

## Lessons Not Learned

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Text of Paragraph 175 of the German Code enacted 1871  
Amended by the Nazis on June 28, 1935:

§175:

1. A male who indulges in criminally indecent activities with another male or who allows himself to participate in such activities will be punished with jail.
2. If one of the participants is under the age of twenty-one, and if the crime has not been grave, the court may dispense with the jail sentence.

§175 (a): A jail sentence of up to ten years or, if mitigating circumstances can be established, a jail sentence of no less than three years will be imposed on

1. any male who by force or by threat of violence and danger to life and limb compels another man to indulge in criminally indecent activities, or allows himself to participate in such activities;
2. any male who forces another male to indulge with him in criminally indecent activities by using the subordinate position of the other man, whether it be at work or elsewhere, or who allows himself to participate in such activities;
3. any male who indulges professionally and for profit in criminally indecent activities with other males, or allows himself to be used for such activities or who offers himself for same.

§175(b): Criminally indecent activities by males with animals are to be punished by jail; in addition, the court may deprive the subject of his civil rights.

Supreme Court of the United States of America in Bowers v. Hardwick, (478 U.S. 186)  
Decided June 30, 1986

The due process clause of the Fourteenth Amendment does not confer a fundamental right upon homosexuals to engage in consensual sodomy, and thus does not invalidate a state law which criminalizes acts of consensual sodomy, even when the acts in question occur in the privacy of the home...

Sodomy laws may not be invalidated under the due process clause of the Fourteenth Amendment on the theory that there must be a rational basis for the law and that majority sentiments about the morality of homosexual sodomy are not an adequate basis.

People generally cringe at the thought of being called a Nazi; students take offense to comparisons of contemporary acts of discrimination with those committed during the Holocaust; politicians and historians site the Holocaust as something that could only have happened under the Nazi regime due to the extenuating circumstances of the time. I often wonder what it must be like to live in such a self-righteous world oblivious to the lessons we can and should learn from history.

As children we are taught that Hitler hated the Jews and was able to convince the rest of Germany to share his feelings because the people were left desperate after World War I and in need of a leader to unify them under a common cause. We are never exposed to the reality that Hitler only played on pre-existing prejudices already held by the people using long-standing laws in the most insidious ways. Many do not learn until much later, if at all, that the Holocaust was not only about Jewish persecution, but about the systematic elimination of other minorities as well, including Jehovah's Witnesses, Gypsies and people with a homosexual orientation. I make these points not to make light of the suffering endured by the Jewish community under Hitler's reign, but to shed light on the strategic omissions – which border on acceptance of the atrocities committed – that allow such prejudices to continue in our culture. Nowhere do we find a better illustration of continued persecution than in the analysis of Hitler's crusade to eliminate people with a homosexual orientation and their continued struggle for equality today. As one Holocaust survivor who is a homosexual writes:

In many ways, the specters of the Third Reich still haunt us – not because a few elderly Nazis may be hiding in South America and not because groups of young neo-Nazis demand attention with recycled swastika ideologies and emblems. The specters begin to come to life whenever fanatical fundamentalists of any sect – religious or secular – take

over a nation and call for a holy war against its most vulnerable and vilified minorities (Plant 1986: 187).

The problem we face today is the willingness of the majority to mistake normative law for natural law and to bestow an irrelevant label with prescriptive powers of persuasion, coupled with an unwillingness to accept a private behavior as nothing more than that. It was just such societal conditions that Hitler exploited in his persecution of people with a homosexual orientation.

In a speech delivered to the German people on February 18, 1937, Heinrich Himmler, head of the Nazi SS, said the following:

Homosexuality brings about the fall of every achievement and every build-up of achievement in the state and destroys the state at its foundation... We have to realize that if we continue to have this vice in Germany without being able to fight it, then that will be the end of Germany and the end of the Germanic World (U.S. Holocaust Museum: 11).

Such a radical statement may at face value appear ridiculous and unworthy of further consideration, but we must remember that the people truly believed in these words. Because of this rhetoric, people with a homosexual orientation were viewed as “degenerates,” “filthy queers” and “antisocial parasites” while the stereotype of people with a homosexual orientation as predators corrupting youth and bringing about the fall of public morality ran rampant.

