

# From Sodomy to Homosexuality: Rural Sex and the Inclusion of Lesbians in Criminal Discourse

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**ABSTRACT** *This article summarizes the results of an extensive study of more than 2,000 court cases concerning “unnatural fornication” in Sweden between 1880 and 1950. Presenting statistics and three case studies, the author argues that urbanization brought with it a sexual paradigm shift. Before the 1930s, sexual discourse was determined by an archaic rural sodomy paradigm, which loosely defined the sins of Sodom as penetrative sex without the purpose of reproduction. Rapid modernization, however, disrupted the old ways of defining licit and illicit sexual expression. The new, urban homosexuality paradigm draws a sharp line between heterosexuality and homosexuality and interprets any sign of affection between persons of the same sex as a symptom of homosexuality, an inborn disposition found in a limited number of individuals. The modern paradigm does not include other sexual practices, such as bestiality, which have disappeared from the sexual discourse. On the other hand, it does accommodate sex between women within its interpretative framework, and lesbian sexuality has become incorporated in legal and medical discourse.*

Homosexuality has become an important political issue. The regulation of same-sex relations has caused political debate globally and has even influenced the election campaigns of world leaders. This development intensified during the last decades, and goes back to legal and political changes of more than a hundred years. The political and cultural significance of homosexuality in our contemporary society makes it a pressing task to investigate its history—how the attitudes to same-sex sexuality have evolved during the last century.

The construction of the concept of homosexuality has been the object of much research since the 1980s, and a growing number of books and essays are contributing to a fuller understanding of its history. Pioneering works such as Jonathan Ned Katz' *Gay American History* (1975), Jeffrey Weeks' *Coming Out* (1977), John D'Emilio's *Sexual Politics, Sexual Communities* (1983), and David Greenberg's *The Construction of Homosexuality* (1988) were followed by books that focused on the

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one hand on the social control of sexuality and on the other hand on the building of communities. Several works have described the medical history of the concept (Terry 1999; Oosterhuis 2000), and the history of homophobia and social control (Weeks 1981; Johnson 2004). Other scholars have investigated the growth of subcultures (Chauncey 1994; Kennedy and Davis 1993) and the gay and lesbian movement (Tamagne 2000; Stein 2000). In Scandinavia, important contributions to this field of research have been offered by Wilhelm von Rosen, Martin Halsos, Kati Mustola, and Jan Löffström. On a theoretical level, Henning Bech's original and provocative analysis of modern urban sexualities remains a source of inspiration to many scholars (Rosen 1993; Halsos 2001; Löffström 1998; Mustola 2000; Bech 1997).

However, most of this research has concentrated on urban settings and disregarded the rich variety of sexualities in rural areas. This urban bias is strong in all research concerning the history of homosexuality, and it results in a less complete knowledge of sexual history, something which is especially grave in Scandinavia, with so few and small cities. There are, however, some exceptions to this general pattern, and a growing awareness of the importance of rural sexuality has led to important results (Löffström 1994, 1999; Sorainen 1998; Norrhem 2000, 2001; Boag 2003; Rydström 2003). The ambition to include rural sexuality in my own analysis has led me to an important aspect of my understanding of the history of same-sex sexuality, namely to acknowledge the role of bestiality in the legal discourse. Not many authors have discussed the phenomenon of bestiality, fewer still have compared it to same-sex sexuality, and no one has discussed it in a twentieth-century context.

Scholars investigating the concept of sodomy in medieval and early modern Europe and colonial America have established that it included bestiality as well as same-sex sexuality and "unnatural" sex between men and women. In general, however, these studies fail to see the conceptual connection between bestiality and same-sex sexuality. In spite of the fact that all medieval or early modern legislation treated the "sins of Sodom" as different aspects of the same sin, most historical research is caught in the conceptual framework of our own time, and does not register the fact that historical actors lumped together the different kinds of fornication (Monter 1974; Oaks 1978; Murrin 1998; Trumbach 1977, 1987; Hergemöller 2000). And even those who acknowledge the full meaning of "sodomy" limit their focus to one or the other form of sexuality. For instance, Mark Jordan's erudite work on sodomy in Christian theology treats bestiality only in passing, and Helmut Puff limits his discussion to penetrative sex between men (Jordan 1997; Puff 2003; see also van der Meer 1995).

Jonathan Ned Katz has argued that bestiality cases indeed "provide insight into the nineteenth-century response to sexual relationships between human males," but he has not elaborated that theme further (Katz 2001: 69). In Sweden, Jonas Liliequist has in fact studied both bestiality and same-sex sexuality, and he and other Scandinavian historians have debated why the former was so problematized in early modern Swedish-Finnish society whereas same-sex sexuality was not mentioned in the law before 1864 in Sweden and 1889 in Finland. But no one has studied the significance of bestiality in modern society (Träskman 1990; Liliequist 1991a, 1991b, 1995; Österberg 1996).

