

Sodomy, Possessive Individualism, and Godless Nature: Eighteenth-Century Traces of Homosexual Assertiveness

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IN 1809 THIRTY-EIGHT-YEAR-OLD ship's surgeon James Nehemiah Taylor was caught in the act of sodomy with his helper on a naval vessel at sea. After being court-martialed in the port of Portsmouth, the doctor was sentenced to death. During the two weeks before the execution, the marine chaplain tried to sway him to repentance by, for instance, organizing a church service, attended by the crew and the convicted man, which centered the biblical story of Sodom and Gomorrah. This did not keep Taylor from presenting to the chaplain an image of God that differed slightly from the wrathful supreme being who set these cities ablaze. Taylor, a well-read man who was familiar with Voltaire and other "infidel authors," did not consider himself a sinner. He believed in God as creator, but in his view, God did not run the world in inscrutable and punishing ways. God was merciful and understanding of human frailties, especially when these "were implanted in our nature and constitution."¹ That Taylor frequently had given way to his irresistible urges did not, he stressed, detract from his moral righteousness—and this, after all, served as the base for community spirit and responsible handling of civil rights and freedom of religion. Taylor trusted that God, in the last judgment, would take into

A shorter version of this article has been published in Dutch. See H. Oosterhuis, "Sodemieterij, eigendomsindividualisme en goddeloze natuur: Achttiende-eeuwse kiemen van homo-emancipatie," *De Achttiende Eeuw* 53, no. 1 (2021): 127–48, <https://doi.org/10.5117/DAE2021.008.OOST>. I dedicate this lengthier English version to the memory of Gert Hekma.

¹The material collected and made available online by Rictor Norton on this case is derived from several lengthy newspaper reports on Taylor's court-martial and execution. "Court Martial of James Nehemiah Taylor, 1809–1810," in *Homosexuality in Nineteenth-Century England: A Sourcebook*, ed. Rictor Norton, 3 December 2019, updated 10 February 2020, <http://rictornorton.co.uk/eighteen/1810tayl.htm>. For additional information on this case, see Seth S. LeJacq, "Run Afoul: Sodomy, Masculinity, and the Body in the Georgian Royal Navy" (PhD diss., Johns Hopkins University, 2016), 89, 269–72, 390.

Journal of the History of Sexuality, Vol. 32, no. 3, September 2023
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DOI: 10.7560/JHS32303

account his sense of duty. Moreover, he felt that “he had a right to do with himself as he pleased” without directly having to render an account to God.² Sodomy was widespread, he argued, and in countries such as France and in the Mediterranean regions, unlike in England, it was no longer punishable.³ Taylor also mentioned a society for its practice. When he was on the verge of naming prominent members, the chaplain notably cut off “this painful and disgusting disclosure.” Arguing that penetration and emission in the body of his sexual partner had not been proven according to judicial standards—English criminal law indeed often followed such a narrow definition of sodomy—Taylor defended himself and sought a pardon after his conviction. His argument was rejected on the basis of eyewitness accounts, and King George III confirmed the verdict. Apparently, Taylor twice attempted to commit suicide after his death sentence. Shortly before his death by hanging, Taylor showed remorse, after all, to the great satisfaction of the chaplain, and he asked God for forgiveness of his sins.

Apart from the Christian denunciation, this particular court case—which like earlier cases and scandals was widely reported in newspapers and gave rise to speculation about the nature and cause of sodomy—reflected, in a rudimentary fashion, two modern justifications of what, as of the late nineteenth century, has been called homosexuality but which was then referred to as sodomy or pederasty.⁴ First, there is the suggestion that homosexuality involves an innate inner urge of a minority group. Since the late nineteenth century, this view has been boosted by biomedical

² “Court Martial of James Nehemiah Taylor, 1809–1810,” report on 1 and 6 January 1810.

³ After the introduction of a new penal code in 1791 and the Napoleonic Code Pénal in 1810, sodomy was no longer criminalized in France and other countries where this legislation was enacted (if at least sodomy was not practiced in public, with minors, or coerced), while in England one could be sentenced for sodomy to the pillory until 1816, if not the gallows, until 1835. See Michael D. Sibal, “The Regulation of Male Homosexuality in Revolutionary and Napoleonic France, 1789–1815,” in *Homosexuality in Modern France*, ed. Jeffrey Merrick and Bryant T. Ragan (Oxford: Oxford University Press, 1996), 80–101; Bryant T. Ragan, “Same-Sex Sexual Relations and the French Revolution: The Decriminalization of Sodomy in 1791,” in *From Sodomy Laws to Same-Sex Marriage: International Perspectives since 1791*, ed. Sean Brady and Mark Seymour (London: Bloomsbury, 2019), 2–30.

⁴ Many such press reports have been collected and published by Rictor Norton in his online sourcebook *Homosexuality in Eighteenth-Century England*. See, for example, “Newspaper Reports for 1707,” 11 August 2000, updated 15 June 2008, <http://rictornorton.co.uk/eighteen/1707news.htm>; “The Dutch Purge of Homosexuals, 1730,” 13 September 2000, updated 23 July 2018, <http://rictornorton.co.uk/eighteen/1730news.htm>; “The Plague of Effeminacy, 1757,” 26 February 2003, <http://rictornorton.co.uk/eighteen/plagues.htm>; “The Macaroni Club: Homosexual Scandals in 1772” and “The Macaroni Club: Newspaper Items,” 19 December 2004, updated 13 June 2017, <http://rictornorton.co.uk/eighteen/macaroni.htm>; “Newspaper Reports, 1772,” 19 December 2004, enlarged 10 January 2016, <http://rictornorton.co.uk/eighteen/1772news.htm>; see also “The First Public Debate about Homosexuality in England: The Case of Captain Jones, 1772,” in *The Gay Subculture in Georgian England*, ed. R. Norton (10 May 2014), <http://rictornorton.co.uk/eighteen/jones.htm>.

science, psychiatry, and, in part, the homosexual movement and has grown even more prevalent in the twentieth century. It was, however, already entertained in rudimentary form in the eighteenth and early nineteenth centuries. The comments of the middle-class and educated tenant farmer Matthew Tomlinson in his diary (14 January 1810) on newspaper reports about the trial and execution of Taylor suggest that there was wider public discussion about the possible natural cause of sodomy. Tomlinson mused that same-sex desire might be a God-given and therefore inevitable “defect of nature,” and he therefore questioned the death penalty for it.⁵ He mentioned that he talked with others about the possibility that an inclination toward same-sex attraction was established in some men during childhood. At the same time, Tomlinson also remarked that severe punishment was appropriate for sodomites who acted out of immoral choice and bad habits, which was in line with the traditional idea that sodomy was a willful and depraved activity.⁶

The second justification is the call to fundamental civil liberties. Taylor referred to his right to self-determination as a citizen, an ethical-legal and political principle of enlightened natural law and liberal thought.

