

Judging Homosexuals

A History of Gay Persecution in Quebec and France

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With a foreword by Barry Adam



UBC Press · Vancouver · Toronto

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Foreword

BARRY ADAM

This book takes on one of the most rapid and striking historical transformations of the twentieth century: the rehabilitation of homosexually interested people from the various abject statuses of the sinful, criminal, or mentally ill to that of people bearing the rights and responsibilities of citizens of liberal democratic countries. This transformation is all the more remarkable for having occurred in the space of a single generation. In 1968 in Canada gay men were subject to criminal penalties, and lesbians, although largely ignored by the law, were scarcely better off. Less than forty years later, they had acquired the right to marry. The reasons for this change are now the subject of a good deal of scholarly analysis; the explanations are often multilayered and, not surprisingly, influenced by the particular lenses of different disciplines. What Patrice Corriveau provides here is a close examination of changing official discourses, particularly legal texts, to reflect on the roots of this social change.

Judging Homosexuals takes on an even broader sweep of history, starting with the philosophical roots of Western civilization in ancient Greece. Starting there further heightens the profundity of the historical change. Whereas conventional intellectual histories of the West draw a (relatively) straight line from the Greeks to the Renaissance to the foundations of contemporary liberal democracies, this history looks more like an arc when viewed from the perspective of homoerotic practices among men. The Greeks regarded erotic and emotional connection between males not only as conceivable and tolerable but also as worthy of romance, nobility, and heroism. The heroic friendship between men is a staple of Greek mythology and a practice fit even for the gods. As Corriveau and others have

noted, the Greeks did not characterize sexuality along a homosexual/heterosexual divide. Rather, the meritorious relationship between men was one of mentor and acolyte, a relationship between inspirer and inspired, between the more experienced and the less. Alongside these relationships, marriage to women was expected and commonplace.

From this origin, male-male sexual and romantic bonding underwent 1,600 years of repression, censorship, and obliteration under the auspices of Judeo-Christian authority. Just why Judeo-Christianity has been so uniquely obsessed with active homophobia is only beginning to be explored. Corriveau points toward ways that homosexuality became caught up in a general prohibition against nonreproductive behaviour pressed forward by pro-natalist authorities of various forms in both church and state. Still, there is likely more scholarship to be done to explore this historical turn and to explain the ongoing ferocity of Judeo-Christian homophobia, which at least in its more fundamentalist forms continues to campaign for legal suppression, promoting referenda to abrogate the civil rights of lesbians and gay men across the United States and exporting its agenda by stimulating pogroms against lesbian, gay, bisexual, and transgendered (LGBT) people, particularly in Africa.

From this larger vantage point, the arc of history looks more like a recovery of lost origins than a movement toward something entirely new. Granted, as Corriveau points out, much of the fury directed against gay men in the twentieth century now seems to be displaced onto pedophilia. Just as the iconic “terrorist” arose as the nemesis of the West in the 1990s to replace the deflated “communist” – often using remarkably similar language and propounded by similar authoritarian sources regared to identify new enemies – now the dreaded “pedophile” has replaced the newly domesticated “homosexual.” Entrepreneurial politicians and police forces busy themselves with high-profile raids to “protect” Western civilization from “pedophile rings” and “luring by Internet.” Many of the defendants swept up in these raids prove after years in court to be innocent, as these demons and witches of the twenty-first century infrequently turn out to match the terrifying status they are given in the media, but this incongruence seems not to slow down the need for moral panics.

Of course, the twenty-first-century homosexual is not the Greek mentor or acolyte. Now, homosexuals are always to have been adults; the Greek model of age-differentiated relationships skates too close to the pedophile

idea to find a place in modern cultural systems. Mentorship has been strictly desexualized and policed. It is perhaps the case that the integration of lesbians and gay men into legal participation in liberal democracies signifies not so much a natural progression toward enlightenment as a remapping of the boundaries of the acceptable and the anathema.

In this book, Corriveau offers a unique lineage in tracing the course of Western legal and social discourses, travelling through France and Quebec, to understand the trajectory of Western constructions of sexuality. France proves to be an instructive example. Although the introduction of the Napoleonic legal code after the French Revolution marks one of the most significant changes in the state treatment of sexuality, which the code privatized and removed from direct regulation, Corriveau shows how vaguer legal precepts about moral order and decency nevertheless allowed legal authorities to exert a homophobic regime against men who would have sex with men. The Napoleonic Code, which became the legal foundation for much of western Europe and Latin America, has shown a similar dualism in other jurisdictions: homosexuality may be decriminalized, but legal provisions such as sanctions against “outrage to public morals” have given ample scope for repressive action by police and moral entrepreneurs.

Homosexuality so often finds itself buffeted by the winds of symbolic politics. Larger structural shifts in alliances and counteralliances, involving churches, political parties, popular movements, labour unions, and so on, have profoundly affected the fortunes of lesbian, gay, bisexual, and transgendered persons. Nevertheless, forged by centuries of repression in Western societies, LGBT desire and practices have coalesced into persons willing to take on and defend a right to their sexuality. The remarkable transformation toward citizenship is, at least in part, an accomplishment of people willing to take on LGBT identities and organize movements, and the endurance of this transformation cannot simply be presumed without their ongoing efforts.

Preface

This book is an adaptation of *La Répression des homosexuels au Québec et en France*, published by Les éditions du Septentrion in 2006. That work, in turn, was adapted from my doctoral dissertation on the sociology of law, completed in 2003 at Université Picardie Jules Verne, in France, and Université Laval, in Quebec. Since then, much research has been published addressing different facets of the subjects analyzed in this book. Therefore, this version has been updated with more than thirty new references. Moreover, my continuing work on homophobia and repression of homosexuality, which I began in 1998, has enabled me to clarify and refine my socio-historical reading of the evolution of criminal law in terms of its management of homosexuality.

It is important for readers to understand that this book is a socio-logical and criminological study of the judicial handling of homosexuality in Quebec and France over the past four hundred years, not a historical study of homosexuality per se. Indeed, it would be both risky and pretentious for me to claim to have painted an accurate and nuanced portrait of the many realities experienced by gays over such a long historical period. The contribution of my analysis is a better understanding of the legislative changes that have occurred in Quebec and France with regard to the social reaction to homosexuality – a contribution derived from my interpretation of both primary sources (for example, archives, jurisprudence, criminal statistics) and secondary sources (for example, theological research, medical treatises).

The primary objective of this research is thus to conduct a socio-historical analysis of the different dominant discourses (religious, medical, human rights) that have influenced how criminal law managed and

controlled individuals with homoerotic behaviours, who were considered, in turn, criminal sinners, criminals with a disease, and citizens to be protected by criminal law. The main subject of this book is thus the evolution of the rationality of criminal law with regard to the “homoerotic issue.”

But here, readers should be cautioned. As the criminologist Alvaro Pires (1998) emphasizes, criminal law should not be thought of as an empty shell serving other discursive systems that may transcend it (for example, religious, medical) in order to have their concept of “normalcy” and “appropriate” management of homoerotic lifestyles prevail. As readers will see in the pages that follow, sometimes criminal law refers to these discourses as a source of legitimization, but sometimes it distances itself in order to affirm its autonomy. In addition, we must pay attention to the specific affinities among these discourses and understand that although there is sometimes opposition between the law and religion, and between the law and “medicine,” in their respective comprehensions of the “homosexual phenomenon,” these comprehensions are not always mutually exclusive.

It is thus the interactions among these discursive systems that I delve into by analyzing the evolution of criminal practice and the legitimizing discourses that have supported criminal law in its management of homosexuality throughout history. In short, I set out to explain the complete reversal of criminal logic with regard to homosexuality, through which the “homosexual” went from pariah par excellence, his behaviour punishable by the death penalty, to citizen recognized by and protected under the law: from the stake to the town hall!

