note 8), pp. 154-56.
14. Vernon Rosario, a fellow at the Neuropsychiatric Institute of the University of California, Los Angeles, writes of Tardieu’s intellectual milieu, “It was commonly feared that, thanks to secret signs, pederasts of all classes could recognize *each other* even more easily than they could be recognized by doctors. ... [Tardieu’s work] betrays a variety of conceptual tensions reflecting these anxieties provoked by pederasts. These deceitful debauchees could only be detected by knowledgeable doctors, yet they possessed a mysterious means of identifying one another.” V. A. Rosario II (see note 7). Tardieu’s work, according to Rosario, grows from a desperate search for concrete “stigmata” to palliate social anxieties about class fluidity and the breakdown of gender roles.
15. E-mail communication to Scott Long, Human Rights Watch, from Professor Robert Nye, Department of History, Oregon State University, 7/18/03.

16. E-mail communication to Scott Long, Human Rights Watch, from Dr. Lorna Martin, Department of Forensic Pathology, University of Cape Town, South Africa, 7/23/03.
17. Tardieu's writings were certainly disseminated in Egypt, and elsewhere, as part of the enthusiasm for French hygienic, medical, and forensic science in the second half of the 19th century. The first citation of Tardieu we have found in an Egyptian work lies in the 1876 work of public health inspector Dr. Hassan Pasha Hassan. H.P. Hassan, *al-Tebb al-Shar'i [Forensic Medicine]* (Cairo: al-Matba'a al-Tebbeyya al-Durreyya, 1876), p. 6: Tardieu was a patron of the doctor's studies. I am grateful to Hossam Bahgat for this reference.
18. The law was re-promulgated in the Nasser period and is usually known as Law 10/1961.
19. Egyptian authorities sporadically assert to international audiences that the law only criminalizes prostitution and that "homosexuality" is not criminal in Egypt. Such a statement is false, and could be refuted by any competent Egyptian attorney; it is also specious—"homosexuality," a synthetic coinage in European languages, has no equivalent in Arabic (save a term more recent and synthetic still, far more youthful than Egypt's law books); moreover, few laws against homosexual conduct worldwide mention "homosexuality" *per se*. Most refer to such terms as "sodomy" or "unnatural acts," to the vaguenesses of which *fujur* can properly claim to be an analogue.
20. For more exact details on the intricacies of Egypt's sex laws, see Human Rights Watch (see note 1). See particularly Chapter II and the Appendix.
21. Dr. Fouda also described the source of his own peculiarly intense interest in the subject: "A man was accused of killing someone. This was the case that stimulated my interest in the question. He claimed self-defense, because the murdered man was a homosexual who had tried to have sex with him, and he said that [he] was not a homosexual. So it was important to determine whether he was lying, whether he had been used anally." Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03. Dr. Fouda took for granted that discovering the man was "unused" would confirm the killing was in self-defense—and thus endorsed the validity of violence as a response to homosexual desire. At the genesis of the doctor's professional inquiry lay the denial of the basic rights, including the right to life, of men who have sex with men.
22. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03.
23. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03.
24. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 2/25/03.
25. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03.
26. E. M. A. Eassa, N. M. Khalel, N. F. Hamed, A. A. M. El-Sawy, and M. A. Fouda, "Electromyographic Study of Some Cases of Anorectal

Intercourse," *The Journal of Legal Medicine and Forensic Sciences* 10/4 (October 1998): pp. 385-399.

27. The study involves 30 "anoreceptive intercourse (ARI) cases of both sexes," 20 males and 10 females (although the total number is listed as 20 in the abstract) referred to the Cairo Forensic Medical Authority (FMA); they are compared to a control group consisting of "10 healthy non-anoreceptive subjects." According to Dr. Fouda, all the men were referred to the FMA after arrest in debauchery cases; the women were referred in divorce cases, where "a woman comes and alleges that her husband has used her in anal intercourse, and she is entitled to divorce." Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03. These different situations obviously gave participants different degrees of interest in answering an initial questionnaire (including "sexual practice of anal intercourse; date of first anal intercourse; number of frequency of anal intercourse") truthfully.