These two modes of legitimation do not necessarily exclude each other, but through their different roots and presumptions—commonsense naturalism and biomedical thinking versus juridical and political ones—they are at odds with each other. In the first, the acceptance of homosexuality depends on an explanation in terms of inevitable innate causes affecting particular individuals. This approach tends to ignore or disqualify the possibility that same-sex desire and behavior could be an option for everyone. The second justification in terms of choice leaves open that option. In the eighteenth and early nineteenth centuries the option of choice was used as an argument for protesting against the criminalization of sodomy. In this article I argue that the autonomy principle, as developed in early liberalism, constituted the core of an assertive self-defense stand of some men who were prosecuted for sodomy or who wrote about it in encouraging terms. This attitude not only was tied to the notion of a separate minority category of men exclusively interested in their own sex but also expressed itself in a more open approach to same-sex relations as a possibility for all men. Before I discuss this in more detail, I briefly describe alternative

⁵ Eanonn O’Keeffe, “‘A Natural Passion?’: The 1810 Reflections of a Yorkshire Farmer on Homosexuality,” *Historical Research* 90, no. 263 (2021): 184, 189.

⁶ O’Keeffe, 187. Eighteenth-century speculations about the inborn causes of sodomy have also been documented by Rictor Norton, *F*ck Foucault: How Eighteenth-Century Homosexual History Validates the Essentialist Model* (2010), https://www.academia.edu/5938080/F-ck_Foucault_or_How_18th-century_homosexual_history_validates_the_essentialist_modeland; and, in the Dutch Republic, by Theo van der Meer, “Zodoms zaat in the Republiek: Stedelijke homoseksuele subculturen in de achttiende eeuw,” in *Soete minne en belsehe boosheit: Seksuele voorstellingen in Nederland 1300–1850*, ed. Gert Hekma and Herman Roodenburg (Nijmegen: SUN, 1988), 168–96.

interpretations of male homosexual behavior present in eighteenth-century northwestern Europe.

NEW INTERPRETATIONS OF SODOMY

Since at least the twelfth century, sodomy counted as a deadly sin and a major crime—as a severe undermining of the God-ordained social order. The original moral theological concept of sodomy referred to particular sexual behaviors that obstructed the God-given natural aim of procreation: bestiality and, in particular, homosexual and heterosexual anal penetration.⁷ Sodomy still counted as sinful and criminal in the eighteenth century, when, notably, in England and the Netherlands hundreds of men received draconian punishments. The assumption was that every human being could be subject to committing the sin of sodomy: it was the all-time low on the slippery slope of progressive moral deterioration that resulted from getting carried away by dreadful influences, poor habits, and loss of self-control. In premodern times sexual relations between males tended to display a fixed division of roles, whereby an older and dominant partner penetrated a subservient and/or younger one. Adult men could supposedly lust after both women and youngsters, while active and passive sexual roles reflected the broader inequality in social status and power. The prevailing hierarchical patterns, however, did not exclude other forms of same-sex behavior and feelings.⁸

Prior to the eighteenth century, the authorities seemed inclined to silence sodomy: they feared that open discussion might contribute to further spreading of this sin. Sodomy counted not only as contrary to nature but also apparently as particularly tempting. The pattern of early modern prosecution of sodomy shows relatively rare and arbitrary but severe and spectacular punishments of specific, narrowly defined sexual acts (anal penetration with or without emission) in order to set examples. Several considerations impeded regular prosecution: elaborate and laborious procedures; lack of knowledge and experience; preventing wider ramifications in public and protecting reputation, in particular when upper-class men were

⁷ Arthur N. Gilbert, “Conceptions of Homosexuality and Sodomy in Western History,” in *The Gay Past: A Collection of Historical Essays*, ed. Salvatore J. Licata and Robert P. Petersen (New York: Harrington Park Press, 1985), 57–68; Mark D. Jordan, *The Invention of Sodomy in Christian Theology* (Chicago: University of Chicago Press, 1997).

⁸ See George S. Rousseau, “The Pursuit of Homosexuality in the Eighteenth Century: ‘Utterly Confused Category’ and/or Rich Repository?,” In *'Tis Nature's Fault: Unauthorized Sexuality during the Enlightenment*, ed. Robert P. Maccubbin (Cambridge: Cambridge University Press, 1987), 132–68; Gert Hekma, “Same-Sex Relations among Men in Europe, 1700–1900,” in *Sexual Cultures in Europe: Themes in Sexuality*, ed. Franz X. Eder, Lesley A. Hall, and Gert Hekma (Manchester: Manchester University Press, 1999), 79–103; Alan Bray, *The Friend* (Chicago: University of Chicago Press, 2003); Barry Reay, “Writing the Modern Histories of Homosexual England,” *Historical Journal* 52, no. 1 (2009): 213–33.

involved; the difficulty of determining proof of penetration and therefore uncertainty about the outcome. This relative silence was broken in the eighteenth century. Influenced by the Enlightenment and the growing circulation of printed materials, like newspapers, periodicals, and pamphlets, more and more people could read about and discuss sodomy, in particular in the context of sensational and sometimes large-scale legal prosecutions, such as those in the Netherlands between 1730 and 1732.⁹ In the course of the eighteenth and early nineteenth centuries, judicial practice shifted toward more frequent and regular policing for a wider array of same-sex behavior, but with relatively milder punishments such as prison terms, fines, and deportation.