Introduction

In June 1997, homophobia, the irrational hatred of homosexuals, struck me full force. Of course, I had long heard various people tell jokes about “queers,” as funny stories are told to a group of friends, without thinking much about their significance. I also thought that I had glimpsed disgust in the eyes of certain people over the idea that two men might dare to kiss in public. However, before that Thursday night in June 1997, feeling that it didn’t concern me, I had paid little attention to it. But on that warm summer evening of partying on the St. Lawrence River – a scene worthy of *The Love Boat* – I was confronted, in spite of myself, with all of the hate, incomprehension, and evil hidden within homophobia. Imagine: A young man is peacefully enjoying himself with friends. A gang of arrogant rough-necks, bursting with testosterone, decide to taunt him; they deem his attire too effeminate and conclude that he must be a “faggot,” a “queer.” With unbelievable violence, these brave souls shove the young man around as a crowd watches without reacting or intervening in any way, except for a couple of young women who try, in vain, to step in – claiming that he is heterosexual.

This concrete encounter with homophobia started me wondering about the origins of the social repression to which homosexuals are still subjected today. Had society evolved toward greater acceptance of sexual difference? No doubt! But where had this social resentment of homosexuals come from? Church discourse? The lingering stench of old psychiatric discourse that saw the homosexual as a sexual pervert – and one with a contagious disease? Was it a fear of difference transmitted from generation to generation? For there must have been some form of fear underlying this

contempt for – or, worse, hate of – the homosexual. How could the normalization of same-sex marriages in the West, unthinkable twenty-five years ago, be explained? Because I wanted to understand the evolution of the repression of homoerotic lifestyles, was at a loss for more meaningful ideas, and was haunted by my inability to have put an end to the unfortunate incident in June 1997, being limited by my size and complete absence of pugilistic talent – in my defence, there were five of them – I decided to invest a few years of my life in doctoral studies on the subject.

My first readings quickly raised their share of questions with regard to legislative evolution. How can it be explained that in ancient Greece homoeroticism was seen as a normal sexual behaviour and sexual relations between individuals of the same sex were part of a codified, generalized, and accepted reality, both socially and institutionally? What led societies to repress these lifestyles more and more in the Middle Ages? At first haphazardly as the Roman Empire came to an end in the twelfth century, then in a more generalized fashion between the thirteenth and eighteenth centuries, medieval societies formulated a litany of municipal, feudal, and royal rules against sodomists. Why were sodomists (they were not yet called homosexuals) so easily associated with heretics, infidels, and Muslims, and why was sodomy always defined as and linked to the Other, the foreigner – perceived as an Arab taste, an Italian penchant, or a French vice? How was it that during the Enlightenment the criminal sodomist, enemy of God, was transformed into the invert, a sexual pervert who might be treated? Why did society go from penal repression of a sexual behaviour deemed illicit to the idea of rehabilitation, control, and regulation of individuals with homoerotic lifestyles? What conditions favoured the “creation” of the homosexual as a distinct individuality? Finally, how is it today, throughout the West, that homosexuals are “coming out of the closet” and making their mark in society, the arts, and politics, that their sexual behaviours have been decriminalized, and that there is growing legal recognition of gay particularities? The “character” of those practising homoerotic behaviours, from the figure of the sodomist to that of the gay, via the invert, the pederast, and the homosexual, has been shaped and controlled by various institutions of power throughout history. Over the course of a few centuries, there was a complete reversal of legislative logic, from meting out the death penalty to such people to legally protecting

them as individuals with distinct sexual behaviours. From capital punishment to legal protection, from the stake to the town hall – this is the complete societal turnaround with regard to penal control that I describe in this book on the evolution of legal repression of homoerotic lifestyles in France and Quebec from the seventeenth century to the present.

Because the two societies studied here have cultural roots in common but legal traditions that have diverged for almost two hundred years – inquisitorial system in France and adversarial system in French Canada – a comparative analysis is useful for revealing the underpinnings of the legislative evolution with regard to homoerotic behaviours. For each society, a number of aspects have been considered. In any given period, which social class held the centralizing power – the power to define and legislate on homoerotic lifestyles? Which discourse imposed its definition of the character of the homosexual and the legitimization of one type of intervention (clerical, penal, or medical) over another? What function has repression of homoerotic lifestyles fulfilled? To whose benefit? What role have the family, the clergy, medicine, and civil society played in the control of these behaviours? To answer these questions, I uncover the dominant discourses behind legislative changes in order to understand how certain social groups became influential enough in the eyes of the community to impose not only their representations of the deviant but also the forms of control that they deemed necessary to maintain social order.

I have divided this comparative analysis into four historical periods, corresponding to significant changes in the legal regulation of homoerotic lifestyles in France and Quebec from the seventeenth century to the present. However, before I look specifically at the repression that occurred in these two societal contexts, it is relevant to take a brief look at the earliest stages of the legal repression that burdened homosexuals for almost two thousand years. This history is the focus of an opening chapter on the regulation of homoerotic lifestyles from Antiquity to the Renaissance, which is more of a narrative than are succeeding chapters. On the one hand, the Ancients' distinction between sexual instinct and sexual object seems essential for an understanding of the repression that homosexuals would be subjected to in the periods that are examined in greater detail; on the other hand, this chapter sheds light on discourses on sexuality and shows how public interventions with regard to homoerotic lifestyles

changed over time. Finally, this brief historical review highlights certain themes that recur in the evolution of social management of homosexuality, such as the influence of social crises on the repression of homosexuals, the role of homosexuals as scapegoats to discredit the enemy, and the fear that they inspired in terms of the family and children.

Chapters 2 to 5 deal expressly with the repression of homoerotic behaviours in France and Quebec. The first historical period studied covers from the Grande Ordonnance of 1670 to the British Conquest of 1760. During this period, the criminal justice system in New France reflected that of the parent country, France. Thus regulation of homoerotic behaviours in the two societies – it was in fact the repression of behaviours and not of a particular individuality – was likely to be similar in a number of ways. It therefore seems that in both societies, homoerotic lifestyles were punished according to a divine interpretation of sexuality under which the image of the sodomist was that of a sinner before God.

The second period extends from the British Conquest to the end of the nineteenth century. What emerge immediately are differences with regard to legitimization through criminal law between a rapidly evolving France and a French Canada still dominated by an omnipresent clergy. In France the revolution marked the victory of the bourgeoisie, the beginning of a wave of industrialization, and the modernization of society. In the name of liberty and universal reason, the law was laicized. The establishment of penalties was now based on egalitarian and rational principles. The French justice system also referred more and more to scientific and medical discourses in its management of deviancy and deviants; the invert was no exception. Conversely, in French Canada religious transcendence influenced and legitimized the institutions that controlled deviancy and criminality, notably with regard to lifestyles, and French Canadian society still adhered largely to the dominant ecclesiastical discourses. Whereas in France the label of sodomist gradually gave way to that of pederast (a legal term) and even invert (a medical term), in Lower Canada the sodomist, sinner before God, remained.

The third historical period extends from the end of the nineteenth century to the sexual revolution in the late 1960s. Given the evolution of medical knowledge within the justice systems in France and French Canada, it is possible to presume that the discourses that legitimized criminal law were similar: medical and psychiatric discourses were more and more

prominent in the management of sexual deviancy. Furthermore, the character of the “homosexual” took shape. French Canada started down the path taken by France in the mid-nineteenth century – toward medicalization, correction, and rehabilitation of the homosexual. As this modification of criminal doctrine was taking place in Canada, France temporarily regressed in its regulation of homoerotic sexuality and lifestyles by returning to punishment of these behaviours, which were deemed a threat to the prosperity of the homeland.