The testing methods, and differentiation of control and test groups, were fatally flawed, with the test group selected according to the same standards the validity of which was then "tested" on them. Dr. Fouda explained that "Some of the men referred to us by the prosecutor's order were only alleged passive homosexuals, some really passive homosexuals. We inspected them all. Those who were not used, who did not exhibit the signs according to Tardieu, we reexamined as a control group; those who were found used we reexamined as our group of people who were habitually used." Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03. Thus the men's ARI status was determined by an initial, standard examination looking for the Tardieu criteria: "Inspection of the anus as regards: site and shape of anus (normal or funnel shape); skin corrugations around the anus, ... anal fissure, anal tear, ... tenderness on touching or stretching, painful contraction, twitchy anus (i.e. alternating contraction and relaxation of the sphincter), yielding of anal orifice on stretching 'Diameter by finger or cm.,' anal sphincter (weak or normal), anal reflex (weak or normal), anorectal mucosa and presence or absence of anorectal mucosal folds." E. M. A. Eassa et al. (see note 26), p. 387. They were then *re-examined* by the same method, to determine whether they showed the signs of ARI ("deeply seated" and "funnel shaped" anus). It is unsurprising that the correlation rate was high. The subjects, divided thus unreliably into "ARI" and "control" sets, were then retested with electromyographic mapping, as explained above.

28. The study is described as "prospective." E. M. A. Eassa et al. (see note 26), p. 396. This is itself a misrepresentation—a truly prospective study would examine the same subjects both before and after anal intercourse. The article asserts as a given that "Regular anoreceptive intercourse (ARI) involves potential trauma to the anal sphincter complex" (p. 386)—precisely the point that it should set itself to prove and which it nowhere demonstrates adequately. Indeed, the article that it cites to this effect *actually reaches the opposite conclusion*. That study, which employed anal manometry to investigate ARI and non-ARI subjects, finds that "No disruptions of the IAS [internal anal sphincters] or EAS [external anal

sphincters] were identified in either the anoreceptive or control group. Anoreceptive men tended to have thinner anal sphincters than controls, but *the difference was not statistically significant*. Furthermore, there were no complaints of fecal incontinence by the study subjects" [emphasis added]. A. B. Chun, S. Rose, C. Mitrani, A. J. Silvestre, and A. Wald, "Anal Sphincter Structure and Function in Homosexual Males Engaging in Anoreceptive Intercourse," *American Journal of Gastroenterology* 92/3 (1997): pp. 465-68.

In another misrepresentation, Fouda's article also cites a study which it claims proposes "a 'triad' of signs that would be confirmatory of frequent anal intercourse." E. M. A. Eassa et al. (see note 26), p. 396. The citation implies that these signs would "confirm" consensual anal receptivity by an adult; in fact, the study in question is one of forced sexual abuse of children. A. R. Jong, "Genital and Anal Trauma" in S. Ludwig and A. E. Kornberg [mis-cited as "Komberg" in the article] (eds.), *Child Abuse* (London: Churchill Livingstone, 1991).

29. E. M. A. Eassa et al. (see note 26), p. 397. Dr. Fouda was at pains to stress that these technological methods did not supersede the antiquated standards of Tardieu, but merely elaborated on them: "We don't discard Tardieu's criteria, and I do not mean that the funnel-shaped anus is not a sign of habitual use. I mean electromyography is more exact." Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03.

30. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 2/25/03.

31. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03.

32. We learned that Dr. Siham Fouad Abdel 'Al, a professor at Ayn Shams University, oversaw dissertation research on detecting "sodomists" using both sonographic and electrical investigation of suspects' anal cavities. The researcher was Mohammed Mohieddin al-Gamal, a student working at the Forensic Medical Authority in Mansoura. Both refused to speak to us. Al-Gamal's dissertation, titled (in English) "Medicolegal Assessment of the Anal Sphincter Functions in Sodomists," was presented at Ayn Shams University on April 2, 2003.

33. E-mail communication to Scott Long (see note 15).

34. Critics of the examinations imposed on prostitutes under Victorian Britain's Contagious Diseases Acts—discussed below as part of the ancestry of Egypt's laws on sexual conduct—called them "instrumental rape," assault by speculum. Dr. Fouda himself raised the parallel with virginity tests, noting the latter are part of the Forensic Medical Authority's mandate:

If a man marries a woman in the belief that she is a virgin and then discovers she is not, she is referred to the Forensic Medical Authority for a virginity test.