Historical research of prosecutions has revealed that in London, Paris, and several Dutch cities there were subcultures with public meeting places and other venues for sexual contact, networks of friends and prostitution, particular identifiers, codes and jargon, and specific patterns of conduct such as effeminate manners and travesty. In this context, a new perspective emerged on sodomy and pederasty (increasingly also a widely used word, derived from the Greek pedagogical *eros* and the Latin *paedicatio*). It would involve a certain type of people with a specific preference or taste, or peculiar personality traits, which could be explained in reference to bodily or other causes such as family background, childhood experiences, temptation, and habituation. In the course of the eighteenth century, *sodomy* and *pederasty* increasingly became the umbrella terms for various same-sex acts.¹⁰ This development took place against the backdrop of a growing normative emphasis on the importance of relational and reproductive heterosexuality in contrast to undesirable same-sex intercourse, masturbation, promiscuity, and prostitution.¹¹

⁹ Faramerz Dabhoiwala, *The Origins of Sex: A History of the First Sexual Revolution* (Oxford: Oxford University Press, 2012), 282–348; Kathleen Lubey, *Excitable Imaginations: Eroticism and Reading in Britain, 1660–1760* (Lewisburg, PA: Bucknell University Press, 2012); Heike Bauer, “Sex, Popular Beliefs and Culture,” in *A Cultural History of Sexuality in the Enlightenment*, ed. Julie Peakman (London: Bloomsbury, 2014), 159–81.

¹⁰ Kent Gerard and Gert Hekma, eds., *The Pursuit of Sodomy: Male Homosexuality in Renaissance and Enlightenment Europe* (New York: Harrington Park Press, 1989); Theo van der Meer, “Sodom’s Seed in the Netherlands: The Emergence of Homosexuality in the Early Modern Period,” *Journal of Homosexuality* 34, no. 1 (1997): 1–16; Jeffrey Merrick, “Commissioner Foucault, Inspector Noël, and the ‘Pederasts’ of Paris, 1780–83,” *Journal of Social History* 32, no. 2 (1998): 287–307; Rictor Norton, *Mother Clap’s Molly House: The Gay Subculture in England, 1700–1830* (Stroud: Chalford Press, 2006); Harry G. Cocks, “Homosexuality between Men in Britain since the Eighteenth Century,” *History Compass* 5, no. 3 (2007): 865–89; Elwin Hofman, “The End of Sodomy: Law, Prosecution Patterns, and the Evanescent Will to Knowledge in Belgium, France, and the Netherlands, 1770–1830,” *Journal of Social History* 54, no. 2 (2020): 480–502.

¹¹ Henry Abelove, “Some Speculations on the History of Sexual Intercourse during the Long Eighteenth Century in England,” *Genders* 6 (1989): 125–30; Karin Harvey, “The Century of Sex? Gender, Bodies, and Sexuality in the Long Eighteenth Century,” *Historical Journal* 45, no. 4 (2002): 899–916; Tim Hitchcock, *English Sexualities, 1700–1800* (New

At the same time, authoritative enlightened philosophers and legal scholars questioned the Christian denunciation of sodomy and turned against the draconian and random criminalization of it. References to so-called Socratic or Platonic love in ancient Greece made clear that sex between men was common in other eras and cultures. Classical philosophy, art, and literature—the palpable cultural baggage of literates—provided opportunities to address homosexual eroticism without preaching fire and brimstone or even to put it in a favorable light. Some libertines and pornographic authors went one step further with more or less explicit, sometimes mocking descriptions of sodomy practices. The materialist Enlightenment philosophy could well serve in defense of a hedonist lifestyle. With their idea of godless and aimless nature, radical thinkers like Julien Offray de La Mettrie and the Marquis de Sade undermined the concept of nature as represented by both Christianity (the cosmic order ordained by God) and the moderate mainstream of the Enlightenment (an essentially harmonious and rationally comprehensible structure of the world). While the normative and teleological notion of nature, whether Christian or secular, served to prescribe procreation-oriented heterosexual intercourse within marriage as the norm intrinsic to nature, the materialist and libertine perspective underlined that nature showed much variety and that any strict distinction between natural and unnatural or deviant behavior was problematic. Only a few radical Enlightenment thinkers and libertines, such as Sade, openly defended sodomy. Most of them stuck to heterosexual pleasure.¹²

Yet enlightened thinking did make some room for more diverse attitudes toward sodomy beyond the traditional hyperbolic demonizing rhetoric: apart from indifference, silent lenience, and pragmatism, this included amusement, curiosity, and even pity and some compassion for defendants, in particular, those who were considered to be respectable gentlemen, such as Taylor. Not all sodomites appeared to be monsters, and cruel penal practices increasingly evoked criticism. A few accused men who had good connections and sought rehabilitation were able to mobilize

York: St. Martin's Press, 1997); Hitchcock, "The Reformulation of Sexual Knowledge in Eighteenth-Century England," *Signs* 37, no. 4 (2012): 823–32.

¹² Théodore Tarczylo, *Sexe et liberté au siècle des Lumières* (Paris: Presses de la Renaissance, 1983); Maccubbin, *'Tis Nature's Fault*; George S. Rousseau and Roy Porter, eds., *Sexual Underworlds of the Enlightenment* (Manchester: Manchester University Press, 1987); Randolph Trumbach, "Sodomy Transformed: Aristocratic Libertinage, Public Reputation and the Gender Revolution of the 18th Century," *Journal of Homosexuality* 19, no. 2 (1990): 105–24; Lynn Hunt, ed., *The Invention of Pornography: Obscenity and the Origins of Modernity, 1500–1800* (New York: Zone Books 1993); Peter Cryle and Lisa O'Connell, eds., *Libertine Enlightenment: Sex, Liberty, and License in the Eighteenth Century* (Basingstoke: Palgrave Macmillan, 2004); William F. Edmiston, *Sade: Queer Theorist* (Oxford: SVEC Voltaire Foundation, 2013); Katherine Crawford, "Erotica: Representing Sex in the Eighteenth Century," in Peakman, *A Cultural History*, 159–81.

support, to defend themselves successfully, and to evoke some sympathy and support in press reports.¹³

POSSESSIVE INDIVIDUALISM

In the past decades, historians have extensively discussed the historical origins of the modern notion of homosexuality as minority category and personal identity.¹⁴ Contrary to the assumption launched by Michel Foucault and adopted by many historians that this involves a medical-sexological fabrication from the second half of the nineteenth century, others have convincingly argued that the origins go back to the eighteenth century while explaining these in the context of broader societal developments and the self-understanding of those involved. It is striking that, apart from rudimentary eighteenth-century understandings of sodomy in terms of a more or less natural inclination and the penchant of a specific group of men, little attention has been paid thereby to justifications of same-sex intercourse in terms of individual self-determination as formulated by Taylor. The influence of early liberalism, developed particularly in the political thought of John Locke, and the interrelated ideals of citizenship on the “modern” shaping of homosexuality have more generally remained underexposed.¹⁵

Individual self-determination, also known as “possessive individualism,” was a tenet that John Locke, in his *Two Treatises of Government* (1690), notably developed in terms of “property in the person.”¹⁶ This involved

¹³ LeJacq, “Run Afoul,” 3, 35–36, 171–94, 238–52, 269–336; see also O’Keeffe, “A Natural Passion?,” 185–86.