Another lacuna in the historiography of same-sex sexuality is the history of sex between women. The history of gay men appears to differ dramatically from that of lesbians. Whereas gay men's history is entangled in a violent criminal discourse, that of lesbian women has been labelled romantic friendship, as expressed in their letters and diaries (Rosenberg 1975). The first generations of scholars showing interest in these matters have demonstrated that men and women do have rather different histories, even if their paths seem to converge in the twentieth century (Katz 1975; Faderman 1981; Kennedy and Davis 1993). Early modern research in Sweden has drawn on Rudolf Dekker and Lotte van de Pol's groundbreaking study (1989) of female cross-dressing and discussed the significance of women in male clothing (Österberg 1997; Liliequist 2002). Other historians have discussed the place of lesbianism in modern society (Lützen 1986; Juvonen 2002; Lindholm and Nilsson 2002; Lundahl 2001).

It is my ambition in this essay to combine the perspectives I have briefly outlined above. I will address the topics of rural sexuality and female sexuality and trace the development from a rural, penetrative paradigm in which bestiality and same-sex sexuality were treated as two kinds of the same crime, to an urban, masturbatory homosexuality paradigm, in which male and female homosexuality were both problematized, but in which bestiality no longer was perceived as a problem.

### **Bestiality**

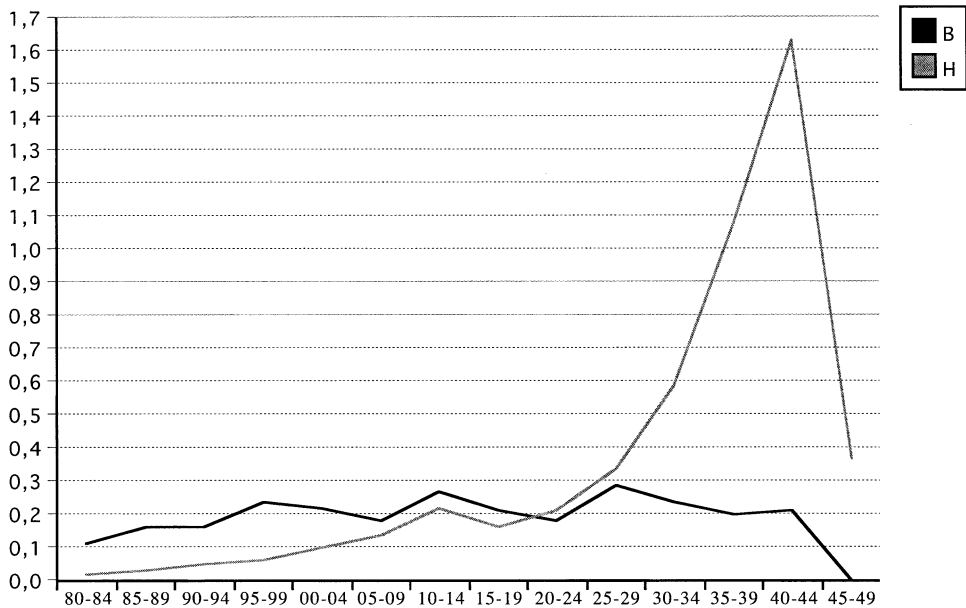
“Fornication against nature” (otukt mot naturen) was decriminalized in Sweden in 1944. Before that, Sweden had a comparatively high number of prosecutions for violation of that law. Thus, a good starting point for a study of male same-sex sexuality is criminal statistics. A simple regional comparison of the number of prosecutions showed, not surprisingly, that the majority of cases occurred in the three big cities, Stockholm, Gothenburg, and Malmö. What was more noteworthy was the high number of instances in rural courts, especially in the northernmost counties. “What were people doing in the countryside up north?” seemed to be a plausible question at the outset of the study.

The first archival journey, to Västernorrland County, revealed that a high percentage of the rural cases concerned bestiality, a fact that at first caused surprise and frustration, since that was not originally the focus of this study. But as more and more bestiality cases surfaced from the archives, the scope of the study changed, and it seemed relevant to study the quantitative relation between the bestiality cases and the cases of same-sex sexuality. Through the nation-wide information leaflet *Police Intelligence* (Polisunderrättelser), 1880–1912, the hand-written statistical sheets used as a basis for the printed statistics, 1913–1950, and the Stockholm District Court's docket books, 1880–1948, the project located 2,333 prosecutions for violation of chapter 18, section 10 of the Penal Code. Out of all these prosecuted persons, 1,561 were accused of same-sex sexuality (12 of which were women), and 751 of bestiality. A limited number of cases of “unnatural” sex between men and women—21 cases between 1887 and 1929—were also found. They concerned mostly oral sex, but in some cases involved non-penetrative heterosexual abuse of young girls.<sup>1</sup> Further analysis showed that the number of bestiality cases remained relatively stable

throughout the period under study, with 10–20 cases yearly. The number of instances of same-sex sexuality before the courts, however, was at first lower than the number of bestiality cases but increased remarkably from the 1930s onward (see Figure 1).

As we will see, this pattern appears to be the result of a change of discourse or, better, a paradigm shift, from a rural paradigm of sodomy, in which bestiality was the most problematized sexual behaviour among men, to an urban paradigm of homosexuality, which emphasized the difference between homosexuality and heterosexuality, and consequently made homosexual behaviour a question of priority for law enforcement.