It is sadly ironic to note that this view of homosexuality was pervasive even amongst the political prisoners and criminals locked away in concentration camps. In reading the accounts of the evils faced by people with a homosexual orientation in these camps, it is impossible to tell if the worst punishment came from SS officers or their fellow prisoners. They were consistently

assigned the most dangerous work because they were usually attached to what were known as punishment companies. They were forced to work longer hours even though they received fewer breaks and smaller rations than other prisoners. While this continued, people with a homosexual orientation were beaten, raped and tortured by other prisoners who viewed them as animals; even among those who were themselves persecuted, people with a homosexual orientation were thought to embody the Nazi model of “lives not worth living.” An even graver injustice still is the fact that these atrocities were totally ignored at the time and are largely unrecognized today in historical accounts of the Holocaust.

Some argue that the lack of literature on the subject is due to the fact that so few people with a homosexual orientation actually survived the concentration camps because they were treated as the very lowest of the low and were exposed to conditions that were even more deplorable than those endured by Jews in the same camps. I fear an even sadder reality: that the men who did survive the torment and torture of the Holocaust found only more of the same after release from concentration camps, and as such, were never granted the freedom to publicly voice their stories. People with a homosexual orientation were not formally recognized as victims and granted the reparations provided to other survivors; instead, they were viewed as the only true criminals released from Nazi camps.

When the Allied Military Government took power from the Nazis in 1945, most of the laws that were created by Hitler’s party for the sake of furthering their eugenic goals were repealed; however, Paragraph 175 as revised by the Nazis remained unchanged. As a consequence, the men bearing pink triangles were delivered to German prisons to serve sentences as violators of Paragraph 175, regardless of the time they spent in the concentration camps. They lingered indefinitely in confinement while other survivors received compensation under the Law

for Victims of National Socialism, it being declared that internment for homosexuality disqualified them from receiving such benefits (Heger 1980: 117). These actions were profoundly prejudiced and show that the Nazi mentality did not die with Hitler's regime. But we would obviously not allow such discrimination to continue today, right? Wrong.

For the reader who is aware of constitutional law, the excerpts from Bowers v. Hardwick that appear at the beginning of this paper may not have been too alarming, because people with a homosexual orientation were vindicated ten years later in Romer v. Evans (1996). In Romer, the Court found that a proposed amendment to the Constitution of Colorado was unconstitutional because it sought to prevent any municipality from specifically offering civil rights protections to men and women who are gay (Eskridge 1999: 141). Granted, this was a sweet victory because the Court recognized that people with a homosexual orientation deserved the same rights as everyone else because they are citizens just like everyone else, not because they were a separate class of citizens. However, just as the Brown v. Board ruling was a victory only in principle for many years after the ruling, so too has Romer been a victory only on paper.

Such blatantly discriminatory laws and policies as those that existed under the Nazis still exist today, though few recognize them as such. Anti-sodomy laws still exist in at least thirteen states. Proponents argue that these laws are perfectly constitutional because they apply to both heterosexual and homosexual relations (which is not the case in Texas, Oklahoma, Kansas and Missouri where sodomy laws apply only to same sex relations). While this may be the case in principle, these proponents neglect to acknowledge that, in practice, such laws are rarely if ever used to prosecute heterosexual couples. Instead they are used to invade the privacy of people with a homosexual orientation, deny them employment, refuse child custody and visitation, and

the are employed as a rational against enacting civil rights laws that ban discrimination based on sexual orientation (Lambda Legal: 2002).

Because people with a homosexual orientation are still denied the right to marry, most State and Federal governments refuse to recognize homosexual partners for the sake of employee benefits including medical and life insurance. In the less than ten states that do offer domestic partner benefits, recipients are forced to pay taxes on their share of insurance payments as if they were added income. Married couples pay no such tax for the benefits they receive. On top of this, less than half of the states prohibit employers from discriminating on the basis of sexual orientation in terms of recruitment, promotion, and termination of employees (Lambda Legal: 2002). I welcome anyone the opportunity to explain to me how this can be considered equality.

For all this political and legislative injustice, it is in the realm of science – specifically genetic research, medicine, and treatment – that I find the greatest cause for fear.

In 1994, geneticist Dean Hammer and his colleagues reported that they found a genetic link to homosexual behavior in males (Alper 2002: 45). The gay community rejoiced in the belief that they would finally be accepted, as many harbor the naïve hope that the finding would vindicate them from all the persecutions of the past:

Some hope linking homosexuality to genes shows that homosexual orientation is “natural” and implies that gays should not be blamed, stigmatized or discriminated against for an orientation that arises from their genetic makeup. If the public understood a gay orientation to be an innate characteristic, like skin color, society would realize that gays deserve legal protection against discrimination (Conrad 2002: 72-73).