¹⁴ Michel Foucault, *Histoire de la sexualité I: La volonté de savoir* (Paris: Gallimard, 1976); Jan Löfström, “The Birth of the Queen / the Modern Homosexual: Historical Explanations Revisited,” *Sociological Review* 45, no. 1 (1997): 24–41; Randolph Trumbach, *Sex and the Gender Revolution: Heterosexuality and the Third Gender in Enlightenment London* (Chicago: University of Chicago Press, 1998); David M. Halperin, “Forgetting Foucault: Acts, Identities, and the History of Sexuality,” *Representations* 63 (1998): 93–120; Halperin, *How to Do the History of Homosexuality?* (Chicago: University of Chicago Press, 2002); Theo van der Meer, “Sodomy and Its Discontents: Discourse, Desire and the Rise of a Same-Sex Proto-something in the Early Modern Dutch Republic,” *Historical Reflections / Reflexions Historiques: A Historical Journal* 33, no. 1 (2007): 41–67; Umberto Grassi, “Acts or Identities? Rethinking Foucault on Homosexuality,” *Cultural History* 5, no. 2 (2016): 200–221.

¹⁵ With the exception of Charles Upchurch, *Before Wilde: Sex between Men in Britain’s Age of Reform* (Berkeley: University of California Press, 2009); Upchurch, “Liberal Exclusions and Sex between Men in the Modern Era: Speculations on a Framework,” *Journal of the History of Sexuality* 19, no. 3 (2010): 409–31; Upchurch, “Beyond the Law”: *The Politics of Ending the Death Penalty for Sodomy in Britain* (Philadelphia: Temple University Press, 2021); Dabhoiwala, *The Origins of Sex*, 80–110; Robert D. Tobin, “Early Nineteenth-Century Sexual Radicalism: Heinrich Hössli and the Liberals of His Day,” in *After “The History of Sexuality”: German Genealogies with and beyond Foucault*, ed. Scott Spector, Helmut Puff, and Dagmar Herzog (New York: Berghahn Books, 2012), 76–89; Patrick Singy, “Sexual Identity at the Limits of German Liberalism: Law and Science in the Work of Karl Heinrich Ulrichs (1825–1895),” *Journal of the History of Sexuality* 30, no. 3 (2021): 390–410.

¹⁶ Crawford B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Clarendon Press, 1962).

an elaboration of Thomas Hobbes's argument in *Leviathan* (1651) that the guaranteed protection of the body against violent breaches by others marked the transition of the struggle for survival of all against all in the natural state to a pacified political order. Hobbes assumed that the individual could consider his body, as given by nature, in principle as his rightful property. Locke claimed in response that adult men (more so than women) could consider not only their body and all products of their physical labor as their exclusive property but also their mental or intellectual powers, the products of which they could also call their own. As rightful and autonomous owner of their qualities and attainments, citizens were entitled the freedom to do with their property as they saw fit without thereby owing anything to society, as long at least as they did not violate the rights of fellow citizens or the public order. Locke's argument constituted the basic premise of classical liberal thought on personal autonomy, self-determination, and self-reliance and, more broadly, the naturalization and secularization of moral values, given that these, in line with his empiricist epistemology, were based in bodily and sensorial experiences.

Against the backdrop of Christianity, in which the body ultimately belonged to God, and of traditional hierarchies in which those in positions of power had a say about the bodies of their inferiors, Locke's possessive individualism amounted to a path-breaking rejection of the patriarchal order not only in the public domain of the state and civil society but also in the sphere of the private family. In his role as head of the family and father, the man—though by nature superior, according to Locke—did not have the right to possess his wife and children; power and responsibility had to be shared by man and woman based on mutual consent. Power of decision over another person, Locke felt, was equal to reprehensible slavery. The personal freedom he favored, however, was all but boundless: it was delineated by rational self-control and responsibility, and it did not so much apply to a person's emotional life, let alone their urges. His scarce utterances about sexual relations show his caution and ambivalence about extending his ideal of personal liberty and freedom of conscience to this sphere of life. Unbound sexuality could not be tolerated because it threatened to undermine the social order. With regard to sexual morality, Locke argued, Christian teachings were much more solid than the ethical guides of ancient philosophers and other pagan beliefs. At the same time, he displayed some measure of pragmatism with regard to issues like sexual relations and progeny outside of marriage, polygamy, and divorce (all of them with regard to men rather than women), while he also hinted that nature provided no obvious foundation for sexual morality. Sexual behavior was rather a matter of custom and culture, and he suggested that rational enquiry was the best guide in this field.¹⁷

¹⁷ Dabhoiwala, *The Origins of Sex*, 81–84, 97, 99–103, 187, 220.

Enlightened understandings of human nature, law, and ethics as articulated in the philosophy of Locke vindicated some degree of individual autonomy in the realm of religion, conscience, and morality, thus paving the way for more secular and liberal attitudes toward (hetero)sexual behavior in the private realm of the personal.¹⁸ As I will show below, it was also possible, although still highly unusual and controversial, to link up his thought with a far-reaching justification of same-sex behavior. The logic that individuals are free to do with their body as they please because that body is given to them by nature and is therefore their rightful property reverberates in the claims of some men who were accused of sodomy; of the authors of several English and French libertarian, partly political pamphlets; of Jeremy Bentham in an (unpublished) philosophical treatise, as well as in his main work on legal reform; and of the writers of the epic poem *Don Leon*.