According to the traditional sodomy paradigm, the three sodomitic sins were bestiality, same-sex sexuality, and “unnatural” fornication between men and women. All three crimes required penetration, but already in 1864, when the new Swedish Penal Code was introduced, this requirement was less accentuated for bestiality, so that genital contact sufficed. The Law of 1734 only mentioned “bestiality” (tidelag), but chapter 18, section 10, of the new Penal Code outlawed “fornication which is against nature” (otukt som emot naturen är) and “fornication with animals” (otukt med djur). According to a commentary to the new law, the word “otukt”, as opposed to “tidelag”, did not require penetration (Carlén 1866: 323).<sup>2</sup> Typical for same-sex relations in the older paradigm was also a rather large age difference. The



**Figure 1.** Number of prosecutions per 100,000 inhabitants for bestiality (B) and for same-sex sexual acts (H) in Sweden, 1880–1949. Five-year intervals. Sources: Swedish Court records 1880–1944; Sveriges Officiella Statistik: Brottsligheten 1945–49. *N*=2,363 cases. Note: 21 cases of unnatural fornication between man and woman are not included. From 1 July 1944, bestiality was decriminalized and homosexuality was only prohibited if committed with a person under 18.

Penal Code of 1864 penalized heterosexual fornication with women under 15 years of age, and stipulated a harsher sentence if the girl was under 12. No such age limits applied to “fornication against nature,” so the same punishment applied to consensual sex between adults of the same sex and to men’s abuse of under-age boys or women’s abuse of under-age girls. The cases at hand, however, suggest that the courts judged molestation of minors more harshly than sex between adults.

One of the few people who have addressed bestiality in literature is the widely respected Swedish author Ivar Lo-Johansson. In his autobiography from 1978 he describes his childhood on a farm south of Stockholm. He was a desperately lonely boy who thought of himself as ugly and who did not dare to approach the girls in the village. But he felt attracted to the big, warm animals on his father’s farm:

We had two cows and a young heifer that was almost two years old. I could not let go of the thought that the frisky and agile heifer in some way was “mine”. I always saw that she got the best fodder to eat. I always groomed her especially carefully. In the mornings during the grooming hour, when I was alone in the cowshed, the warmth and steam from the animals in the stable often overwhelmed me. With one arm around the heifer’s withers and neck and the other hand caressing myself, I had for the first time felt the warmth of another living creature. [—] I cautiously caressed her, and the animal lifted its tail as it were to make it easier for me to get there. The well of desire opened up before me, swollen and pale red. Next to it a thin thread of brown droppings had stuck. Not even that was particularly repulsive to me.<sup>3</sup>

Lo-Johansson escaped exposure, but many others were arrested and brought to court. A large number of those prosecuted were young boys between 15 and 25, some of them lonely and fumbling like Lo-Johansson, but others taking part in it as a game or as sexual experimentation. Older farmhands often taught the younger that this was a practical way of satisfying their sexual urge, and it seemed to be considered less harmful than masturbation. Other persons prosecuted for bestiality were older men, widowers, village outcasts or vagrants, who had found no other way to get sexual satisfaction. There were some cases of genuine affection for the animals, but the general tendency was to explain the deed by the lack of women or mental insufficiency. Out of 144 forensic psychiatric statements regarding bestiality, only one contained the diagnosis “zoophilia”. The rest diagnosed the perpetrator as mentally deficient, schizophrenic, or the like. No woman was prosecuted for bestiality during this period, even though Jonas Liliequist in a previous study has found a handful of cases in the seventeenth and eighteenth centuries in which women were accused of the crime (Liliequist 1991: 49; Rydström 2003: 34–7).

### **Male Bonding**

The sodomy paradigm gradually gave way to an urban homosexuality paradigm which allowed for the emergence of self-identifying gay men and lesbian women, but in the beginning of the twentieth century in rural Sweden, the modern paradigm was still to come. In the summer of 1898 in Kil parish, Värmland County, the son of a

wealthy farmer persuaded his parents that he should move down to the farmhand's quarters, since it was cooler there. The farmhand, Anders, and the farmer's son, Edvard, thus began a sexual relationship which was to last for two years. The two men did not have words or concepts for what they *were*, nor possibly exactly for what they *did*, but they certainly had words for what they *felt* for each other. In the fall of 1898 Edvard moved to Gothenburg to study bookkeeping. Anders visited him, and when he had left, Edvard wrote:

God's peace and the blessing of Our Lord be with you my heart's only beloved friend. Words cannot express how I enjoyed seeing you and talking to you my friend, thousands of thanks for that. Just to think how sad it was to see the train leave and take my only friend from me, I felt as if I would droop beneath the pain. My beloved, how blissful it was to talk to you, see you, kiss you, caress you and lie on your arm, oh to think how blissful it will be one day to be in your presence both night and day.<sup>4</sup>

Edvard often wrote about God in his letters, and it did not seem to occur to him that God would disapprove of what he and Anders were doing in bed. On the contrary, he wrote that "I read the Testament every night and pray that He bless us with His rich blessing which I also think He will do if we pray to Him with a truthful heart."<sup>5</sup>

When he had finished his studies, Edvard found a job in Forshaga, a small town near his parents' farm, where he rented a room. Anders was no longer employed by Edvard's father, but worked for shorter periods on different farms in the vicinity. He came to see Edvard frequently, but their relationship was soon deteriorating, mostly because of Anders' unreasonable jealousy. He was afraid that Edvard would abandon him, and he made Edvard swear an oath that he would always be faithful:

