

INTRODUCTION

Homosexuality became a live issue in German politics at the turn of the century with the campaign led by Magnus Hirschfeld and the Scientific Humanitarian Committee to repeal paragraph 175 of the German legal code. This campaign was generally supported by the German Social Democratic Party, who initiated a two-day debate on the subject in the Reichstag in 1905. The period saw a wealth of scientific literature attempting to explain this and other forms of abnormal sexual activity, as well as a quite flourishing culture to celebrate them. Broadly speaking, those who wrote in favour of changing the law argued that homosexuality was an innate biological or pathological condition which could not be legislated away: those who argued against a change said that it was a voluntarily acquired taste which should be discouraged.

The British and Irish Communist Organisation's view on the matter can be found in our policy statement, Women's Liberation in Britain and Ireland. This is that "*specific sexual activity in humans is not physiologically but culturally determined*". We agree with Freud's view in the Three Essays on the Theory of Sexuality that if it is innate "*we must ask in what respect it is innate, unless we are to accept the crude explanation that everyone is born with his sexual instinct attached to a particular sexual object.*" We cannot regard sexual abnormality as biological or pathological. Thinking, after all, can be described as a biological process, and an Englishman who decides to become a Buddhist might well be regarded in his hometown as a little bit 'crazy'. We would agree with Bernstein's view that the term 'unnatural' is absurd in the very much man-made world in which we were living.

Western society, however, has gone to great lengths to discourage indulgence in the wide variety of possible sexual tastes and to direct sexual activity to the socially useful function of reproduction of the species and provision – the family system – for the upbringing of children. Unlike the anti-sexist and Gay Liberation movements, we do not regard this social pressure towards heterosexual marriage as something culpable. Non-reproductive sexual behaviour is highly attractive because it doesn't entail the responsibilities that go with having children. In periods of a high infant mortality rate when *“the reproduction of the species went on, for the most part in conditions of great misery and danger”*, (B&ICO Policy Statement), it was very necessary both that fidelity in marriage, and therefore a strong feeling of heterosexual love, should be encouraged, and that abnormal sexual pleasure should be discouraged – that it should in fact be made ‘abnormal’, and deprecated as such.

It could not be expected that this process would be entirely successful and that the taste for sexual activities other than heterosexual intercourse would be eliminated: but it was successful to the extent that when the issue of homosexuality was forced on the attention of intellectuals, lawyers, doctors and politicians towards the end of the last century, it seemed a bizarre and incomprehensible phenomenon: a phenomenon that required very elaborate explanation. This intellectual confusion is evident in the articles reprinted here.

Bernstein, having argued that homosexuality was not ‘unnatural’, speculates that *“the probability is that at first the scarcity of possibilities for sufficient satisfaction of the sexual drive in the normal way drove people to abnormal acts of sexual pleasure”*. It was the Asiatics who first cultivated abnormal sexual pleasures and these were then followed by first the Greeks and then the Romans.

This implies that heterosexual behaviour is indeed the 'natural' condition of mankind and that people had to be first driven then educated into the ways of homosexual activity. Later he toys with the idea, that it "*must not be judged morally but pathologically*", which again implies that it needs a special explanation, i.e., that it goes against human nature: but he raises some quite reasonable doubts on the pathological explanation and finally takes refuge in that good old standby, "*social conditions*", which are interfering with something called "*hygiene*", thus driving people into abnormal behaviour. Having argued persuasively against the concept of naturalness in sexual behaviour, he complains that these social conditions are threatening "*natural sexual pleasure*". The implication is that under socialism, everyone would behave normally. In this, Bernstein seems to be approaching the notion of 'bourgeois decadence' which became dominant in the socialist movement in the '20s and '30s. The currently fashionable Wilhelm Reich also had the view that homosexuality was a product of unhygienic social conditions and argued that it would disappear in a society where the heterosexual orgasm was allowed to fulfil its near-mystical function of reconciling the individual with the cosmos.

"*Hygiene*" recurs in the conclusion to Herzen's essay. He takes the view that sexual taste is biologically determined - that it occurs in the womb, so that the child is born with an innate sense of sexual direction which it can't escape. That being the case, it is of course absurd to penalise particular sexual tastes. But, he says:

"I must expressly observe that I do not wish my explanations to represent homosexuality as an inevitable evil. Homosexual love is an innate drive and like any other drive it can be influenced and controlled by reasonable training of the body and

mind – of course, this would have to be exercised over several generations – but never by legal paragraphs. For homosexuals, neither prison, nor the mad-house, but hygiene in the widest sense of the word.”