PEDERASTY AS THE EPITOME OF CIVILIZATION

“Sirrah what’s that to you, cant I make use of my own body? I have done nothing but what I will do again.”¹⁹ These words were supposedly said by John Bowes when one night in 1718 two passersby saw him with his pants down to his ankles on top of a man named Hugh Ryly in the London Covent Garden. The case of Bowes and Ryly came before the court, where they vehemently denied having committed sodomy and accused the witness of attempted blackmail. The two men were acquitted. Eight years later, William Brown did not get away as easily after he was indicted for an attempt at sodomy on the “Sodomites’ Walk” in Moorfields, a London green area. According to the testimony of one of the constables who had apprehended him and questioned him about his “indecent Liberties,” Brown shamelessly declared: “I did it because I thought I knew him [the intended sexual partner, an agent provocateur guided by the law enforcers], and I think there is no Crime in making what use I please of my own Body.”²⁰ He was sentenced to the pillory, a fine, and two months’ imprisonment.

Just like in the case of Taylor, Bowes’s and Brown’s statements of self-determination were not handed down to us directly from these men.

¹⁸ Dabhoiwala, 133–34, 330–31.

¹⁹ Trial of John Bowes and Hugh Ryly, 5 December 1718, t17181205-24, Old Bailey Proceedings Online, https://www.oldbaileyonline.org/browse.jsp?id=t17181205-24&div=t17181205-24&terms=John_Bowes#highlight; see also “A Defence of Homosexuality, 1718: Trial of John Bowes and Hugh Ryly,” in Norton, *Homosexuality in Eighteenth-Century England* (4 January 2011), <http://rictornorton.co.uk/eighteen/1718bowe.htm>.

²⁰ William Brown, Sexual Offences: Assault with Sodomitical Intent, 11 July 1726, t17260711-77 and s17260711-1, Old Bailey Proceedings Online, <https://www.oldbaileyonline.org/browse.jsp?name=17260711>; see also “The Trial of William Brown, 1726,” in Norton, *Homosexuality in Eighteenth-Century England*, 22 April 2000, updated 20 June 2008, <http://rictornorton.co.uk/eighteen/brown.htm>.

Taylor's claim that "he had a right to do with himself as he pleased" can be found in at least two newspaper reports of his conversations with the chaplain of the ship who supposedly made him repent.²¹ Bowes and Brown were quoted in edited criminal records, which were periodically published in *The Proceedings of the Old Bailey*. Bowes's statement is reported speech in the testimony of a prosecution witness, and Brown was quoted in the record of the testimony by the constables who took the stand against him in court.

Such accounts have to be read with caution: they are mediated by established views and interests of those who wrote them down or had them documented, and therefore they are possibly selective, biased, and distorted. Newspaper articles about sodomy trials or scandals not only informed readers about facts. Reporters also conveyed current understandings and moral lessons, and possibly they attempted to attract readers through sensational and titillating accounts. Criminal records of sodomy trials tend to focus on particular punishable sexual acts (anal penetration, with or without the need to prove emission), reflect the specific logic of legal procedures, depend on traditional demonizing rhetoric, and privilege the conventional approach of the judicial authorities. As institutions of the ruling elite, courts had an interest in demonstrating that they were able to deal with crime and that lawbreakers received their deserved punishment. Their documentation shows a tendency to quote defendants only as far as their utterances were in line with the prevailing moral and judicial perceptions and if they acknowledged the wickedness of their behavior and accepted their punishment.²²

All of this restricted the opportunities for defendants to express their feelings, opinions, and experiences. Yet they were not completely censored. The one-sidedness of judiciary records and press accounts does not imply that quoted statements by defendants are by definition unreliable. Traces of self-defense in terms of rights and unfair treatment, masculine honor, solid character and good reputation, family responsibilities, and interest in women can be found in many accounts of sodomy trials. The voice of criminalized sodomites could sometimes be heard directly or indirectly in printed trial accounts as well as other publications, such as newspaper reports, biographical accounts, petitions for mercy, pamphlets

²¹ See the accounts under 1 and 6 January 1810 in "Court Martial of James Nehemiah Taylor, 1809–1810."

²² About the reliability of criminal records of sodomy trials and the quoted voices of defendants, see Theo van der Meer, *Sodoms zaad in Nederland: Het ontstaan van homoseksualiteit in de vroegmoderne tijd* (Nijmegen: SUN, 1995), 65–72; Rictor Norton, "Recovering Gay History from the Old Bailey," *London Journal* 30, no. 1 (2005): 39–54; Harry G. Cocks, "Making the Sodomite Speak: Voices of the Accused in English Sodomy Trials, c.1800–98," *Gender & History* 18, no. 1 (2006): 87–107; Robert B. Shoemaker, "The Old Bailey Proceedings and the Representation of Crime and Criminal Justice in Eighteenth-Century London," *Journal of British Studies* 47, no. 3 (2008): 559–80; LeJacq, "Run Afoul," 10–11.

attacking the injustices in the legal system, songs, and satire.²³ Assertions of sexual self-determination, such as those by Bowes, Brown, and Taylor, were exceptional; their remarks were radical and even outrageous, far beyond what was acceptable to judicial authorities, other commentators, and public opinion. It is all the more remarkable, then, that such statements were quoted, even if the possible intention was to make clear how immoral a defendant was, as in newspaper reports about Taylor, which disqualified his appeal to self-determination as a “vile and baneful opinion.”²⁴ It is highly unlikely that prosecutors, judges, or note takers would make up such a defensive and self-justificatory claim and put it in the mouth of a suspect or convict. They had no interest in doing so: such an opinion was not relevant for establishing evidence, and it contradicted (and might even undermine) the moral and legal order they upheld.