I have promised and I swear by all my heart the most precious oath before Thee oh God and Thy Holy Word never to abandon this my friend Anders who loves me so dearly. He is my chosen one here on earth, to which Thou art my witness, oh God. Whether he lives or dies, I shall never let my seed or my love touch another human being, but I shall meet him in Thy eternity alone. [—] If I break this promise of mine I pray in Thy name, Our Father which art in Heaven, that I never may come into Thy kingdom or dwell before Thy face. The Devil shall then take both body and soul. Amen.<sup>6</sup>

In December 1900, Edvard lost his job because the nature of his relationship with Anders was revealed. He moved home to his parents and refused to see his former lover, who came to the farm in the evenings and begged to see Edvard. His bitterness against Anders was now so great that he and his older brother beat up Anders so badly that he had to spend a week in hospital. And that was the reason that the police were informed about Anders and Edvard's relationship.

In court, Edvard said that he had been seduced by Anders, and that he had been no more than a tool for the other man's evil desire. When Anders' lawyer produced Edvard's love letters as evidence that he had willingly engaged in the relationship, he claimed that he had been hypnotized. And he told the court that an elderly woman, a

friend of Edvard's family, had noticed that he was not feeling well after having been fired. The woman assumed that he was under the spell of somebody else, and she performed a simple ceremony of exorcism on Edvard. She cut a cross on his belly, and made a paste out of his blood, mixed with bread-crumbs and pieces of his own hair and fingernails, which she made him swallow. For three days after this ceremony, Edvard was subject to "severe spiritual suffering," but then he recovered and Anders lost his power over him.<sup>7</sup>

The court did not accept this magic explanation, but it spent considerable time trying to establish the question of guilt. In the end, it sentenced Anders to 6 months' hard labour and acquitted Edvard, who was considered the passive partner. Nowhere in the trial is the word homosexual mentioned, and never is the question raised whether the men were "different" in any way. Those involved interpreted the events in religious and magic terms, and the court did not send the defendants to a forensic psychiatrist. Nothing in the case indicates that either of the two thought of themselves as "different", other than that Anders considered himself to have a certain talent and vocation as a preacher. Furthermore, neither Edvard nor Anders was described as effeminate, which was often the case in same-sex sexuality cases in the cities at that time.<sup>8</sup>

The court tried to ascertain if penetration had taken place. It found that the most common sexual technique used by the two men was Anders placing his member between Edvard's thighs. The law no longer formally required penetration and ejaculation to consider it a crime of "fornication against nature", and the district court judged accordingly. Since the modern homosexuality paradigm demanded new ways of conceptualizing acts of same-sex sexuality, the focus on penetration gave way to a broader definition of the act. Since *any* sign of affection between two persons of the same sex was interpreted as a symptom of "homosexuality", it became more common to prosecute people who had only engaged in mutual masturbation.<sup>9</sup>

### **Double Standards**

Forty years later, another rural case can serve as an example of a completely different way of dealing with same-sex sexuality. In November 1941, the 45-year-old village teacher in a small trading post (population 600) in Lapland was arrested and brought to court along with his 13 lovers. One of his sex partners, a 20-year-old forester from a neighbouring village, had grown weary of their relationship, and after a row he went to the police and reported the teacher.<sup>10</sup> Over the years, the teacher, Martin Faxé\*, had cultivated two different types of relationships: sexual friendships with young men in the village, and sexual, emotional, and intellectual relations with men closer to his own age spread out all over Sweden. Since the late 1930s, Faxé had seduced about a dozen young men, aged 17–25, from the surrounding villages. He sometimes met them at the local café when they had errands to town, and he would invite them to his summer cabin. He was an enthusiastic nudist who sometimes persuaded the young men to sunbathe naked with him, and then he started wrestling with them. His relationship with the local young men was purely sexual, and when one of them questioned whether it was right to do what they did, Faxé assured him that it was very common and that having sex with men was

preferable because he did not risk unwanted babies or venereal diseases. When he persuaded or seduced the young men he invariably suggested that they indulge in mutual anal penetration. First Faxe wanted to be penetrated, and then he wanted to penetrate his partner, using Vaseline as a lubricant. These relations were thus typical for the sodomy paradigm, in that there was a large age difference and that there was penetration. Moreover, Faxe and his young lovers did not place themselves in a separate category because of what they did.

However, these relations were not enough for Faxe. In January 1940 he published an advertisement in a weekly magazine:

Male friends sought by a 35-year-old, unmarried civil servant, with his own summer cabin and an interest in gardening. Preferably younger friends, who can take over when I leave everything. "Foster brother", near Skellefteå.<sup>11</sup>

He got several answers, and he also answered similar advertisements, so that after a while he was part of a nationwide network of men who desired men. Their correspondence contrasted sharply to the way he talked to the local men. In the letters, they shared gossip and thoughts about being different. Some of these contacts visited Faxe in his home, and sometimes he travelled to see them. In 1939 he was in Gothenburg, where he met a group of men who used women's names and sometimes dressed in drag. Later, his Gothenburg lover wrote to him: "Josefin and the 60-year-old dish-washing girl rent a room together. [...] Josefin is [...] rather nervously disposed, otherwise very sweet, a Lady to the fingertips." *Josefin* was a 33-year-old waiter who had been caught in a raid on homosexuals in Gothenburg in 1937 and spent a year and a half in a mental hospital.<sup>12</sup> In some ways, the relationships between Faxe and his pen friends were more equal than the ones he cultivated with the locals. There was less of an age difference, even if Faxe still preferred men younger than himself. His new lovers most often had had previous same-sex experiences and when they met there was more negotiation about sexual techniques. Faxe always preferred mutual anal penetration, but with these self-identified homosexual men he was less likely to have it his way. Some of his partners agreed to be penetrated, though more often they preferred mutual masturbation.