Unfortunately, this optimistic anticipation is highly flawed because it ignores history and societal reality which indicate that a belief that homosexuality is genetically based will have a

detrimental effect. Ultimately, finding a biological basis for homosexuality will only solidify its classification as a disease and launch the race for a medical cure. Granted, this may be a horribly cynical view of the world, but it is a view firmly rooted in the events of the Holocaust and those of present day.

[Homosexuals] have no right to existence in a well-regulated bourgeois society, and they have no gift for doing so. They endanger society to a high degree and they do so as long as they live. Medical science has found no way to cure these victims of an organic disturbance. They should be put away for life; however, they should not be branded as criminals – they are unfortunates deserving pity (Plant 1986: 32).

Such was the popular belief held in 1894. The same belief was exploited by the Nazis initially to justify the need to incarcerate people with a homosexual orientation as a preventative measure and later to excuse their systematic murder under the charitable guise of euthanasia. Even before the Holocaust and the establishment of concentration camps, those imprisoned under Paragraph 175 were not released after serving their sentences; they were sent to mental institutions for indefinite safe keeping. Doctors tried to “cure” people with a homosexual orientation by implanting testosterone capsules in the groins of men (Heger 1980: 12). When this did not work, hormone implantation was coupled with castration to see if those “treated” would exhibit signs of interest in the opposite sex (Plant 1986: 177). This too failed, and compulsory regular visits to an established brothel were ordered (Heger 1980: 98). Subsequently, Operation T-4 was passed which authorized physicians to “end the unbearable suffering” of those housed in state and private custodial institutions (Holocaust Museum 2002: 17). Ultimately, the order to exterminate people with a homosexual orientation in concentration camps was passed down.



Both hormone treatment and sexual intercourse with members of the opposite sex have already been “prescribed” to people with a homosexual orientation in America. However, few recognize that those who believe that discovering a genetic basis for homosexuality will bring tolerance and acceptance are only welcoming greater atrocities.

People with a homosexual orientation who seek a biological component to their behavior with the belief that society is more accepting when it is believed that behaviors are not the result of a conscious choice are also setting themselves up for disappointment. I doubt that many would argue that there is a genetic basis for skin color, yet racial discrimination continues in America. We continue to search for an effective treatment for alcoholism even though many have deemed it a genetically inheritable disease. Furthermore, the treatments that have been offered usually involve aversion therapy or abstinence, the same two tactics that are employed to “cure” deviant sexual arousal.

Those who advocate genetic research ignore the fact that at the core of the problem we have a failure to distinguish between normative and natural law. Contrary to their assertions, history has shown us that proving a genetic cause for a minority characteristic such as race does not end discrimination, mainly because the label continues to have prescriptive qualities. Sometimes even the strongest evidence will not sway those with a conviction that what they believe in is natural and, thus, right. This is especially true when religious beliefs are involved, and it is in such beliefs that people with a homosexual orientation meet their greatest opponents: radical fundamentalists.

I do not think it will shock most people to hear that the Bible is rather vague. Some view it as a fantastic work of fiction while others revere it as the word of God, but few can ignore that such a work translated over the centuries has been subject to interpretation. Unfortunately, it just

so happens that the majority of those interpreting the Bible harbor preconceived prejudices regarding homosexual behavior. I will not delve into the petty task of dispelling the supposed denunciations of sodomy and homosexuality verse by verse (for the record, passages in Leviticus and Genesis, specifically the story of Sodom and references thereto, are the most widely cite). Suffice it to say that my reading of the Bible is dramatically different from that of the Christian fundamentalist who published the following article on November 15, 2002, which I cannot help but quote extensively:

Homosexual activists are implementing several strategies to market their political agenda. Those strategies include a tactic known as "conversion" -- and continued efforts aimed at the movement's primary target: kids in the early years of school...To homosexual-rights activists, conversion is a planned psychological attack spread through the media. Paul Rondeau, a doctoral student in persuasion studies at Regent University, says the strategy involves wearing society down to the point where just accepting homosexuality is much less of a burden than continuing to "fight the fight" for the good of American values.