The prosecutor makes this referral: the complaint goes to the prosecutor, as it is a question of fraud in the marriage contract. The prosecutor sends the woman to be examined. The family cannot compel the woman to submit to the test. She can still refuse, but if she does it is taken legally as a sign that she is not a virgin.

Since, as Dr. Fouda noted, "The woman loses part of her dowry if she is found not to be a virgin," the financial and familial pressure to submit to the test may make consent in the ordinary sense moot. Human Rights

Watch interview with Deputy Minister Dr. Ayman Fouda, Cairo, Egypt, 2/25/03.

35. E. M. A. Eassa et al. (see note 26), p. 387.

36. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 4/3/03. Dr. Fouda's confidence in the co-gency of a prisoner's assuming the position echoes Tardieu, who writes, "When I perform [the examination]—as is most commonly the case—in a prison, I refrain by design from indicating to the prisoner the object of my visit; I command him to undress, and very often, without further ado, he takes spontaneously the position most favorable to my inspection. I guard myself carefully against concluding anything positive from such a way of acting; but it is something significant." A. A. Tardieu (see note 8), p. 158.

37. Human Rights Watch interview with Counsellor Maher 'Abd al-Wahid, Prosecutor General, Cairo, Egypt, 2/26/03.

38. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 2/25/03.

39. From a 2003 forensic report in court file, al-Giza Court of Misdemeanors, on file at Human Rights Watch; comparable instances could be cited from many files.

40. Verdict by Judge Mohammed Sultan, Cairo Juvenile Court of Misdemeanors, on file with Human Rights Watch.

41. Human Rights Watch interview with Deputy Minister Dr. Fakhry Saleh, Cairo, Egypt, 2/26/03.

42. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 2/25/03, emphasis added.

43. Human Rights Watch interview with Bashar (not his real name), Cairo, Egypt, 2/26/03.

44. Human Rights Watch interview with Wahba (not his real name), Cairo, Egypt, 3/3/03.

45. Human Rights Watch interview with Ziyad (not his real name), Alexandria, Egypt, 2/28/03.

46. Human Rights Watch interview with Karim (not his real name), Tanta, Egypt, 4/26/03.

47. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 2/25/03.

48. Human Rights Watch interview with Bashar (not his real name), Cairo, Egypt, 3/4/03.

49. Committee against Torture, Concluding Observations of the Committee against Torture: Egypt, CAT/C/CR/29/4 (2002).

50. United Nations, Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 37/194, annex, 37 UN GAOR Supp. (No. 51) at 211, A/37/51 (1982), Principle 4. The "Declaration of Tokyo" ("Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment"), adopted by the 29th Assembly of the World Medical Association, Tokyo, Japan, October 1975, details comparable ethical principles.

51. "Policy on Body Searches," adopted at the Annual Representative Meeting of the British Medical Association, 1989. The World Medical Association has given highly restricted latitude to body-cavity searches for security purposes only, requiring "all governments and public officials with responsibility for public safety to recognize that such invasive search procedures are a serious assault on a person's privacy and dignity, and also carry some risk of physical and psychological injury," and to "ensure that due regard for the individual's privacy and dignity be guaranteed." "Statement on Body Searches of Prisoners," adopted by the 45th Assembly of the World Medical Association, Budapest, Hungary, October 1993. Even bracketing the humiliating circumstances of their infliction, exams in "sodomy" cases carry no security-related purpose and do not comply.

52. "Policy on Body Searches" (see note 50). In carceral conditions, however, the medical practitioners should not merely seek the consent of subjects, but ascertain whether it is informed and freely given. The British Medical Association's 1989 statement, again specifically addressing body searches, states:

In order for consent to be "valid," the individual must have been given sufficient, accurate and relevant information; the individual must have the competence to consider the issues and to reach a decision; and that decision must be voluntary in terms of not being coerced. There are a number of ways in which the ability of detainees to give consent may be compromised:

- the individual's competence to make a decision may be affected by illness, fear, fatigue, distress or by the effects of alcohol or drugs;
- the lack of privacy during the consultation may affect the individual's willingness to ask questions in order to receive sufficient information to make an informed decision;
- the individual may give general consent to anything proposed in the hope of being released more quickly without considering the actual procedure to be undertaken;
- the fact that a refusal to permit an intimate search may be seen to imply guilt may pressurize the patient to give consent.