A similar justification of sodomy can be found in a semipornographic treatise entitled *Ancient and Modern Pederasty Investigated and Exemplify'd*, which was written by Thomas Cannon (1720–?) and printed in 1748. Based on a fragment from it and on information from court archives, it can be established that Cannon, a scion from a family of Anglican clergymen, was active in the London subcultural milieu of libertines and sodomites. He knew John Cleland, author of the much-read pornographic novel *Memoires of a Woman of Pleasure or Fanny Hill* (1748–49), which also featured a (disdainful) passage on sodomy. Like Cleland, Cannon was probably influenced by naturalist materialism.²⁵ And like Cleland, Cannon and the printer of his pamphlet were taken to court for committing obscenity, which prompted Cannon swiftly to flee to France. When four years later the case was dropped after his mother's intercession, he returned to England, where he would lead a quiet and, as he put it, pious life. All copies of his pamphlet were confiscated and destroyed, but a large part of the text survived because all offensive passages were copied as evidence in the indictment against the printer.²⁶

According to the charge, Cannon's text would incite youngsters to commit sodomy, which suggests the common fear that knowing about this deadly sin would soon lead to actually committing it. In his ornate writing style, Cannon speculated on this, while in his introduction he ironized

²³ See Cocks, “Making the Sodomite Speak”; and LeJacq, “Run Afoul,” 337–400.

²⁴ See the accounts under 1 and 6 January 1810 in “Court Martial of James Nehemiah Taylor, 1809–1810.”

²⁵ Leo Braudy, “Fanny Hill and Materialism,” *Eighteenth-Century Studies* 4, no. 1 (1970): 21–40; Hal Gladfelder, “Machines in Love: Bodies, Souls, and Sexes in the Age of La Mettrie,” *Eighteenth-Century Fiction* 27, no. 1 (2014): 55–81.

²⁶ Hal Gladfelder, “In Search of Lost Texts: Thomas Cannon's *Ancient and Modern Pederasty Investigated and Exemplify'd*,” *Eighteenth-Century Life* 31, no. 1 (2007): 22–38; Hal Gladfelder, ed., “The Indictment of John Purser, Containing Thomas Cannon's *Ancient and Modern Pederasty Investigated and Exemplify'd*,” *Eighteenth-Century Life* 31, no. 1 (2007): 39–61.

the notion of temptation by observing that the Christian denunciation of pederasty had successfully and forever cut short this practice's appeal, so that a discussion of it would not provoke any such desire anymore. This is why he felt free, he sardonically continued, to elaborate on it with concrete examples from the past and present: "Since Fashion discountenances, Law punishes, God forbids, the *Detested Love*, we may sure discuss it with Freedom, and the most philosophical Exactness." Next he let the characters and informers sing the joys of pederasty extensively: "Let the Adept's in the Abominable Practice Pronounce . . . that Boy-love ever was the top Refinement of most enlighten'd Ages."²⁷

Cannon's pamphlet was a compilation of divergent genres and figures of speech. Noting that "every Dabbler knows his Classics, that it was persu'd and prais'd with the Height of Liberty," he presented lewd passages on pederasty from classical literature in his own words, notably *Jupiter and Ganymedes* and *Jupiter and Juno*, two dialogues of the gods by the satirist Lucian of Samosata, and *Satyricon* by Gaius Petronius Arbiter.²⁸ These were followed by a story about an apparently heterosexual escapade, situated in London, by one "Amorio" with "Hyacinth," whereby lust reached a climax when the woman reveals herself to be a man; racy anecdotes about mythological and historical personages, like Socrates ("a most devoted sensual pederast") and Louis XIV's brother, who sang the pleasure of trio sex ("my God; what was the Joy of him in the middle"); ambiguous commentaries and dialogues; inuendoes on the pleasure of anal sex; and (misogynous) tributes to the attractiveness of the male body.²⁹ Most remarkable were the quoted discussions in a special "company" of which the author was part. In this circle, "an abhorred, and too polish'd Pederast" disputed the unnaturalness of same-sex desire by invoking the empiricist epistemology:

Unnatural Desire is a Contradiction in Terms; downright Nonsense. Desire is an amatory Impulse of the inmost human Parts: Are not they, however constructed, and consequently impelling, Nature? Whatever Modes of Thinking the Mind from Objects receives, whatever Sensations pervade the Body, are not the Mind and Body Parcels of Nature, necessarily receiving these Thoughts, necessarily pervaded by these Sensations? Nature sometimes assumes an unusual Appearance; But the extraordinary Pederast seeking Fru-t-on, [Fruition] is as naturally acted as the ordinary Woman's Man in that Pursuit. . . . Nature is Boundless, comprehending all animate, and inanimate Things. . . . Man's ruling Passion is the love of Variety.³⁰

²⁷ Gladfelder, "The Indictment," 40.

²⁸ Gladfelder, 40.

²⁹ Gladfelder, 51–52, 56.

³⁰ Gladfelder, 54.

Another interlocutor reversed the age-old association of sodomy with bestiality. In his view, pederasty elevated man above the animal level, and this involved a cultural attainment comparable to other ones, like philosophy and music—all those achievements belonging to “the distinguishing Portion of Sovereign Man.”³¹ Cannon clearly suggested that sodomy was the paragon of civilization as well as of individual autonomy and self-determination. Further, same-sex love, in Cannon’s descriptions, took many forms, thereby transgressing boundaries all the time. It was not so much a compulsive inner urge as a chosen predilection for a need of variation, whereby conventional (active and passive) role patterns, defined by gender and age differences, were broken.

SODOMITES AND TRIBADES ON THE BARRICADES

In the early years of the French Revolution, several anonymous pamphlets appeared in Paris in which sodomites and tribades (lesbian women) provocatively defended their civil rights and interests, employing various new political relations, forms of organization, and procedures, including meetings, addresses, discussions, votes, statutes, and committees. In two pamphlets, *Les enfans de Sodome à l'Assemblée nationale* (The children of Sodom to the National Assembly, 1790) and *Les petits bougres au manège* (The little buggers at the riding school, 1790), a group of pederasts presented themselves as a political interest organization. Their spokespersons demanded the right to participate in the parliamentary debate in order to express their view of sodomy as a “taste” intrinsic to nature. The Enlightenment, after all, had done away with Christian misconceptions and barbarian criminal provisions. The time had come to ground sexual freedom in the new revolutionary constitution and its proclaimed civil and human rights. The argument was bolstered with references to nature’s multifariousness as well as to great men in history who engaged in pederasty. The patriotism and sense of freedom of the exemplary Greeks and Romans proved that, as can be read in *Les enfans de Sodome à l'Assemblée nationale*, “one can be a bugger and a citizen, and . . . that the affairs of the ass do not prevent and cannot prevent one from showing oneself passionate about the affairs of the country.”³²

³¹ Gladfelder, 51.