Mr. Rondeau concluded his paper with the following:

Homosexual rights is not about the attainment of truth or social justice -- but the achievement of power. The battle centers on the control of public discourse through marketing and persuasion, to shape *what* society thinks about and *how* they think about it...Homosexual activists envision that a decision on homosexuality is ultimately made without society ever realizing that it has been purposely conditioned to arrive at a conclusion that it thinks is its own (AgapePress: 2002).

I will allow the similarities between this article and Nazi propaganda to speak for themselves:

Homosexuality, the Nazis charged, weakened Germany in several ways. It was accused of being a factor in the declining birthrate that threatened to leave the nation unable to sustain itself. It was also feared as an "infection" that could become an "epidemic," particularly among the nation's vulnerable youth. It was thought that it could give rise to a dangerous state-within-the-state since homosexuals were believed to form self-serving groups. It endangered public morality and contributed to the decline of the community. For the good of the state, the Nazis asserted, homosexuality had to be eradicated (Holocaust Museum 2002: 11).

In 1937, Himmler gave such speeches denouncing people with a homosexual orientation as "degenerates" preying on the youth of Germany and prescribed their extinction as the only way to put an end to the "social contagion." He closed his tirade with the following:

This was not punishment, more the simple elimination of this particular abnormality. It is vital we rid ourselves of them; like weeds we must pull them up, throw them on the fire and burn them. This is not out of a spirit of vengeance, but of necessity; these creatures must be exterminated (11).

It is frightening to accept that such Nazi ideologies exist today, but their presence must not be ignored. Difficult as it is to imagine, tolerance and acceptance are the only real solution to the problems faced by people with a homosexual orientation today. Unfortunately, neither will be easily achieved, especially when members of the gay community are inadvertently perpetuating the stereotypes and prejudices they face.

First and foremost, we must stop looking to genetic research for the answer to discrimination. A milestone was crossed in the early seventies when the American Psychiatric Association removed homosexuality from the category of pathological diseases (Conrad 1985: 204). Searching for a genetic link to homosexuality will only lead to the re-medicalization of sexual behavior. Furthermore, if we are not careful, homosexuality may be deemed as grounds for involuntary institutionalization for the good of those “inflicted” with the “disease” much like those “suffering from mental illness” are today.

Moreover, we should stop using scientific arguments in legislation and judicial review concerning civil rights, because it is simply not acceptable to base these fundamental rights on biology. Think of how differently the outcome of Romer v. Evans may have been if the Court accepted Dean Hammer’s testimony when he presented his theory of the gay gene. Had this sort of genetic scapegoating been memorialized in the Court’s finding, it would have totally undermined the outcome of the case. Fortunately, the Court recognized that people with a homosexual orientation should be granted rights because they are people, not because they are a gay people, but it could have easily been the other way around.

Above all, we must learn from the mistakes of our past. History will not have to repeat itself if we heed the warning found at the base of one of the few monuments erected to honor victims of the Holocaust who had a homosexual orientation:

Homosexual men and women were persecuted and murdered under National Socialism. The crimes were denied, the murdered silenced, the survivors despised and condemned. Thereby we remember in the conviction that men who love men and women who love women can always be persecuted again (Holocaust Museum 2002: 28).

## Works Cited

- Alper, J., C. Ard, A. Asch, J. Beckwith, P. Conrad, L. Geller. (2002). *The Double-Edged Helix: Social Implications of Genetics in a Diverse Society*. Baltimore: Johns Hopkins University Press
- Bowers v. Hardwick. 478 U.S. 186
- Brown, J. and J. Brown (Nov. 15, 2002). "The Homosexual Agenda: A Classic Marketing Strategy That's Working." *American Family Association Online*.  
<<http://headlines.agapepress.org/archive/11/afa/152002d.asp>>
- Conrad, P. and J. Schneider (1992). *Deviance and Medicalization: From Badness to Sickness*. Philadelphia: Temple University Press
- Eskridge, W. (1999). *GayLaw: Challenging the Apartheid of the Closet*. Cambridge: Harvard University Press
- Heger, H. (1980). *The Men With the Pink Triangle: The True, Life-and-Death Story of Homosexuals in the Nazi Death Camps*. Los Angeles: Alyson Books
- Lambda Legal <[www.lambdalegal.org](http://www.lambdalegal.org)>
- Nazi Persecution of Homosexuals 1933-1945*. U.S. Holocaust Museum. November 16, 2002
- Plant, R. (1986). *The Pink Triangle*. New York: Henry Holt and Company