The forensic psychiatric statement diagnosed Faxe as a homosexual of "the more aggressive type", and he was committed to a mental hospital where he spent almost two years before he was discharged as "recovered". All the local young men were given suspended sentences, but some of Faxe's contacts in other parts of Sweden were also committed to mental hospitals. In this way the courts upheld the distinction between the "pseudo-homosexuals"—i.e. the young men who presumably were seduced into a practice they were not biologically disposed for—and the "constitutional homosexuals", or those born with homosexuality as part of their physical constitution. The former were to be punished, and the latter should receive medical treatment.<sup>13</sup>

Faxe lived his sexuality in two ways. In accordance with the sodomy paradigm, he cultivated purely sexual penetrative relations with the locals, never discussing what they did in terms of homosexuality and never developing any subcultural jargon or idiosyncrasies. Instead of presenting himself as a homosexual in the local

community, he stressed that it was common among all men to have sex with men and that it had certain advantages. But in his contacts with the pen friends from all over Sweden, he appeared as one of their kind, negotiating their sexual interaction with the understanding that they both belonged to a minority who shared the same interests and spoke the same language. Here he also took part in a homosexual jargon, full of feminine markers and play with gender expression.

Eve Kosofsky Sedgwick has pointed out that modern gay identity is built on what she calls a minoritizing discourse, which limits homosexuality as a problem to a well-defined minority. According to Sedgwick, modern Western society continues to uphold the homo/hetero binary, that is, to define homosexuality and homosexuals as a behaviour and a group of people apart. This way, the normalcy of heterosexuals is safeguarded against any attempts to blur the distinction and throw a shadow of doubt on society's sexual hierarchies. Homosexuals and heterosexuals have cooperated to uphold this binary, and the modern gay and lesbian movements have largely founded their claims of equal rights upon an understanding of their difference from the majority. I would argue that the historical roots of this minoritizing discourse is to be found precisely in the transition from the sodomy paradigm to the urban homosexuality paradigm and that this transition happened rather rapidly in the twentieth century, a change of paradigm that was anticipated by the early sexologists (Sedgwick 1990: 1–2, 82–6; Rydström 2003: 12–15, 329–31).

Thus, the establishment of the new paradigm resulted in a sharp increase of the number of prosecutions for same-sex sexual acts, whereas the number of prosecutions for bestiality remained the same (see Figure 1). It also influenced the ways in which society dealt with the members of the by now well-defined group of homosexuals. For at the same time as the number of prosecutions increased rapidly, the punishments became more lenient. The new medical understanding of homosexuality as an inherent quality in some individuals made punishment meaningless in the eyes of many jurists and forensic experts.

Table 1 indicates that as the number of convictions increased, the average length of the punishment was reduced by half, and the sentences that were suspended increased to over 70%. At the same time the number of people committed to mental

**Table 1.** Number of prosecutions and types of punishment for same-sex sexual acts in Swedish courts, 1920–1944.

Year	Number of prosecutions	Number of committals to mental hospital	Number of hard labour or prison sentences	Percent suspended sentence	Average length of sentence (months)
1920–24	64	0	51	20	9.1
1925–29	102	4	82	39	8.2
1930–34	182	19	115	38	7.4
1935–39	340	61	200	72	3.2
1940–44	526	72	310	71	3.6

*Source:* Criminal court records.

*Note:* A number of other punishments, such as reform schools, fines, etc., are not accounted for. The average length of sentence includes suspended sentences.

hospitals grew dramatically. In part this is a result of a general tendency in criminal politics, but partly it results from the distinction between “pseudo-homosexuals” and “constitutional homosexuals” as mentioned above. It also reflects the fact that the courts gave many well-integrated and otherwise law-abiding homosexuals a suspended sentence.<sup>14</sup> This is nothing but a continuation of the development described by Foucault in *Surveiller et punir* (1975: 203–7), according to which brutal and exemplary punishments are replaced by subtler methods and internalized self control.

The paradigmatic change also had an effect on the ways women were included in sexual discourse. In the 1930s a number of novels with lesbian themes were published, including Radclyffe Hall’s *The Well of Loneliness* (1928), which was translated into Swedish in 1932. At that time, whenever the Swedish Federation for Sex Education (Riksförbundet för Sexuell Upplysning, RFSU) received an inquiry about homosexuality—male or female—they recommended reading Hall’s novel. And, as in many countries, other novels with a lesbian theme appeared in Sweden in the 1930s (Boye 1934; von Krusenstjerna 1930–35).