Finally, I discuss the fourth historical period, comprising the legislative changes that have taken place from the early 1970s to the present. In this last period, criminal law was modified and homoerotic behaviours were gradually withdrawn from its field of intervention. The very rationality of formalist law was transformed from universal law deduced by reason to multiple legal logics that respond to individual particularities. Following this new judicial philosophy, gays – as homosexuals have chosen to self-identify – slowly gained legal protection and a number of civil rights. The law, which had once persecuted them, now protected them against discrimination based on sexual orientation. As persons possessing a particular individuality, they were recognized specifically in the name of human rights.

Given the scope of the task that I set myself, the old adage “Jack of all trades, master of none” comes to mind. Anyone who ventures into historical research on homosexuality must do so in terms of a global perspective, as the subject encompasses the history of morals, of medicine, of law, of the police, of religion, of politics, and of attitudes. If to this one adds a long historical period and a comparative analysis, one opens the door to the critiques that the repression of homosexuality cannot be reduced to specific historical changes, that histories of homosexuality are always inscribed within distinct socio-political contexts that vary by country and by region, and that these histories are quite relative and cannot be fit into simplified ideo-typical periods. To some degree, these critiques are legitimate, as the figures of homosexuality are necessarily multifaceted: attempting to reduce these multifaceted figures to ideo-typical categories cannot take full account of what is or was the complexity of social reality. I am aware that this approach leads to an emphasis on ruptures in judicial management of homoerotic lifestyles rather than on phases of continuity or simple reorganization; comparative sociology in fact forces us to “retrace

the different successive steps in the development of societies,” as Guy Rocher (1992, 186, our translation) puts it.

On the other hand, this method of analysis offers an opportunity to concentrate specifically on dominant discourses – the regulatory ideas that impose a conception of deviancy and a particular means of control. I consider the citizen-as-subject to be the product of a social system that shapes its subjects according to its own norms, rules, and laws. This is why, as an easily observable social fact, the law does not speak about conflict, fault, or contradiction within the group but presents solidarity against crime and conflict – in this case, the homosexual deviant. As sociology and critical criminology suggest, it is the rationality of criminal law and its method of coercion with regard to the homoerotic issue that have been modified over time. Émile Durkheim (1964, 81) was right to maintain, “We must not say that an action shocks the common conscience because it is criminal, but rather that it is criminal because it shocks the common conscience. We do not reprove it because it is a crime, but it is a crime because we reprove it.” In other words, it is the law that creates the crime, and the history of judicial repression of homosexuality is a spectacular example of social deconstruction that presents the evolutionary and constructed nature of what society has defined as “crime” and “criminal.” Bringing to centre stage the institutional organs and discourses (repressive apparatuses, health apparatuses, family and religious apparatuses) that have defined and taken charge of social control of the individual with homoerotic behaviours is the objective of this book.

1

Ancient Greece to the Seventeenth Century

FROM PEDERASTY TO SODOMY

I cannot imagine a greater happiness and advantage to one who is in the flower of youth than an amiable lover, or to a lover, than an amiable object of his love.

– Phaedrus, in Plato's *The Banquet*

If a man lies with a man as one lies with a woman, both of them have committed an abomination. They shall surely be put to death. Their blood shall be upon them.

– Leviticus 20:13

In this chapter, I give an overview of the evolution of repression of homoerotic lifestyles in Europe before the seventeenth century and shed light on changes in attitudes toward and perceptions of sexuality through the ages. This chapter also offers a key to comprehension of the more systematic socio-historical analyses in successive chapters on repression of homoerotic lifestyles in France and Quebec from the seventeenth century to the present. At the outset, the reader must be made aware of some facts that are all too rarely discussed. First, this long period of history is far from homogeneous but varies both from region to region in Europe and from era to era. Second, because societies long tried to obscure this social reality, the data available are rather scarce and their validity is sometimes questionable. Either the sources no longer exist – having been destroyed by the authorities of the time, who did not want the population to be informed about homoerotic behaviours, or by the homosexuals themselves,

who were scared (often with reason) to save letters or other objects that might have incriminated them as homosexuals – or they come almost exclusively from official sources – that is, the police, the judiciary, or the church; therefore, they cannot be analyzed fully. Sometimes, data have been falsified. For example, in a poem or essay, the love between Pierre and Paul might be transformed into a love between Pierrette and Paul! This complicates things for historians.¹ Some researchers have occasionally tried to interpret the available sources with a view to legitimizing them, notably with regard to the idea of a Greek paradise for homosexuals.² Finally, as Didier Éribon (2004, 6), correctly notes, we must be aware that “figures of ‘homosexuality’ are always specific to a given cultural situation.” In this sense, the conclusions drawn here rely on what was probably conveyed by official sources in theology, the law, and the arts (poetry, painting, sculpture, theatre, and pamphlets).

Social Regulation of Homoerotic Lifestyles in Antiquity

In Antiquity – as in the Middle Ages – the homosexual personality as it is conceived of today did not exist: the “homosexual” individual appeared only in the late nineteenth century, when homosexuality was medicalized. The hostility under discussion here – and the resulting repression – has to do with homoerotic behaviour, not with homosexual subjectivity as such. Moreover, the contemporary notion of homosexuality does not adequately describe the sexual experience between individuals of the same sex in the pre-Christian era – in this case, Greek and Roman Antiquity (Adam 1985; Halperin 1990, 55). The Greeks and Romans did not make a clear distinction between the categories of “homosexual” and “heterosexual.” They were bisexuals, and the object of pleasure was less important than how that pleasure was taken (Sartre 1998, 18; Veyne 1978, 50). What was frowned upon was an overly pronounced interest in sexuality, either homosexual or heterosexual. A revealing example is provided by the trial of Timarchus, who was accused of male prostitution. During his trial, in 346 BCE, Timarchus was never condemned for his homosexuality, as his accuser, Eschinus, openly declared that he, too, enjoyed the love of young men. Rather, Eschinus’s accusation had to do with a question of illegitimacy. Timarchus was allegedly dishonouring his status as a citizen by prostituting himself. Male prostitution was legal and accepted by a large part of the population in Athens and Rome, as long as the prostitute was not a

citizen; a festival of prostitution was celebrated on 25 April, during the *Fasti de Praenesti* (Veyne 1981, 77). The importance, visibility, and unremarkable nature of prostitution would indicate that pederasty was also omnipresent and not problematic in itself (Halperin 1990, 94); in Timarchus's trial, there was never an issue of unnatural practices or indecent assault. No penalty was provided by law specifically to punish homoerotic behaviours (see Dover 1978, 23). Therefore, to define the issue of homoeroticism during this period, it is essential to step away, as much as possible, from modern sexual typologies, as pederasty in ancient Greece cannot be considered homosexuality in the modern sense of the term.

Ancient Greece: Statutory Sexuality

Although it is difficult to establish with certainty the origin of pederastic lifestyles in ancient Greece, Hellenists agree that homoerotic behaviours were openly practised, and even widespread, as of the sixth century BCE in Greece,³ where homoerotic sexuality, as a codified and generalized sexual behaviour, was known to and accepted by all. It constituted “a normal fact of life in social relations” (Sartre 1991, 54, our translation); certain cities (such as Crete and Sparta) even raised homosexuality to the status of an institution. Furthermore, cohabitation by two men was not exceptional. Although they were aware of different sexual preferences, the Greeks and Romans were not disturbed by the idea that an individual's desire, object of desire, and even sexual behaviour might oscillate between a man and a woman. In some circles, being with men even seems to have been more highly regarded than being with women (see Sartre 1998). Certainly, on the legislative level, homoerotic practices violated no laws. Violence in sexuality was not acceptable, however, and penalties were meted out according not to the victim's sex but to his social status.