³² Anonymous, “The Children of Sodom to the National Assembly, or Deputation of the Order of the Cuff to the Representatives of All of the Orders Collected from the Sixty Districts of Paris and Versailles Brought Together in It,” in *Homosexuality in Early Modern France: A Documentary Collection*, ed. Jeffrey Merrick and Bryant T. Ragan (Oxford: Oxford University Press, 2001), 178; Anonymous, “Les enfans de Sodome à l'Assemblée nationale: Ou Députation de l'Ordre de la Manchette aux représentans de tous les orders pris dans les soixante districts de Paris et de Versailles y réunis,” in *Les enfans de Sodome à l'Assemblée nationale*, ed. Patrick Cardon (Lille: GKC Question de Genre, 2005), 55.

Peppered with obscenity, such pleas for the right to promote sodomy with the help of a “scientific” guideline and to teach it to inexperienced youngsters were alternated with gossip and anecdotes about dignitaries and scandals, descriptions of subcultural and promiscuous practices, obscene voting procedures, and other erotic caprioles showing the sexual commitment of participants. The provision included in the statutes on the flexible nature of the organization’s membership in relation to potentially changing sexual tastes suggests that sodomy and heterosexuality were seen as a matter of choice, for one or the other or for both, rather than as exclusive or fixed categories.

The two pamphlets included membership lists with the names of some 160 prominent men and women, sometimes with juicy information about their sexual aberrations. Obviously, these aristocrats, high clergymen, courtiers and other dignitaries, and well-known actors and actresses—the theater world counted as licentious by definition—had not given their consent to this compromising listing. In this regard, the pamphlets seem to belong to the genre of satiric pornography that made fun of the assumed licentiousness of the nobility, clergy, and royal court.³³ Against the background of the Revolution, however, in particular the decriminalization of sodomy in 1791—which was a tacit consequence of the cancellation of all traditional religiously and feudally inspired legislation—these pamphlets also suggest that it was quite conceivable that the pederasts and tribades publicly demanded rights, even though the style or rhetoric applied was humorous and excessive.

This ambiguity was expressed preeminently in the utterances of two noble characters presented as leaders: Louis de Noailles, fourth duke of Noailles (1713–93), member of a prominent family of generals, and Charles Michel, marquis de Villette (1736–93), who sided with the Revolution and had publicly burned his patents of nobility. As a protégé of Voltaire, Villette had ambitions as an author, but he became known in particular as a notorious rake. Because he kept ending up in scandals and committing sexual offenses, he featured prominently in the satiric tabloids, though that did not prevent him in 1792 from taking a seat in the National Convention.³⁴

³³ Jeffrey Merrick, “Sexual Politics and Public Order in Late Eighteenth-Century France: The *Mémoires secrets* and the *Correspondance secrète*,” *Journal of the History of Sexuality* 1, no. 1 (1990): 68–84; Vivian Cameron, “Political Exposures: Sexuality and Caricature in the French Revolution,” in *Eroticism and the Body Politic*, ed. Lynn Hunt (Baltimore, MD: Johns Hopkins University Press, 1991), 90–107; Lynn Hunt, “The Many Bodies of Marie-Antoinette: Political Pornography and the Problem of the Feminine in the French Revolution,” in Hunt, *Eroticism*, 108–30; Stéphanie Genand, “Éros politique: Idéologies du corps à la fin de l’Ancien Régime,” *Dix-huitième Siècle* 37 (2005): 577–97.

³⁴ Anonymous, “Vie privée et publique du ci-derrrière Marquis de Villette, citoyen rétro-actif,” in Cardon, *Les enfants de Sodome*, 129–38; Jeffrey Merrick, “The Marquis de Villette and Mademoiselle de Raucourt: Representations of Male and Female Sexual Deviance in

The pamphlet's fictional character, Noailles, demonstrated his promiscuity and ample experience as an active sodomite who satisfied his lust with both men and women, the high ranked and low ranked, and adults and youngsters. "Since it's of the essence of every free man to be able to [do] whatever he wants," he observed, "everyone should be free to examine this subject more or less thoroughly."³⁵ Villette, also presented as a fictional character, was even more explicit about his hedonistic and amoral lifestyle:

Glory is only a dream; pleasure's something real. To get as much of it as I can is my sole objective. In a word, to butt-fuck in the morning, to butt-fuck at noon, to butt-fuck in the evening, that's all I seek and find without difficulty. . . . The ability to get hard, to fuck, to come is without doubt the most precious gift nature could have given us. Without speaking of the inclination that every creature feels for the propagation of its species, what phrases can express the pleasure that there is in pawing two pretty tits, two plump and white thighs?³⁶

He argued for a universal right to sexual gratification, no matter how it was achieved, and in line with the preferences and predilections nature had given to humans. The individual liberty constitutionally secured by the Revolution should apply not only to the rational dimension of humans but also and in particular to lust:

Individual liberty, decreed by our most august and most respectable representatives, is certainly not something that exists only in the imagination, and in keeping with this principle, I can dispose of my property, whatever it is, according to my taste and whims. Now my cock and balls belong to me, and whether I put them in a stew or whether I put them in a broth or, to speak more clearly, whether I put them in a cunt or an ass, no one has the right to complain about what I do with them.³⁷

Like the accused London sodomites and Cannon, Noailles and Villette called on the right to self-determination regarding one's own body. How these two noblemen employed that right, however, did not quite meet the

Late Eighteenth-Century France," in Merrick and Ragan, *Homosexuality in Modern France*, 30–53; Olivier Blanc, "The 'Italian Taste' in the Time of Louis XVI, 1774–92," in *Homosexuality in French History and Culture*, ed. Jeffrey Merrick and Michael Sibal (New York: Harrington Park Press, 2001), 69–84.

³⁵ Anonymous, "The Children of Sodom," 176; Anonymous, "Les enfans de Sodome," 52.