### **Female Homosexuality**

The Penal Code Commission suffered from a lack of information regarding sex between women. This posed a problem when it had to decide whether to include women in the new law, which would impose a higher age of consent for same-sex sexual relations. The chairman of the Commission complained about his lack of knowledge concerning female homosexuality, and wrote in a letter that “[d]ue to the lack of police reports I am completely in the dark about female fornication techniques”.<sup>15</sup> To remedy their ignorance, the Penal Code Commission sent out a questionnaire to a number of people, asking them what they knew about female homosexuality. The questionnaire went to around 40 physicians, psychologists, and psychiatrists, half of them women. It was also sent to headmistresses of girls’ schools, who apparently were assumed to be well informed in the matter.

One answer is particularly revealing as to how social control works through production of knowledge. A female head physician answered the inquiry and told of two probationers she had once taught at a school for nurses. The two young women had had a very close relationship. They often hugged and kissed, and sometimes they even indulged in sexual acts. But one day, when one of the probationers “by accident” heard about homosexuality, they both stopped being intimate. The new knowledge that there was something called homosexuality could serve as a liberating force for some, but for others, as for these two young women, it imposed new limits to what they could regard as acceptable behaviour.

The conclusion of the inquiry was that female homosexuality was common, and that girls needed the same protection against lesbians as boys did against homosexual men. Eventually, the higher age of consent was imposed on both male and female homosexual relations (Silverstolpe et al. 1999: 400–5; Lundahl 2001:113–15).<sup>16</sup>

As mentioned, out of 1,561 prosecutions for same-sex sexual acts between 1880 and 1950, only 12 concerned women. Before 1940, only three women were

prosecuted (one in 1900 and two in 1925), and all these cases concerned sexual abuse of under-age girls. In 1900, a 44-year-old woman confessed that she had committed fornication against nature with two girls, 7 and 9 years old, respectively. When asked, she told the court that she “since her young age had indulged in self-abuse” and that she had regularly committed fornication with a 15-year-old daughter of a worker at the match factory. She was not prosecuted for these acts, and neither was the factory worker’s daughter, though she was old enough to be held legally responsible. This indicates that the court was only interested in the case insofar as it involved sexual acts with minors. The older woman was found sane by the examining doctor, and sentenced to 3 months’ hard labour.<sup>17</sup>

From 1940 on, several women were indicted for consensual sexual acts between adults, and two cases judged after 1944, when the age of consent for homosexual relations was 18, both concerned relations with 17-year-old girls.<sup>18</sup> It seems that the new paradigm which focused on homosexuality could more easily include the idea of sexual acts between women. In 1943 Mrs Maria Skacke\* called the Stockholm police, complaining that she dared not go back home because she was threatened by another woman. When the police entered her flat, they found two women sleeping on a couch, “which gave the constables the impression that they were perverted”.<sup>19</sup> Thus a ring of Stockholm lesbians was exposed. It had evolved around one of the women lying on the couch, 44-year-old Elisabeth Lundgren\*. Most of the women had met while working in a restaurant, but two of them had met while working in a munitions factory. Typically, it was at the workplace that they had met, since women did not have access to bars and parks, as men had. They all belonged to the working class except for Mrs Skacke and, typically, the circle was exposed when she had entered it. She was the one who called the police when things got rough.

The police investigation showed a manifest interest in the sexual techniques of the women and established that most of them used their fingers to penetrate each other’s vagina, but one of them often lay on top of the other woman and “made copulating movements like a man”. She had also given a compliment to one of her younger partners, saying that the woman in question “was made to make a man-woman happy”. This kind of gendered relation is also part of the modern homosexuality paradigm and did not appear in the earlier lesbian cases from before 1940.<sup>20</sup>

On the whole, this case offers an example of a much more concerted quest for knowledge about female homosexuality than any of the preceding ones. The court ordered a preliminary investigation according to the law on suspended sentence for all of the prosecuted women, and in this investigation the emphasis was on whether these women were really homosexual and, if so, how they became homosexual. Three of the women were in their thirties, and they all assured the investigator that they had been seduced by the older and more experienced women, and that what they had done would not happen again. Elisabeth Lundgren, however, testified that she had always felt “masculine”, and already as a girl she preferred boys’ games. Mrs Skacke died of tuberculosis before the verdict, but the other four women were all convicted. Elisabeth Lundgren got 6 months’ hard labour and the younger partners each got 4 months’ hard labour, but all sentences were suspended.

The handling of the case shows how the authorities were influenced by their preconceptions of male homosexuality. One of the first questions asked was whether

money was involved in their sexual contacts, and the police investigation concentrated on describing relations between the mannish, “real” homosexuals, and the younger “victims”, who were not assumed to be homosexual. They created an image of lesbian relations which corresponded exactly with what was expected at that time from a male homosexual relationship.

### **Paradigm Shift**

To sum up, in the beginning of the twentieth century Swedish legal discourse was determined by a rural sodomy paradigm, according to which penetration was central to the definition of “fornication against nature” and according to which bestiality, same-sex sexuality, and unorthodox sexual practices between men and women were all covered by that term. In the 1930s this paradigm rapidly gave way to a modern, urban homosexuality paradigm, which concentrated on the homo/hetero dichotomy, and according to which other types of sexual aberration were less important. This coincided with the building of a lesbian and gay identity, and the gradual appropriation by women of public space. What had happened decades earlier to men in the cities became a reality to lesbians and also to gay men in the countryside in the 1930s.