It is important to understand the extent to which homoerotic lifestyles were hierarchical and codified. As Sartre (1991, 58, our translation) notes, “An attentive reading shows that these sexual customs invariably came under specific constraints: the choice of lovers dictated by their social rank, child abduction announced in advance and approved by the entourage, gifts imposed by law (military equipment, an ox, and a cup), the duration of the stay in the countryside, the presence of friends, and so on.” In Athens and Rome male culture was seen as the supreme power: penetration and phallic pleasure corresponded to social dominance not

by a man over a woman but by a citizen over individuals of inferior social status (women, slaves, freedmen). The sexual relationship represented a power relationship between a dominant and a dominated person; *impudicitas* (passivity), associated with the feminine role, not homoerotic sexuality in itself, was suppressed. Therefore, it was unacceptable for the participants to invert the sexual role (active or passive) assigned to them by their social status. Although sodomizing someone (man or woman) was considered a virtuous act for citizens, being sodomized made a citizen despicable since his social status obliged him to be virile. An Athenian citizen who violated this rule of sexuality risked losing his status as a free man or being condemned to death (see Quignard 1994, 17-19). Conversely, for the slave, *impudicitas* was an absolute duty toward his master, and for the freedman it was an act of deference that he had the moral duty to show to his patron. In other words, homoeroticism could be, depending on the circumstances and social status of the participants, the “object of admiration and envy or, on the contrary, of profound disapproval” (Sartre 1991, 57, our translation).

Although it seems accurate to claim that homoerotic sexuality was unfettered – permitted by law, approved by public opinion, and supported institutionally – it remains that the homoerotic “practice of pleasures” was a source of concern among both the Greeks and the Romans. Both societies codified and regulated it. Among the Greeks, for example, initiatory pederasty between a lover (*eraste*) and a beloved (*eromenos*) was a functional ritual leading the young man (*gynaeece*) to fill his reproductive and citizenship roles. In this type of pederastic relationship, which was seen as preparation for married life and the role of citizen, the lover was necessarily active and older, and the beloved had to be young, beardless, and passive. Hirsuteness determined the boundary between the two sexual behaviours. Only beardless freedmen were expected to be passive. Once his beard began to grow, a young man was no longer considered a beloved. A “legitimate” pederastic relationship was possible between puberty and first growth of the beard; those who continued exclusive homoerotic practices after this interval were an unaccepted minority. In other words, this type of homoerotic sexuality remained acceptable as long as it followed various social ground rules, especially the teaching of the young *eromenos* by the older man. This is why pederasty was subjected to so many rules. Michel Foucault (1985, 196-97) defines the roles of the *eraste* and the *eromenos* as follows:

The first was in a position of initiative – he was the suitor – and this gave him rights and obligations; he was expected to show his ardour, and to restrain it; he had gifts to make, services to render; he had functions to exercise with regard to the *eromenos*; and all this entitled him to expect a just reward. The other partner, the one who was loved and courted, had to be careful not to yield too easily; he also had to keep from accepting too many tokens of love, and from granting his favours heedlessly and out of self-interest, without testing the worth of his partner; he must also show gratitude for what the lover had done for him. Now, this courtship practice alone shows very well that the sexual relation between man and boy did not “go without saying”: it had to be accompanied by conventions, rules of conduct, ways of going about it, by a whole game of delays and obstacles designed to put off the moment of closure, and to integrate it into a series of subsidiary activities and relations. In other words, while this type of relation was fully accepted, it was not a matter of “indifference.”

In theory, the passive partner was not allowed to show any sign of pleasure in the sex act and could not initiate a relationship with an eraste; he had to let himself be courted and coveted. The relationship between lover and beloved thus became one of rejection, evasion, and flight (Foucault 1985, 224).

Again, these conclusions must be viewed with caution since a number of experts, including Maurice Sartre (1998, 18) and John Boswell (1994, ch. 3), maintain that it is wrong to see the pederastic relationship in ancient Greece as limited to a rite of passage stripped of pleasure and desire. On the contrary, the dimension of pleasure was omnipresent in Greek life: men bonded in friendship with other men also visited female prostitutes and did not hesitate to have concubines. Boswell also rejects the idea that homoerotic relationships were mainly initiatory, short-term, and in a hierarchy between an older, active lover and a beloved who was always younger and passive. Referring to ancient Rome, he observes that many pairs of same-sex lovers had relationships that were for the most part permanent and exclusive. In his view, the sources as a whole suggest that homoerotic relationships “in the rest of ancient Europe were certainly far more varied and flexible than this, probably not very different from their heterosexual counterparts” (Boswell 1994, 71).

Yet an examination of Athenian comedy shows that such relationships between two adults of the same sex were almost always portrayed in a negative, pejorative fashion, particularly the (obligatory) passivity of one of the two participants. In comparison, pederasty – as well as love between two young men – was much less frequently portrayed in Athenian comedy and was rarely a source of mockery (see Henderson 1991, 208-9). The implication conveyed by Greek comedy is thus that Greek homoeroticism was regulated by moral rules in which the sexual role was dictated by the participants' social status, with passivity and lack of virility constituting laughable behaviours in a society whose culture was phallic, masculine, and dominating.

To these rules of good conduct were added that of temperance, in which “the primary dividing line laid down by moral judgment in the area of sexual behavior was not prescribed by the nature of the act, with its possible variations, but by the activity and its quantitative gradations” (Foucault 1985, 45). Athenians saw excess of any sort as a sign of weakness and lack of self-control. The matter of whether the sexual object was a woman, a boy, or a slave was not particularly problematic. On the other hand, a too-pronounced interest in sexual activity was a source of social disapproval. Symonds (1983) observes that the Greeks distinguished two forms of love: heroic (spiritual) and vulgar (carnal). For instance, the Dorians easily practised carnal love in wartime, but once war was over, such frolics were transformed into a form of vice: lust. This dichotomy must be viewed with prudence, however, John A. Symonds continues, since the Ancients largely tolerated carnal love of boys, with spiritual love being an ideal that was difficult to attain (see Éribon 2004, 162-65). It seems, in fact, quite surprising that homoerotic love would have been totally stripped of homoerotic desire.

Foucault (1985, 43-44) summarizes the management of customs in ancient Greece:

What seems in fact to have formed the object of moral reflection for the Greeks in matters of sexual conduct was not exactly the act itself (considered in its different modalities), or desire (viewed from the standpoint of its origin or its aim), or even pleasure (evaluated according to the different objects or practices that can cause it); it was more the dynamics

that joined all three in a circular fashion (the desire that leads to the act, the act that is linked to pleasure, and the pleasure that occasions desire). The ethical question that was raised was not: Which desire? Which acts? Which pleasures? But rather: with what force is one transported “by the pleasures and desires?” ... What differentiates men from one another, for medicine and moral philosophy alike, is not so much the type of objects toward which they are oriented, nor the mode of sexual practice they prefer; above all, it is the intensity of that practice. The division is between lesser and greater: moderation or excess.

Pre-Christian Rome: Virile and Abundant Sexuality

As they were in ancient Greece, homoerotic lifestyles were widespread and tolerated in pre-Christian Rome. “Greek love” could just as legitimately be called “Roman love.” According to Paul Veyne (1981, 77, our translation), it is a mistake to believe that homoerotic lifestyles in Rome were of Greek origin since, “like several Mediterranean societies today, Rome never compared love for women to love for boys: it compared being active to being passive. Being active was to be masculine, whatever the sex of the ‘passive’ partner.” Rome did follow the example of Greece, however, with regard to the three main criteria for sexual morality: sexual freedom and exclusive matrimony, being active or passive, and the social status of the participants.

Was Roman sexual morality as rigid, strongly regulated, and statutory? Quignard (1994, 18-19, our translation) observes, “In Rome a man was said to be decent when he had not been sodomized (as long as he was active).” More than in Athens, masculine virility was the basis for sexuality in Rome. Although there was tolerance of the love of boys, there was strong repudiation of *mollitia*, effeminate lifestyles among freedmen. Roman puritanism thus did not concern sexuality in itself, but virility, since sexual relations still symbolized the power relationship between dominant and dominated. As Veyne (1998, 17, our translation) emphasizes, “Taking virile pleasure or servilely giving pleasure: this was the only distinction that was important in Rome, regardless of the sex of the partner.”⁴ On the other hand, on the legal front, the “guilty party” was never punished, as homoerotic practices were not a crime under Roman imperial law.