It's very difficult to make any sense out of that at all. He seems to be suggesting that if only several generations of homosexuals (a contradiction in terms?) would voluntarily discipline themselves, the 'evil' would be genetically eradicated.

Both Bernstein and Herzen argue that society is being 'hypocritical' in having legislation against homosexual behaviour and then not enforcing it: in tolerating it as long as it is underground but suppressing it as soon as it is forced on people's attention. But if – as both Bernstein and Herzen suggest – abnormal sexual appetites are undesirable, then society's attitude in this is quite reasonable, granted that such appetites can't be eliminated. The law discourages them and drives them underground, and thus they do not generally appear to be viable sexual choices. But it remains possible for those whose appetites in this direction are so strong that they cannot be controlled or redirected to indulge them albeit in a clandestine and most 'unhygienic' fashion.

Nonetheless, Bernstein and Herzen's confusion is understandable. Like the many other theorists of the time, they were attempting, in the light of changing conditions of social reproduction, an objective description and assessment of a phenomenon to which society had previously responded in a defensive manner. The welter of confused and opposing ideas on the subject in modern psychiatry shows that sexual tastes are still far from being understood: which, indeed, is hardly surprising since science has not yet been able to explain even why some people like asparagus and other people

don't. All that politics and legislation can do in this matter is to decide what policy is best for the continuation, coherence and development of society, and, since reproduction of the species is now taking place under relatively easy circumstances, and over-population has become a problem, it is obvious that there is no longer the same need to suppress abnormal sexual behaviour by legislation. The misery that such legislation causes can no longer be justified by an appeal to social necessity and the anti-homosexual laws still on the statute book - especially in Scotland, Northern Ireland and the Republic of Ireland, where all homosexual behaviour is still illegal (in 1977) - should be repealed. But that is all that politics and legislation can be expected to do: we do not follow the "anti-sexist" movement in their demand that the law should oppose the social bias towards heterosexuality. Heterosexuality remains socially necessary and should be encouraged: homosexuality is fairly harmless and can be tolerated.

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SOME BACKGROUND NOTES

The Oscar Wilde Trial

The trials of Oscar Wilde began when Wilde sued the Marquis of Queensberry, Lord Alfred Douglas's father, for criminal libel. Queensberry, who felt that Wilde was corrupting his son, had left a card at Wilde's club which accused him of "*posing as a Somdomite*" (sic). According to William Gaunt's The Aesthetic Adventure, Wilde entered the case very lightheartedly, thinking that the trial was a good dramatic situation in which to make witty statements and outrage bourgeois morality. In this, he was modelling himself on the Whistler/Ruskin trial of only a few years before. Unfortunately, whereas Whistler was suing Ruskin because of an adverse criticism of his art, which wasn't regarded as a very serious subject, the subject of Wilde's trial - sodomy - was regarded as very serious indeed; and Queensberry's counsel was the highly capable Edward Carson, later the leader of the Irish Unionists, and not a man to be distracted by Wilde's attempts to turn the courtroom into a theatre. Since Carson and Queensberry won, the 'libel' that Wilde was a Sodomite stood and he was therefore open to prosecution on this charge (though Carson advised against it).

The first trial produced a hung jury, despite, or rather because of, a very moving speech made by Wilde in defence of "*the love that dare not speak its name*". That in itself shows that there was quite a strong feeling in the society that homosexual love should not be regarded as criminal. But this was not the attitude of the judge at the second trial, Mr Justice Willis, who commented in his opening remarks: "*I would rather try the most shocking*

murder case that it has ever fallen to my lot to try than be engaged in a case of this description". Although the evidence of Wilde's relations with male prostitutes was overwhelming, it could not be proved that he had engaged in buggery, which carried a maximum sentence of life imprisonment. Sentencing him to two years, Willis said that he regretted this was the maximum sentence he could give him. In fact, Wilde was sentenced under the "Labouchere amendment", which had been added to an Act of 1885 dealing with child prostitution, and which made all forms of "gross indecency" between males - consenting or otherwise - illegal. It was an absurd law which could be interpreted to forbid two men holding hands in a private room. Previous to 1885, only buggery had been outlawed, though Wilde could still have been convicted for "attempted" buggery.

