

Sodomy, Effeminacy, Identity: Mobilizations for Same-sexual Loves and Practices before the Second World War¹

Gert Hekma

This chapter discusses early homosexual rights movements and some of their predecessors in their historical context. The main starting point is resistance to demonization of same-sexual practices by Church and state during the Enlightenment. Then, this abjection saw remarkable were the views of the Marquis de Sade. Some countries legalized homosexual practices, beginning in France in 1791. Due to the French influence in that period, some states followed suit, but others did not. Changes from religious and legal to medical perspectives halfway during the nineteenth century led to lively debates in the German states regarding new laws, the creation of the word homosexual and new theories regarding this personage. In 1897, Berlin saw the establishment of the first homosexual rights movement and in the early twentieth century Germany took the lead with this new kind of science and activism. In a culture in which the penis was the essential element for sexual relations and penetration the way to consummate them, lesbianism (or sapphism or tribadism) remained generally silenced and invisible and was only rarely punished. The main cases of prosecution of women were cases where they dressed and acted as men and sometimes married another woman. Sodomites and tribades were distinct, and the first attracted far more attention. Enlightenment medicine created a new distinction between male and female, stressing that male lives were public and sexual while female lives had to be kept private and asexual (Laqueur 1990: 114–48). Due to this viewpoint, lesbian sexual relations remained largely hidden from 1800 until the 1960s, including within the homosexual movement. The chapter starts with enlightened attitudes regarding same-sexual experiences in the eighteenth century, continues with the beginnings of homosexual identification and emancipation in late nineteenth-century Germany and turn-of-the-century pederast movements, makes some sidesteps to other European states and ends in the Weimar Republic. It shows that different ideas about homosexuality and homosexual politics existed in those early years in varying historical contexts.

Sodomitical Backgrounds

Decriminalization of Sodomy

Sodomy was a sin for the Catholic Church from around AD 1000 (Jordan 1997), and was a crime in most European states since the thirteenth century, when the latter based their laws on religious principles (Brundage 1987: 213, 472–3). Most often, it was a capital crime irregularly enforced before the French Revolution. The general term of sodomy (or buggery, counter- or unnatural intercourse) has had many meanings, but the most prevalent referred to anal sex between men (and less of men with women or animals). It was a concept derived from the biblical city of Sodom whose inhabitants were believed to have committed sexual sins against God. The term could also be used to refer to masturbation or 'natural' variations such as extramarital coital sex. The norm was reproductive sex within marriage.

After the 1789 Revolution, France was the first country to abolish this law in 1791. Other countries followed the French example, but it remained on the books in England until 1967, in Germany until 1969, in the USA until 2003 and still exists in many former British colonies and Islamic states (Kane this volume).

Starting in the eighteenth century, the demonization of same-sexual practices by Church and state saw substantial legal and philosophical opposition. This age of the Enlightenment witnessed a sexual revolution that changed moralities and practices. This was especially the case in France, England (Dabhoiwala 2012), the Dutch Republic and the German states. It was foremost a positive change for heterosexual males of upper and middle classes, and less so for lower classes, women or sodomites. Laqueur (1990: 187–90) has indicated how women, who for ages had been viewed as more lustful than men (and should therefore be strictly controlled), were transformed during the Enlightenment into the chaste creatures they would fully become in Victorian times. Men held public positions while women were relegated to the private sphere as mothers and housekeepers. The reason was not changing biological views, but politics: men excluding women from the political equality that was promised during the French Revolution to all humans, including women and non-white "races." Citizenship rights became a male, white, heterosexual bourgeois privilege grounded in biological science. What emancipated women could do in reaction to this declaration was extol their chastity to claim superiority above males who remained slaves of their desires.