In spite of these similarities with ancient Greece, social regulation of sexuality and homoerotic practices differed somewhat among the Romans.

For the Greeks, the rule was temperance – that is, the capacity to attain self-control regarding one’s desires – whereas for the Romans, sexuality had to be active and abundant; there was never too much. The Greeks saw the appearance of the beard as marking the end of passivity, but no Romans, whatever their age, were permitted to be passive. Because of this, some authors state that the pederastic tradition widespread in Greece was not philosophically accepted in Rome, as Roman morals did not accept passivity among freeborn young men (Lever 1985; Quignard 1994; Sergent 1986).⁵ Veyne (1978, 51) invalidates this hypothesis, however, as he has found that pederastic relations were as common in Rome as in Athens.

In light of the above, it is unjust to claim that the Ancients were indifferent to homoerotic love. A “homosexual” nature was not seen as intrinsically bad, but the circumstances under which homoerotic love was experienced made it acceptable or not in the eyes of society. The Ancients were concerned less with the nature of sexual behaviours than with having such behaviours conform to the social status of those who practised them. They did not recognize two opposed desiring subjectivities. For them, desiring a man and a woman simultaneously or successively did not pose any moral problems; these were simply two different ways of obtaining pleasure. It was a sense of proportionality, framed by the partners’ social status and sexual role, that came into play (Leroy-Forgeot 1997, 10). Certainly, sexuality in general – and homoerotic love in particular – was broadly supervised and regulated, but this control was exercised in a different fashion than it is today (Foucault 1985, 45). Under Christian Rome, control of sexuality and homoerotic lifestyles simply continued, although differently.

Very likely, management of homoerotic lifestyles among the Ancients was a matter mainly of regulating sexuality within certain limits, not a matter of sanctioning it or avenging an affront to the collective consciousness, since homoerotic sexuality was, in short, banal. The Ancients did not judge homosexuality in itself. It was considered no more or less a “normal” manifestation of sexual and loving desire than love of women, and it was totally acceptable socially. What made it criminal was violence perpetrated on the partner and a lack of temperance. It was not an offence against the gods or the natural order that was repressed, but violence against the citizen, as social control served first and foremost to maintain and regulate the established social hierarchy.

The Middle Ages: From Tolerance to Repression

The ancient form of sexuality described above ended in the first and second centuries CE, when it was replaced by a reproductive sexuality that mandated sharing and reciprocity of pleasure within the couple. Sexual morality was transformed into an affair of virtue that applied to everyone, independent of social status. The rule of proportionality was superseded by the rule of reciprocity. “From a morality of statutory acts to a morality of interiorized virtues: this was the great evolution between Caesar and Marcus Aurelius,” observes Veyne (1978, 56, our translation). Whereas morality in ancient Rome suppressed passivity among citizens and forced it among slaves, starting with Marcus Aurelius morality universalized respect for the virtue of modesty. Thus sexual repression began to be increased during the century of Antonine law (96-192 CE), mainly with regard to abortion, masculine sexuality, and adultery (see Gauvard 1991, 824; Quignard 1994, 18; Veyne 1978, 56).

From Early Christianity to the Thirteenth Century: Mitigated Repression⁶

In 342 CE, capital punishment was introduced as a penalty for “passive homoerotic behaviours.” This statute was amended twice: first, by Theodosius in 390, and a second time in 438 to include active homoerotic behaviours. However, no trace of people being found guilty has been discovered. Also, surprisingly, male prostitution continued to be tolerated and was taxed by Christian emperors during this period and up to when Justinian began to punish all homoerotic acts with castration and burning at the stake under divine law in 533. The increased repression of homoerotic lifestyles coincided with the rise of stoicism – that is, a desire to channel sexuality, confine it to its reproductive function, and anchor it to the institution of marriage – and with a terrible epidemic of bubonic plague that hit the empire in 542. Because of this catastrophe, Rome needed five children per woman to maintain its population, so all non-reproductive behaviours, not just homoerotic behaviours, came to be poorly viewed by the political powers. Paradoxically, during the same period, suicide – certainly not a reproductive behaviour! – was held in some esteem.

According to some researchers, the Scriptures simply did not have the influence with which they are sometimes credited, notably because the Bible was not at the time a single, standardized book with extended

moral authority. Boswell (1980, 159, 92) goes so far as to state that the influence of the New Testament was nonexistent during this historical period, as the Roman Church did not officially establish the canon of the Bible until the Council of Trent in 1546. At least, he notes, it is wrong to believe that the Bible alone dictated the policy of states with regard to repression of homoerotic lifestyles. He gives the example of prostitution, which, despite being strongly condemned by the New Testament, was accepted as legal by states in the early Christian era, and remarks, “the Bible was not the only or even the principal source of early Christian ethics, and the biblical passages purportedly relating to homosexuality had little to do with early Christian misgivings on the subject” (Boswell 1980, 92). With regard to the role played by the Old Testament – mainly the story of Sodom – in the condemnation of homoerotic behaviours, it appears that this interpretation was made later than the time of early Christianity. Leviticus, which Boswell regards as the only text that explicitly forbids homoerotic relations, did not have a marked influence on the morality of the time. Boswell (1980, ch. 7) feels that Christianity should not be considered the source of repression of homoerotic lifestyles since, up to the thirteenth century, the few statutes that applied to these types of acts emanated from the civil authorities, which legislated without the church’s advice or consent. Although these statutes were justified and written in terms of Christian morality, they remained purely civil. According to Boswell’s research, there is no text that leads to the conclusion that Christian leaders supported, in any way, the promulgation of the first imperial statute repressing all forms of homoerotic behaviours in 533. Homoerotic lifestyles, although not ignored by the church, remained a minor sin. The influence of the Old Testament on the first laws written by the Christian emperors with regard to homoerotic behaviours was thus secondary (Demers 1984, 779).

On the other hand, the jurist and philosopher Flora Leroy-Forgeot (1997, 21-22) claims that Leviticus was the main theoretical basis for justifying repression of homoerotic behaviours as a crime against human dignity. Observing that the notion of “crime against nature” flows from a Judeo-Platonic interpretation of the order of the world that defines such crimes as an insult to God and man, she underlines the influence of St. Augustine (354-430), who advocated procreative sexuality within the institution of marriage. The place of sexuality in marriage remained

problematic, however, since procreation, necessary to the survival of humankind, was inevitably accompanied by concupiscence. In addition, as the historian Michel Sot (1991, 193, our translation) rightly states with regard to the invention of Christian marriage in the medieval era, “It was not self-evident that marriage had to be monogamous, indissoluble, and based on the reciprocal consent of two individuals.” Leroy-Forgeot (1997, 31) maintains, nevertheless, that there is evidence that the Augustinian concept of sexuality – and of unnatural sexuality – strongly influenced the authors who followed.

As Leroy-Forgeot (1997) notes, Athenagorus characterized participants in homoerotic acts as enemies of Christianity in 177. She posits that Christianity had a greater influence on the repression of homoerotic lifestyles than Boswell claims, and she buttresses her argument with the fact that the first Roman statutes incriminating homoerotic lifestyles came after the recognition of Christianity as a religion by the empire in 313; subsequently, in 342, marriages between men were banned – although, admittedly, male homosexual prostitution was still accepted, and homoerotic lifestyles were proscribed at the same level as adultery. Furthermore, she explains, with the fall of the Roman Empire and the Germanic invasions, homoerotic behaviours became common and were no longer considered a crime. In other words, before Christian rules influenced Germanic legal culture, the idea that homoerotic behaviours were criminal and sinful was not accepted because “the notion of homosexuality, as defined in a negative way by Christianity, was identified as originating outside of medieval Germanic law” (Leroy-Forgeot 1997, 29, our translation). From this, Leroy-Forgeot (1997, 29) concludes that Christianity greatly influenced the Roman legal tradition with regard to repression of “homosexuality.” In light of the above, it is difficult to establish with certainty the point to which Christianity dictated the sexual morality of the High Middle Ages. The only thing that is certain, summarizes Le Goff (1998, 36), is that Christianity built the connection between flesh and sin.