Homosexuality in British and European Law

The death penalty was introduced as a maximum penalty for buggery in British civil law when responsibility for this kind of "sin" was transferred from the ecclesiastical to the civil courts under Henry VIII and Elizabeth I. Executions continued to take place as late as the eighteenth century. The maximum penalty was reduced to life imprisonment in 1861, but in 1885, as an amendment to an act against child prostitution, "gross indecency"* could be taken to refer to any form of intimate physical contact between males and became an offence even if committed in private. The offence carried a maximum penalty of two years imprisonment. In 1957, the Wolfenden Commission reported in favour of relaxing the law to allow homosexual activity (including buggery) between consenting adults over the age of 21 (the age of

* A new offence

consent for heterosexual activity is 16). This was enacted in 1967, though the old law still applies in Scotland, Northern Ireland and the Republic of Ireland.

The Napoleonic Code introduced in France after the Revolution excluded private sexual behaviour between consenting adults from its terms of reference, regarding that as the responsibility of the Church's discipline over its own members. The Code was adopted by most of the states in Germany and Italy and by the Netherlands, Belgium and Spain. It became general throughout Italy in the 1880s. In the Netherlands, the age of consent was raised from 16 to 21 in 1911, though homosexual acts between partners both of who were under 21 were still allowed. The legal code introduced when Germany was unified [in 1871] outlawed all male homosexual activity.

Some Medical Attitudes

The earliest theorists on homosexuality tended towards views similar to those of Herzen - that homosexuality was an innate biological condition. Thus the homosexual writers Ulrichs and Hirschfeld talked about a "*feminine brain in a male body*", and tried to find the "*secondary characteristics*" Herzen talks about. These ranged from inability to whistle, through feminine disposition of the pubic hair to left-handedness! There was a great fondness for the idea of the inadequate sexual differentiation of the originally bisexual embryo: and a number of writers took a Darwinist approach and talked about hereditary degeneration of the nervous system. Freud, in his Three Essays on the Theory of Sexuality published in 1905 reviewed the existing theories and concluded:

“It will be seen that we are not in a position to base a satisfactory explanation of the origin of inversion [homosexuality] upon the material before us”.

He himself, of course, favoured an explanation based on a conditioning process but refused to treat homosexuality as such - unaccompanied by neurotic symptoms - as an illness. As late as Civilisation and its Discontents (1929/30) he still concedes the possibility that it can be biologically innate.

This has not prevented further speculation by post-Freudian analysts and behaviourists on what is, after all, a very lucrative source of anxiety. Later theorists include the currently popular “close binding intimate” mother and remote father (Bieber); subconscious desire to create a problematic life; desire for a too easy sexual life (Albert Ellis) and simple personal inadequacy (Eysenck). Success has been claimed for a number of cures; straightforward analysis (Bieber: at about £2000 over a period of two to three years with a one-in-three change of success); electric shock treatment (MacCulloch and Feldman): the method consists of applying electric shocks to the patient while he is examining homosexually stimulating pornography: again, a one-in-three success rate is claimed; pre-recorded tape loops of anti-homosexual jokes and vomiting sounds which the subject is to play when he feels sexually aroused; tapes similarly used of psycho-analytic sessions in which the patient has himself expressed disgust at his own condition (Hatterer).

However, the changing attitude of psychiatrists can be seen in the fact that the American Psychiatric Association has removed homosexuality from its list of classifiable mental illnesses, and the Royal College of Psychiatrists in Britain has called for the reduction in the age of consent for homosexual activity to sixteen.

Biographical Note on Eduard Bernstein

Eduard Bernstein was born in Berlin in 1850, and played a prominent part in the socialist movement in Germany from the mid-1870s. In 1888, as a socialist newspaper editor, he was forced into exile under the anti-socialist laws. He moved to London, where he had close contact with Engels, who named him to be his literary executor jointly with Kautsky. Soon after his return to Germany in the 1890s, he proposed that Marxism be revised in certain respects, but his revisionist suggestions were defeated. It is often assumed that, as a revisionist, Bernstein was on the extreme right wing of the socialist movement, however, he was one of the leading spirits in bringing about the split in German Social Democracy during the [First World] war and in forming the Independent Social Democracy during the war and in forming the Independent Social Democratic Party in 1916, which also included the Spartacus group.