The criminalization of sodomy ended in 1791 in France; its new penal codes of 1791 and 1810 only punished crimes like rape and sexual assault, public indecency, prostitution of minors under 21 years and adultery — rather of women than of men (Sibalis 1996). What had been a capital offence for centuries was no crime any longer — a real revolution. Many mostly Catholic countries, often being under the influence of France, followed its example.² These changes were a result of the Enlightenment, when new ideas on politics, science and sex developed. It was believed that state and Church should be more clearly separated and also state and citizen, public and private. For many philosophers, it meant that they no longer considered a sin equivalent to a crime and believed the state should not interfere in the private life of citizens. Sodomy was a typical example of both cases: a sin that had become a crime and its prosecution often being an intrusion of privacy. The philosophers generally preferred prevention of the "Socratic" vice before it occurred rather than punishment of

2 Countries that abolished the sodomy crime in the nineteenth century were the Netherlands, Belgium, Bavaria, Hannover, the French cantons in Switzerland, Portugal, Spain, Italy, Rumania, and Luxemburg. With the unification of Germany in 1871, it kept the Prussian anti-sodomy law article (Hirschfeld 1914: 842–9).

Catholic Bavaria saw a similar legal reform in 1813, when sodomy was removed from the criminal law books because it was not detrimental to the individual or the state. The main Bavarian law reformer P.J.A. von Feuerbach ([1801] 1803: 432–3), who formulated this opinion, however declared that there might be reasons for forbidding sodomy in police rules (*polizeilich*) because it demonstrated contempt for marriage, endangered population growth and could lead to enervation of the body (an argument on sexual excess often used in debates on masturbation). These legal changes caused a real revolution: with one strike

to put an end to sodomy laws in their country. Keeping in mind the ambivalent feelings of the *philosophes*, it is surprising French revolutionaries decided to abolish the crime against nature. Actually, no mention of the subject is found in the discussions on the 1791 penal code, and this change appears as the result of radical secularization. This law forbade acts such as public indecency and corruption of minors under 21 for prostitution with low penalties, but consensual homosexual acts were not mentioned—not even in the case of minors apart from the corruption. However, because decisions (Sibalis 1996).

In England, Thomas Cannon and Jeremy Bentham wrote in defense of pederasty during a time period where Greek texts were viewed as a staple of civilization. The courageous book of Cannon — *Ancient and Modern Pederasty Investigated and Exemplified* (1749) — is only known from the criminal records of the author's prosecution. Bentham's lengthy writings on the topic long remained unknown, and his essay "Pederasty" of 1785 was only published in 1978 by Louis Crompton. Bentham intended to issue a booklet against the existing law, but did not dare to do so. In his view, neither the person, nor his partner or the state suffered from the practice. Therefore, there was no need to forbid such pleasures. A few Dutch pamphlets also questioned whether the sin of sodomy should be a crime for the state (Hekma 1987: 93–4), and German scholars discussed Greek Eros. The authors who opposed the harsh penalties and whose works became influential were mainly French, which helped

unnatural intercourse afterwards, indicating a continuing depreciation of these practices (Stockinger 1979). The first philosopher who discussed "the crime against nature" was Montesquieu. He began his short chapter in *De l'esprit des lois* (1748) by underlining the horror he felt for it. He remarked that three crimes deserved the death penalty—witchcraft, heresy and sodomy—but the first did not exist, the second was vague and the third was generally committed in secret and accusations often were calumnious. As counter-natural offences were highly dependent on social context, he preferred proscription above capital punishment. Nature, Montesquieu believed, would lead us to pleasures with the other sex when obstacles were removed. The Italian lawyer Cesare Beccaria (1764) held similar views: he felt horror for the crime but prevention was better than punishment. Voltaire (1764) believed that nature sometimes betrayed men in making wrong sexual choices, for example in the case of beautiful feminine lads, and favored lighter punishments. It was better to keep such vices secret than illuminating them with the fire of pyres (Blasius and Phelan 1997: 7–13; Merrick and Ragan 2001). As ambivalent was Rousseau, who described his horror for masturbation and homosexual seduction in his posthumous *Confessions*. According to him, the nuclear family is the oldest and only natural community (Hekma 1987: 26–31). The general idea of prevention was to counter homosociality in schools and institutions such as navy and army and to make boys and girls mix through co-education. If this was done, nature should take its heterosexual rights again. Another recurring argument concerned the climate where in warmer regions people should be more inclined to such vices (with Ancient Greece as a main example); the opposite of the widespread contemporary view in the South that homosexuality is a neo-colonial, Northern imposition.

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