Repression of Homoerotic Lifestyles: Urban versus Rural

In the tenth century, canon law – the body of rules of the Roman Catholic Church – began to mention the religious condemnation of homoerotic behaviours. A number of factors, including the transition from an urban to a rural way of life, the Germanic invasions, economic changes, religious

puritanism, natural disasters, and the low birth rate of the upper classes, had a marked effect on the evolution of sexual morality. The hypothesis that there was a relationship between the mode of social organization (urban or rural) and the preponderance of moral issues and degree of sexual tolerance is interesting. According to this hypothesis, the transition from an “urban” to a “rural” society in the High Middle Ages had a decisive influence on the attitude toward behaviours between individuals of the same sex, an attitude that was increasingly characterized by an aversion to all forms of nonprocreative sexuality. Following this reasoning, the rural way of life favoured the creation of taboos and social rules to discourage forms of sexuality likely to upset the community’s social organization. In contrast, in urban milieus, sexual morality stressed individual purity and conjugal fidelity more than regulation of the family and procreation. The anonymity found in cities would also have somewhat marginalized homoerotic lifestyles, making them more innocuous, less visible, and thus less disturbing to the rest of society. Homoerotic lifestyles, perceived as in-offensive to the community, would therefore have been more broadly tolerated.

Boswell (1980, 270) nuances this hypothesis by referring to twelfth- and thirteenth-century history. In fact, there is no proof that European populations in the twelfth century, a period considered to have been very tolerant of homoerotic behaviours, were more urban than were those in the thirteenth and fourteenth centuries, which were characterized by strong sexual repression. Although the transition from an urban to a more rural society may have influenced sexual morality, the transition from the social tolerance of the Romans to the generalized hostility of the Low Middle Ages is also based on other aspects of social organization, notably the rise of absolute power, both civil and ecclesiastical, which sought to standardize institutions and attitudes throughout the West. In response to this argument, Leroy-Forgeot (1997, 25) points out that the prohibition on homoerotic behaviours by the Scriptures is explained by an issue that went beyond simple respect for the norms of the Old Testament. The application of this ban had a political origin: the emancipation of the church, for which repression of sodomy encouraged the emergence of Christianity by enabling it to mark its break from pagan customs. In order to advance and consolidate its strength and power, the church needed an Other, foreign to the group, to fear: the “pagan homosexual” was the perfect figure!

This connection between sexual repression and political repression seems to be a constant throughout history. For a long time, “anti-homosexual laws [have] constitute[d] a choice weapon in the hands of skilful arbiters of power who intend, on moral pretexts, to dispose of burdensome adversaries or seize on coveted riches” (De Becker 1967, 99). Historical examples are numerous. Among others, Procopius of Caesarea – one of the most accomplished historians of his times – stated that Justinian and Empress Theodora used such laws as a way to discredit and punish their enemies and appropriate their riches.⁷ Tendentious correlations were also created to influence the Christian conception of homoerotic love: the association between paganism and homoerotic behaviours, in which these acts contravened Christian asceticism by being oriented almost exclusively toward pleasure, and the close relationship between homoerotic behaviours and mistreatment of children. This latter conception, which appeared in the fourth century, was based on the fact that many unwanted children were abandoned and sold into slavery, a situation in which they often served as sexual objects. The connection between sexual exploitation of minors and homoerotic lifestyles – that is, a sexuality oriented toward pleasure – quickly spread. Christian penitentials were written about the need to protect the innocence of young people (see Poirier 1996, 32). And thus began a long association in the collective imagination between homosexuality and pedophilia.

Repression That Was Not Specifically Antihomosexual

Although it is difficult to determine exactly the factors that contributed to creating hostility toward homoerotic behaviours during the High Middle Ages, one fact remains: the social repression that condemned homoerotic practices was not directed specifically against this type of “abnormal” sexuality. On the contrary, the church’s concern with homoerotic lifestyles paled in comparison to the shame that it heaped upon incest in the Low Middle Ages. Christian asceticism targeted all sexual practices that were not for procreative purposes (see Le Goff 1991, 180). The “Alexandrian rule,” which was used by the early Christian theologians to repress homoerotic behaviours, also sanctioned all sexual relations not oriented toward procreation. As Bernd-Ulrich Hergemöller notes (2006, 57), “Humans were judged, following Classical views, according to their behaviour in relation to ‘nature.’” The concept of “natural” (reduced to the notion of procreative

sexuality) was then used to discredit homoerotic relations, as well as masturbation, fornication, bestiality, and incest.⁸ Philippe Ariès (1982, 52-53) notes that society's aversion to effeminate men came from disdain not for a particular sexual practice – sodomy, for example – but for individuals who focused on the pleasures of the flesh and eroticism and who disregarded the sexual strictures that constituted one of the distinctive traits of early Christianity.

It was through the institution of marriage, set up mainly to contain sexuality within well-defined norms, that ecclesiastical power invaded the private life of its followers. Procreation became the single goal of sexuality, and abstinence became the ideal to attain. Marriage was accepted only as a makeshift solution – “it is better to marry than to burn” – said St. Paul, appealing to the faithful to remain virgins and chaste (see Le Goff 1991, 180). In fact, sexual pleasure was subjected to strong repression, even when it occurred in the context of a reproductive sexual activity; some penitentials associated too strong a love for one's own wife with adultery. In short, in the view of the professor of sixteenth-century French literature Guy Poirier (1996, 32) – referring to Jean Gerson, an author of famous penitentials (fifteenth and sixteenth centuries) – all of the church's commandments were intended mainly to repress behaviours that impeded procreation by pursuing sensual pleasures only.

In the High Middle Ages, the church thus was not really concerned with “homosexuality” – at least, not to the exclusion of other sins and forms of adultery.⁹ For example, Reginon de Prüm's penitential required a three-year penitence for anal penetration, whether it was performed by two men or by a married couple. This infraction was no more severely punished than was fornication. Boswell (1980, 180) reported, on a lighter note, that Pope Gregory III's penitential set out a penitence of at least one year for homosexual relations and a penitence of three years for a priest found guilty of going hunting! In short, homoerotic behaviours were treated as one minor offence among others – that is, a form of fornication the goal of which was not procreation. They were part of a group of sexual behaviours designated as “crimes against nature,” which were defined as “any sexual release of semen with a nun, a relative, the wife of a relative, a married woman, any woman in a way which precluded conception, an animal, or by oneself, whether through manipulation or any other means” (Boswell 1980, 203). Michael Goodich (1976a, 432) notes that, among the

offences listed under the term “sodomy,” the church – at least in the twelfth century – was interested less in homoerotic behaviours than in adultery, incest, and cohabitation. Although sodomy was seen as one of the most reprehensible sexual behaviours in the Middle Ages, this crime was not applied exclusively to a sin committed by two men but also included sexual acts perpetrated between a man and a woman.

In short, although the church did not overlook homoerotic behaviours, it did not treat them differently at first; rather, they fell into a group of sexual behaviours that were all equally reprehensible. Between the seventh and the early thirteenth centuries, there was even a period of great tolerance with regard to homoerotic lifestyles, particularly on the legal front, with national legislatures completely closing their eyes to the issue. Among the factors that encouraged Christian indifference to this type of sexual behaviour were the absence of a central power acting as a source of standardization of customs and the revival of certain Hellenistic values. The general attitude toward homoerotic behaviours must be seen as divided: whereas one group loudly advocated the reinforcement of the Chrysostome doctrine, characterized by hostility to sodomists, the official church showed a lack of concern, refusing to impose particular sanctions. Boswell (1980, 228) goes so far as to claim that the twelfth-century theologians who addressed questions involving sexuality had, consciously or not, completely decriminalized homosexual relations. This period also saw the rebirth of a homosexual subculture, and the tenth, eleventh, and even twelfth centuries may be viewed as centuries of tolerance and liberalism, in which sexual pleasure was recognized outside of procreative sexual relations within marriage. In addition, in high society, legitimate wives sometimes lived alongside concubines – in many cases, a large number (Sot 1991, 197).