The acuity of all these pressures upon a prisoner facing trial for "debauchery" in Egypt makes it unlikely that even express effort to obtain consent would elicit an unequivocal expression of the detainee's will.

53. Physicians for Human Rights and the School of Public Health and Primary Care, University of Cape Town, Health Sciences Faculty, "Proposed Guidelines for Practice in Difficult Settings" in *Dual Loyalty and Human Rights in Health Professional Practice: Proposed Guidelines and Institutional Mechanisms* (Cape Town: University of Cape Town, 2002), pp. 73-76.

54. S. Smith and A. al-Hamid Amer, *al-Tebb al-Shar'i fi Misr [Forensic Medicine in Egypt]* (no publisher, 1924), p. 31. I am grateful to Hossam Bahgat for this citation.

55. While conducting a Human Rights Watch mission to Turkey in October-November 2003, I collected numerous testimonies attesting to this practice.

56. One young arrestee in 1997 recounted to me a story that could come from Egypt. When he complained to the doctor that the anal probe hurt, she retorted, "You like it when you stick a huge cock up your anus: it

doesn't hurt then." See Human Rights Watch and the International Gay and Lesbian Human Rights Commission, *Public Scandals: Sexual Orientation and Criminal Law in Romania* (New York: Human Rights Watch, 1997), p. 52.

57. Human Rights Watch and the International Gay and Lesbian Human Rights Commission, *More than a Name: State-Sponsored Homophobia and Its Consequences in Southern Africa* (New York: Human Rights Watch, 2003), p. 97.

58. I. M. Wagih, (ed.), *Al-Tebb al-Shar'i wa al-Sumumeyat*, University Medical Textbooks Series (World Health Organization: Eastern Mediterranean Regional Office, 1993), pp. 112-113.

59. A. J. B. Parent-Duchatelet, *De La Prostitution dans la Ville de Paris, Consideree sous le Rapport de l'Hygiene, de la Morale, et de l'Administration* (Paris: Pierre Fort, 1900), p. 65.

60. See F. Carlier, *Les Deux Prostitutions* (Paris: Etudes de Pathologie Sociale, 1887), pp. 9-18 and 51-67.

61. For an American libertarian perspective on such crimes, see P. McWilliams, *Ain't Nobody's Business if You Do: The Absurdity of Consensual Crimes in Our Free Country* (Santa Monica: Prelude Press, 1996).

62. For a similar point about national ideologies, see B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991).

63. M. Foucault, *The History of Sexuality, Volume I: An Introduction*, trans. R. Hurley (New York: Vintage Books, 1980), particularly Part 2, Chapter 2, "The Perverse Implantation," pp. 36-50; see also "Psychiatric Power" and "The Abnormals" in "The Courses," seminar summaries from the College de France, in P. Rabinow, (ed.), *Ethics: Essential Works of Foucault, Vol. I*, trans. R. Hurley, et al. (New York: Penguin, 1997), pp. 39-58.

64. For a study of the laws and other regulatory instruments in colonial India, see S. Bannerjee, *Dangerous Outcast: The Prostitute in Nineteenth-Century Bengal* (Calcutta: Seagull, 1998). See also M. Neave, "Prostitution Laws in Australia: Past History and Current Trends" in R. Perkins, G. Prestage, R. Sharp, and F. Lovejoy (eds.) *Sex Work and Sex Workers in Australia* (Sydney: University of New South Wales Press, 1994), pp. 67-99. For the general point about the relationship between public health techniques and colonial authority, see D. Arnold, *Colonizing the Body: State Medicine and Epidemic Disease in Nineteenth-Century India* (Berkeley: University of California Press, 1993).

65. Human Rights Watch interview with Ziyad (not his real name), Alexandria, Egypt, 2/28/03.

66. Human Rights Watch interview with Deputy Minister of Justice Dr. Ayman Fouda, Cairo, Egypt, 2/25/03.

67. See Elaine Scarry, *The Body in Pain: The Making and Unmaking of the World* (New York: Oxford University Press, 1985) for a treatment of the representational aspects of torture—undercut, however, by Scarry's own insistence on the essential incommunicability of the experience of pain.