During the preparations for legal reform, from 1933 to 1944, there were lengthy discussions about the risks of decriminalizing homosexuality, but when the abolition of the ban on bestiality was discussed, no such worries were aired. No age limits or other measures to prevent any unwanted effects of bestiality were discussed, which shows how this had become a non-issue among the modern, urban decision-makers. In the countryside, bestiality was still being prosecuted, but the urban legislators did not seem to care about it. As a contrast, within the new paradigm, all signs of affection between persons of the same sex were interpreted as a symptom of homosexuality, and the courts contributed to establishing new limits for acceptable behaviour. The new paradigm also included women in criminal discourse, and lesbian sexuality between adults was problematized in a way it had not been before. Thus, the seeming liberalization of legislation concerning same-sex sexuality was in reality a redefinition of the boundaries of acceptable sexuality, which let some people off the hook but imposed more coercive measures on others. Perhaps we need to interpret the decriminalization of homosexuality as part of a larger development, a civilizing and disciplining project that is still under way?

### **Notes**

<sup>1</sup> Two of these cases involved women who had performed oral sex on men: Case no. 366, Östersunds Rådhusrätt (RR), 1887. Östersunds Landsarkiv; and Case no. 418, Stockholms RR, 6th division, 1908. Stockholms Stadsarkiv (SSA). For cases involving abuse of under-age girls, see for instance Case no. 126, Stockholms RR, 4th div., 1889. SSA; Case no. 190, Trelleborgs RR, 1906. Lunds Landsarkiv; and Case no. 1, Urtima ting (UT), Inlands norra tingslags häradsrätt (HR), June 19, 1929. Göteborgs Landsarkiv.

<sup>2</sup> In Swedish medieval laws, only bestiality was criminalized but instances of same-sex behaviour between men could be punished as a crime analogous to bestiality or with reference to the Law of God. In 1608, an addendum to King Christopher's Land Law of 1442 quoted Leviticus and thus outlawed same-sex sexuality between men. In the Swedish Law of 1734 only bestiality was explicitly mentioned, but Jonas

Liliequist has nevertheless discovered 20 cases of sex between men in the seventeenth and eighteenth centuries, both before and after 1734 (Liliequist 1995). The maximum punishment for fornication against nature and fornication with animals according to the Penal Code of 1864 was 2 years' hard labour, but the courts could hand out less severe verdicts, such as prison or fines, if there were extenuating circumstances at hand.

<sup>3</sup>“Vi hade två kor och en ung kviga som var knappt två år. Jag kunde inte släppa tanken på att den ystra och smidiga kvigan på något sätt var ‘min.’ Jag såg alltid till att hon fick det bästa fodret att äta. Jag ryktade henne alltid särskilt väl. Värmen och de hettande kroppsångorna från djuren i lagårn om mornarna under ryktningstimmen, då jag var ensam därinne, blev mig ofta till något övermäktigt. Med den ena armen om kvigans manke och hals och andra handen smekande mig själv, hade jag för första gången fått känna värmen av en annan levande varelse. [—] Jag smekte försiktigt, och djuret lyfte på svansen, som det tycktes för att jag skulle komma åt bättre. Lustans brunn öppnade sig för mig svullen och blekröd. Strax invid hade fastnat en tunn tråd av brun spillning. Inte ens det var något särskilt motbjudande.” Lo-Johansson 1978, 301–3, my translation.

<sup>4</sup>“Guds frid och vår herres välsignelse vare med och öfver dig mitt hjärtas ende älskade vän jag kan ej omtala i ord huru roligt det var att få se och tala med dig min vän, tusen myckna tack skall du hafva för det. Tänk huru ledsamt det var att se när tåget gick och tog min ende vän ifrån mig, det kändes som om jag skulle digna ned af smärta älskade du tänk huru saligt det var att få tala med dig, se dig, kyssa dig, klappa dig och ligga på din arm, o tänk huru saligt det skall blifva en gång att få för alltid vara tillsammans med dig, och få vara i din närhet både natt och dag.” Letter, November 10, 1898. Case no. 1, UT, April 27, 1901, Mellansysslets domsagas HR. Värmlandsarkiv, Karlstad.

<sup>5</sup>“Jag läser i testamentet hvarje qväll och beder honom att han skall välsigna oss med sin rika välsignelse och som jag äfven tror att han skall göra om vi beder honom af sannt hjerta”. Letter, January 3, 1899, *ibid.*

<sup>6</sup>“Jag ju lofvat och svär af allt hjärta den dyraste ed inför dig o Gud och ditt heliga ord att aldrig öfvergifva denne min vän Anders som mig så af hjertat hafver kär han är min utvalde här på jorden det är du o Gud mitt vittne till hvilket han lever eller dör så låter jag aldrig min säd eller kärlek komma i beröring med någon annan meniska utan jag skall möta honom i din evighet ensam. [—] Om jag bryter detta mitt löfte så beder jag i ditt namn fader vår som är i himmelen att jag aldrig får komma in i ditt rike eller vistas inför ditt ansikte djefvulen skall då få taga både kropp och själ amen”. Letter, January 15, 1900, *ibid.*