The Low Middle Ages: The Spread of Repression

The climate of tolerance and liberalism at the end of the High Middle Ages quickly gave way to an attitude of generalized hostility toward minorities. The rise of certain absolute powers, notably ecclesiastical power, seems to have been one of the major factors in this change of attitude (Goodich 1976b, 295). A fascination with order and uniformity was one of the characteristics of the High Middle Ages (see Gauvard 1991), as exemplified by the Inquisition and the Crusades. Homoerotic lifestyles were repressed through criminalization throughout Europe from the thirteenth century

to the late eighteenth century (Hergemöller 2006, 63). Far from restraining its discourses on sexuality, society strove to construct a “science of sexuality.” Of course, such discourses sought to censure the morals of the time. Nevertheless, the absence of silence with regard to homoerotic sexuality demonstrated society’s discomfort with this deviant form of sexuality. The church remained torn with regard to homoerotic love between its need to know – encouraging the sinner’s confession – and the risk of what could result – suggesting new sins to the penitent. The use of Latin in French texts is an example of the church’s attempt to control the dissemination of information and to avoid piquing sinners’ interest (Poirier 1996, 43).

In the High Middle Ages, repression was still not directed exclusively against homosexuals. On the contrary, all minorities were targeted by rules for normalization in the West, and all forms of deviancy and nonconformity were subjected to increasing intolerance. The Council (Latran III) sanctioned moneylenders, heretics, Jews, and mercenaries as well as individuals guilty of homoerotic acts. Repression extended to all behaviours that went against Christian asceticism, which was characterized by rejection of pleasures of the flesh. The work of theologians thus consisted of legitimizing links among heresy, sins against nature, and foreigners (Muslims or Jews) (Chiffolleau 1990, 300; Goodich 1976b, 295).

Crimes against Nature and St. Thomas Aquinas

Christian influence was clearly present in the High Middle Ages: religious prescriptions, based mainly on theological notions of nature and crimes against nature, were the most powerful agents of repression. All of the criminal treaties that condemned acts against nature up to the late eighteenth century were based on Genesis. Strongly influenced by the Christian church, medieval society elaborated a litany of municipal, feudal, and royal laws against sodomists. St. Thomas Aquinas designated as crimes against nature all sexual practices that deviated from the function of procreation. This conception of sexual nature, far from being solely theological, had Aristotelian naturalist foundations. St. Thomas Aquinas felt that homoerotic behaviours had to be repressed along with masturbation, fellatio, and unconventional heterosexual relations (that is, in positions other than the missionary position). Following Thomist logic, homosexuality could not be considered the most serious crime in the hierarchy of sexual offences. In effect, masturbation and foreplay (preliminaries

without penetration), which departed from both the reproductive goal and procreative symbolism, were classified above homoerotic behaviours because the latter, although they did not allow for procreation, at least symbolized the reproductive sexual exchange. On the other hand, unlike other forms of acts against nature, which were practised by a large share of the population, homoerotic behaviours could more easily be associated with foreigners, the perfect scapegoats for those in power.

The Sodomist: A Perfect Scapegoat

Historical evidence confirms that repression of homoerotic behaviours has been a preferred tool among political powers throughout history. On the one hand, those who were given to homoerotic behaviours served as scapegoats for scourges such as the plague, famine, floods, and earthquakes. “Famines, wars, plagues, mortalities, floods of water, treasons and losses of kingdoms, and much other mischief” were the blights that could be visited upon infidels, preached Jean Gerson in his penitentials (quoted in Poirier 1996, 33, our translation).¹⁰ As in the times of Emperor Justinian, the association between sin and natural catastrophe was prominent in the public imagination; for example, the Black Plague of 1348-50 was perceived by a number of preachers as God’s punishment for laxity of the flesh. Sodomy was thus exposed as a double threat to the repopulation of Europe (see Spencer 1995, 128; Tamagne 2001, 17).

Homoerotic lifestyles also became a pretext for repression of certain social groups. Easily likened to the crime of *lèse-majesté*, homoerotic lifestyles were highly stigmatized and allowed the enemy to be discredited, sentenced, and punished and his property to be seized with the relative support of the community. The medievalist historian Claude Gauvard (1991, 597, our translation) states that this was “a propaganda theme using well-known stereotypes against heretics.” Like heretics, sodomists and Muslims were always described as coming from the East. The example of Muslims is revealing. With the failure of the Crusades, Muslims were accused of practising unbridled sodomy and presented as a threat to Europe. They were suspected of raping children, adolescents, old people, and even bishops (Chiffolleau 1990, 298-99).

Jacques Chiffolleau (1990, 302, our translation) observes, “The conjuncture of *nefandum crimen*, heresy, and *crimen majestatis* was accentuated during the thirteenth century. The word ‘*baugre*’ then began to designate,

in the West, in addition to ‘Bulgarians’ (Bulgarians were all, it goes without saying, Asian heretics), Western Manicheans and sodomists. In the 1230s and 1240s this comparison became a constant, at least in northern France.” Repression of homosexuals was not, however, uniform throughout the kingdom. Whereas bestiality was a greater concern among judges in the north, sodomy was a primary concern in the south, as a result of the situation prevailing in Italy.¹¹ Claude Gauvard (1991, 597) notes that there were nevertheless few cases of homosexuality and bestiality in letters of remission; she estimates the proportion at less than 0.5 percent of all crimes. It may seem bizarre to the contemporary reader that the criminal law of the time freely associated sodomy and bestiality, which as crimes against nature were in fact considered equal with regard to sentence management. This should be remembered when some cases of bestiality are raised.

Because it could be used to discredit the Other, the foreigner, sodomy thus became an extra pretext for repressing infidels. The association between sodomists and heretics, which apparently dates back to 1114, reinforced the image of “homosexuals” as enemies of Christianity. This is why, as Chiffolleau (1990, 299, our translation) rightly observes, the category of *nefandum crimen* – unnameable crimes – inexorably became “the border between the fundamental theological and political space that was Christianity and the particular consistency of power relations that were deployed there.” Poirier (1996, 103-4) mentions in this regard that Renaissance explorers almost always described non-Christian peoples as brutal people who practised sodomy and child abduction. The “sodomy-Other-foreigner-heretic” association made its way into the collective imagination: throughout this historical period, sodomy was associated with witchcraft, heresy, sacrilege, and sometimes incest. This is why Muslims and heretics, the two greatest threats to security presented to European public opinion, were characterized as men given to homoerotic lifestyles. Thus, it is obvious that alleged sodomists were effective scapegoats and tools for denigration of the frightening Other. Historians have uncovered a number of eloquent examples, including the Cathars and, especially, the Freemasons. In the early fourteenth century, Freemasonry was the wealthiest and most powerful religious order in Europe and the envy of various secular powers and ecclesiastical circles. In the late thirteenth century (1285), when Philip the Fair acceded to the throne of France – a country desperate for money and

territory – he ordered the arrest of the order’s members and the seizure of its assets. To justify his action – which was economic and political in nature, it goes without saying – he first launched a vast campaign of defamation in which the Freemasons were associated with heresy, sodomy, and Muslims; he was well aware that the accusation of sodomy – as a moral pretext – constituted a formidable weapon for casting his enemies in an odious light.

The combination of “heretic, Muslim, and sodomist” was to play an important role in a number of other defamatory campaigns against enemies of those in power. The fall of Edward II of England in the early fourteenth century (1312) shows how effectively sodomy could be used to discredit an enemy and, at the same time, legitimize his condemnation (Zeikowitz 2003, 113-18). King Henry III of France suffered a similar fate during his reign in the late sixteenth century (1574-89), when the Polish accused him of indulging in “French morals.” This campaign of disparagement of the king’s sexual penchants also had effects within France: his effeminacy and taste for sodomy were presented as symptoms of deterioration of the kingdom’s social and economic condition.¹² The accusation of sodomy was thus used successfully throughout history by different powers to denigrate foreigners and enemies (De Becker 1967; Hergemöller 2006; Teasley 1987). Put forth first as an Arabian taste (eleventh century), then as a French vice (thirteenth century), and then as an Italian penchant (fourteenth and fifteenth centuries), sodomy allowed foreign cultures to be defamed. “In Asia and America,” observes the historian of homosexualities Florence Tamagne (2001, 24, our translation), “the accusation of sodomy [was] a means of categorizing the indigene as inferior,” foreign, or enemy. The example of the religious struggles between the Protestants and Catholics was relatively comical, as each party accused the other of tolerating, or even practising, sodomy. The repression of homoerotic lifestyles fits perfectly with what Foucault (1979) describes as political operators, in which repression has a privileged role in power dynamics.

It must be kept in mind, however, that this type of offence was viewed as minor compared with crimes such as Satanism, witchcraft, and heresy; witchcraft and theft were at the top of the hierarchy, far above homicide and rape (Bullough 1974a, 193; Gauvard 1991, ch. 18; Lagrange 1995, 64). In fact, there were few convictions for sodomy in France during this period

(Gauvard 1991, 597-98), and no sodomist was burned at the stake during the reign of Louis IX (1226-70)¹³ or during the reigns of Philip IV (1285-1314) and Philip V (1316-22), except for Freemasons. These penal statistics must be viewed with caution, however, since it was customary to burn all documents relating to the arrest, trial, and judgment of the guilty party. Gauvard (1991, 792, our translation) also notes that the lists of crimes, even the most “outrageous,” varied from charter to charter and that the charters were valid only for a precise locality. “The application of penalties, far from clarifying legal policy,” she adds, “further increased the confusion. Disorder reigned over prevention. Although outrageous cases necessitated incarceration, since they threatened the security of society, the rule was not always strictly applied.” The judge’s discretionary power seems to have limited the formal imposition of penalties. One thing does seem certain: there was no “witch hunt” for sodomists.

The Renaissance: Philosophical Repression, Legal Tolerance¹⁴

During the Renaissance, a distinction began to be made between homoerotic acts (sodomy) and homosexual desire (virile love). The images of the bisexual and the libertine dominated the collective imagination until the seventeenth century. As a general rule, sodomists were seen as married bisexuals who were sexually attracted to both women and boys. Their masculinity – even virility – was not in question. The figure of the sodomist was gradually transformed into “an effeminate man who likes only young, virile men” (Hekma 1994, 182-83, our translation). This bisexuality, tolerated among the elite until the seventeenth century, was then “pointed out as a threat to the family unit, which was the new guarantor of social order, the only refuge of the love life” (Tamagne 2001, 54, our translation). Homoerotic behaviours – for these were still the behaviours in question – were subject to continued repression since they upset the hierarchy of sexes and genders and endangered the social order, which was based on male domination.

Thus, a generally repressive institutional discourse was built against homoerotic lifestyles, although it did not dwell on unmasking and punishing sodomists in particular. On the contrary, there was a certain form of renewal of “homosexual art and imagery.” As Poirier (1996, 18, our translation) notes, it is difficult to assess the real influence of social discourses

in the Renaissance era: “The idea of being able to summarize what was said in late-Renaissance French society about sodomy or unnatural acts is thus completely impossible.” Such conclusions apply, “rather, to what was probably described and imagined at the time by theologians, jurists, pamphleteers, memorialists, and poets.”

With regard to intervention by the justice system, the fifteenth, sixteenth, and seventeenth centuries were characterized by tolerance of homoerotic lifestyles. The repression was more symbolic than real; homoerotic lifestyles were repressed and proscribed in official discourse but downplayed in legal practice. “The reality fell far below the jurists’ discourse, which might be termed incendiary” (Godard 2001, 201, our translation). Jean-Claude Guillebaud (1999, 22) observes that historians have listed only thirty-eight cases of capital punishment for homoerotic acts carried out between 1317 and 1789, most of them involving young people.¹⁵ M. Guyot (1785, 337) lists only eight sentencings for sodomy in France between 1519 and 1783. Ludovico Hernandez (1920) reports ten more cases of sodomy, eight of which also involved a violent crime, and Alfred Soman (1984) lists 177 trials for sodomy and bestiality in the jail logs of the palace caretaker. As Michael D. Sibalis (2006a, 212) rightly points out, although these data are incomplete, they show that “harsh repression was the exception rather than the rule.” In comparison, Chiffolleau (1990, 311, our translation) notes evidence of 10,000 accusations of sodomy in Florence in the fifteenth century, resulting in 2,000 convictions (many involving large fines), with respect to which the “night officers, in the sentencing notes, always mixed familiar themes: offences against the Crown, crimes against nature, safety, and the health of the city.”

Therefore, in France sodomists were punished only when scandal became inevitable and the political order felt that it was under threat. Public and exemplary punishment was used only if these sexual acts were seen and recognized as such by the population. Poirier (1996, 58), referring to Pierre de L’Estoile, a seventeenth-century memorialist, observes that only the most serious cases, those that involved known personalities and foreigners or were perpetrated in conjunction with other, more serious crimes such as child abduction or murder, were brought to justice. Repression was directed only against those who did not belong to the community. Once again, history indicates that repression of homoerotic lifestyles

was associated mainly with foreigners and child abusers, those figures of the frightening Other. As the feared common enemy and pariah, the figure of the sodomist strengthened the sense of belonging to the community. The perfect scapegoat, he thus drew attention away from problematic social conditions (see Godard 2001, 201; Mead 1918, 602).

© UBC Press 2011
Originally published as
La Répression des homosexuels au Québec et en France: Du bûcher à la mairie
© Les éditions du Septentrion 2006

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20 19 18 17 16 15 14 13 12 11 5 4 3 2 1

Printed in Canada on FSC-certified ancient-forest-free paper
(100% post-consumer recycled) that is processed chlorine- and acid-free.

LIBRARY AND ARCHIVES CANADA CATALOGUING IN PUBLICATION

Corriveau, Patrice

Judging homosexuals : a history of gay persecution in Quebec and France /
Patrice Corriveau ; translated by Käthe Roth ; with a foreword by Barry Adam.

(Sexuality studies, ISSN 1706-9947)

Translation of: *La répression des homosexuels au Québec et en France.*

Includes bibliographical references and index.

ISBN 978-0-7748-1720-2

1. Homosexuality – Social aspects – Québec (Province) – History.
 2. Homosexuality – Social aspects – France – History. 3. Gays – Legal status, laws, etc. – Québec (Province) – History. 4. Gays – Legal status, laws, etc. – France – History.
- I. Roth, Käthe II. Title. III. Series: Sexuality studies series

HQ76.3.C3C6713 2011

306.76'609714

C2010-905135-1

Canada

UBC Press gratefully acknowledges the financial support for our publishing program of the Government of Canada (through the Canada Book Fund), the Canada Council for the Arts, and the British Columbia Arts Council.

This book has been published with the help of a grant from the Canadian Federation for the Humanities and Social Sciences, through the Aid to Scholarly Publications Programme, using funds provided by the Social Sciences and Humanities Research Council of Canada. The Canada Council for the Arts kindly provided a translation grant for this English-language edition.



Canada Council
for the Arts Conseil des Arts
du Canada

UBC Press
The University of British Columbia
2029 West Mall, Vancouver, BC V6T 1Z2
www.ubcpres.ca

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