<sup>7</sup>“svåra själsliga qval”. Courtroom minutes, *ibid.*

<sup>8</sup>The case was eventually tried by the Swedish Supreme Court, which upheld the District Court's verdict regarding Edvard. It was used for decades as a precedent case, allowing passive partners to evade punishment. (*Nytt Juridiskt Arkiv* [NJA] 1901, 440). Some months after the trial, Edvard emigrated to America where he married and where he ended his days in 1956 as a respected member of the Lutheran congregation of Tacoma, Washington. Anders, on the other hand, was committed to the poorhouse in 1917, when he was 55 years old. He died in jail in 1933 (Rydström 2003: 104–6). For cases in which men were described as effeminate, see for instance Case no. 246; Stockholms RR, 3rd div., 1897. SSA; and Case no. 52, Malmö RR 3rd div., 1911. Malmö Stadsarkiv.

<sup>9</sup>In 1918, the Supreme Court convicted a teacher, who had masturbated 24 of his pupils, to three-and-a-half years' hard labour for “fornication against nature”. The teacher claimed in his defence that for unnatural fornication to take place, it was necessary that the penis had been inserted in “a cavity of the body” (en hälighet i kroppen), but the court was of another opinion. This was used as a precedence case to the effect that masturbating a person of the same sex was indeed unnatural fornication (NJA 1918: 410).

<sup>10</sup>Fictive names are marked with an asterisk the first time they appear in the text. All persons mentioned in the text whose names I have found in documents less than 70 years old are anonymized. Since I use information from Faxé's hospital journal, which according to the Swedish Secrecy Act (1982: 1106) is classified until 2014, I cannot publish any details that could lead to his identification. Therefore all names are fictive, and I will not refer to the court case directly. In the future, it can be found through Faxé's journal: Journal no. 215/42, Umedalens mentalsjukhus arkiv, Norrlands universitetssjukhus.

<sup>11</sup>“Manliga kamrater önskas av en 35-årig, ogift tjänsteman, med egen sportstuga och intresse för blomsterodling. Gärna yngre kamrater, som kunde ta vid, då jag en gång lämnar allt. ‘Fosterbroder,’ Skelleftrakten.” *Allas Veckotidning*, no. 2 (1940).

- <sup>12</sup>“Josefin och den 60-åriga diskflickan hyr rum tillsammans, [...] Josefin är ganska nervöst anlagd, annars mycket snäll, Dam ut i fingerspetsarna.” Letter, November 1941, Inneliggande handlingar, Faxé case. For “Josefin’s” earlier court case, see Case no. 118, Göteborgs RR, 5th div., Central Prison, 2nd series, 1937. In connection with the Faxé case, he was tried again in Gothenburg, and was again committed.
- <sup>13</sup>“den mera aggressiva typen”. Courtroom minutes, Faxé case. “Återställd”. Faxé’s journal.
- <sup>14</sup>Apart from the fact that such well-behaved homosexuals were almost never brought to court, there was a pronounced willingness to avoid judging them from the 1930s onward. In 1934, a gay couple in Stockholm was reported to the police by the ex-girlfriend of one of them. The Supreme Court gave them suspended sentence in spite of the fact that they were not likely to refrain from further violations of the law, as the law on suspended sentence required (NJA 1934, 642; Cf. Rydström 2003: 179–80, 263–64).
- <sup>15</sup>“På grund av bristen på polisrapporter svävar jag i djup okunnighet om den kvinnliga otuktstekniken.” Letter from Karl Johan Schlyter to Ivar Agge, August 30–31, 1941. “Homosexualitet,” Strafflagberedningens arkiv (SLB), Riksarkivet (RA).
- <sup>16</sup>“av en tillfällighet”. Enquête-svar, p. 9. SLB. RA. Cf. Silverstolpe et al. 1999: 400–5.
- <sup>17</sup>“sedan unga är öfvat sjelfbefläckelse”. The cases involving female same-sex sexuality before 1940 are: Case no. 240, March 19, 1900. Västerås RR. ULA; Case no. 1, UT, April 8, 1925, Gotlands norra domsagas HR. Visby Landsarkiv.
- <sup>18</sup>The cases involving female same-sex sexuality after 1940 are: Case no. 5, Värtinget (VT), February 25, 1941, Arvidsjaurs tingslags HR, Piteå domsaga. Härnösands Landsarkiv; Case no. 334, hemliga mål, Stockholms RR, 4th div., 1943. SSA; File no. 91, Jönköpings RR, April 17, 1944. Vadstena Landsarkiv; Case no. 719, Stockholms RR, 5th div., 1945. SSA; and Case no. B 129, Dombok för brottmål, Stockholms RR, 7th div., December 6, 1948. SSA.
- <sup>19</sup>“varför konstaplarna fingo den uppfattningen, att de voro perversa” Case no. 334, hemliga mål, Stockholms RR, 4th div., 1943, appendix 3. SSA.
- <sup>20</sup>“gjorde samlagsrörelser som en man”, “var skapad att göra en manvinna lycklig”, *ibid.* Quotes, pp. 22, 27.

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