³⁶ Anonymous, "The Little Buggers at the Riding School, or Response of Monsieur ***, Grand Master of the Butt-fuckers, and of his Followers, Defendants, to the Petition of the Female Fuckers, Bawds, and Handjobbers, Petitioners," in Merrick and Ragan, *Homosexuality in Early Modern France*, 192–93; Anonymous, "Les Petits Bougres au Manège ou Réponse de M.*** Grand Maître des enculeurs, et de ses adherents, défenseurs, À la requête des fouteuses, des maquerelles et des branleuses, demanderesses," in Cardon, *Les enfans de Sodome*, 92, 94–95.

³⁷ Anonymous, "The Little Buggers," 193; Anonymous, "Les Petits Bougres," 95–96.

revolutionary ideal of equality. They basically ignored the issue of mutual consent, and those they penetrated seemed to feature as prey rather than as equal partners. In this respect, their rhetoric reminds one of Sade's style and resembles libertine descriptions of heterosexual relations, rife as it is with metaphors of violence and possessive selfishness. This aristocratic libertinism and the example of Greek pederasty, likewise marked by inequality, were not quite in line with the new democratic values and revolutionary rhetoric in the pamphlets but rather reflected traditional class hierarchy.³⁸

The arguments advanced by Noailles and Villette were in fact part of a satirical polemic between sodomites, tribades, and Parisian whores. The fictive spokespersons of the latter group also let their voice be heard in a pamphlet in which they, relying on scatological imagery, fiercely criticized the sodomites because they would undermine the whores' business model.³⁹ They insisted on stringent measures, such as renewed criminalization and the obligation for pederasts to wear a stigmatizing identifier, a plume in the shape of a phallus, on their hat. The pamphlet's character Villette reacted to this, saying that sexually women provided less pleasure than men and that whores were responsible for the spreading of venereal diseases. In this struggle between sodomites and whores, the third group, that of the tribades and "anandrines" (women without a male partner), led by Mademoiselle Raucourt, a character modeled after the famous actress Françoise Saucerotte (1756–1815), sided with the pederasts because in her view whores undermined the realization of autonomous citizenship for women.⁴⁰ Like Villette, Saucerotte attracted much attention with her extravagant and licentious lifestyle. Thirteen years earlier, in a periodical of scandalous stories, Raucourt was featured as leader of the Anandrines Cult, which advocated a revolt against men and the realization of a feminist utopia.⁴¹

The polemic in these pamphlets involved parody on the revolutionary political practice of increasing faction formation and fierce struggles about principles as well as group interests. The tenor of these pamphlets is ambiguous, however, and they are open to various interpretations.⁴²

³⁸ J. Miller, *Don Giovanni: Myths of Seduction and Betrayal* (New York: Schocken, 1990); Robert Darnton, "Sex for Thought," *New York Review of Books*, 22 December 1994, 65–74.

³⁹ Anonymous, "Requête et décret en faveur des putains, des fouteuses, des macquerelles et des branleuses contre les bougres, les bardaches et les brûleurs de paillasses," in Cardon, *Les enfants de Sodome*, 77–89.

⁴⁰ Anonymous, "La Liberté ou Mlle Raucourt: À toute la secte anandrine, assemblée au foyer de la Comédie-Française," in Cardon, *Les enfants de Sodome*, 105–25.

⁴¹ Matthieu F. Pidansat de Mairobert, "The English Spy or Secret Correspondence between Milord All'Eye and Milord All'Ear," in Merrick and Ragan, *Homosexuality in Early Modern France*, 137–51; see also Susan Lanser, "'Au sein de vos pareilles': Sapphic Separatism in Late Eighteenth-Century France," in Merrick and Sibal, *Homosexuality in French History and Culture*, 105–16.

⁴² See Wayne Dynes, "Privacy, Sexual Orientation and the Self-Sovereignty of the Individual: Continental Theories, 1762–1908," *Gay Books Bulletin* 6 (1981): 20–23; Patrick

The anonymous author(s) obviously embraced satire, whereby the notion of homosexual rights was played up in racy phrases. Conversely, the pamphlets suggested not only that it was quite conceivable to add a sexual dimension to the human and civil rights proclaimed during the French Revolution but also that sodomites, pederasts, and tribades could and should politically organize themselves. These ideas were promoted in the pamphlets through a mixture of styles and arguments derived from classical antiquity, libertinism, and the literary underworld of radical freethinkers and politically colored pornography, as well as enlightened philosophy and liberal possessive individualism. Their gist overlaps with assertions by Cannon and the accused London sodomites.

I do not claim that these men and the anonymous authors of the revolutionary pamphlets knew about Locke's elaborate concept of possessive individualism or that they had even read his work. It is likely, however, that ideas about personal rights, which Locke articulated on a learned philosophical level, circulated in eighteenth-century Britain and France in a cruder form and that individuals, including those accused of sodomy, could conceive of such defenses and actually use them. Canon's reference to self-determination and the similar statements of Bowes and Brown and in the French revolutionary pamphlets suggest that such ideas may have been around in the London and Paris sodomitical subculture.⁴³ Outside of these capitals, as well, more or less sophisticated secular knowledge and discourse about sodomy can be traced.⁴⁴ In both Britain and France and in the Netherlands, a lively news and press industry reported on sodomy and contributed to popular perceptions and public debate. The extent to which these ideas were disseminated at the time is hard to track based on the limited number of examples. That similar views occurred in different English and French contexts and genres, however, makes it plausible that

Cardon, "Présentation," in Cardon, *Les enfans de Sodome*, 11–36; Thierry Pastorello, "La sodomie masculine dans les pamphlets révolutionnaires," *Annales Historiques de la Révolution Française* 3 (2010): 91–107; Elisabeth Colwill, "Pass as a Woman, Act Like a Man: Marie-Antoinette as Tribade in the Pornography of the French Revolution," in Merrick and Ragan, *Homosexuality in Modern France*, 54–79, see 60–63; Merrick, "The Marquis de Villette," 45–47; Jeffrey Merrick and Bryant T. Ragan, introduction to Anonymous, "The Children of Sodomy to the National Assembly, or Deputation of the Order of the Cuff to the Representatives of All of the Orders Collected from the Sixty Districts of Paris and Versailles Brought Together in It," in Merrick and Ragan, *Homosexuality in Early Modern France*, 171–72; Przemyslaw Szczur, "La rhétorique révolutionnaire à l'épreuve des minorités sexuelles dans quatre pamphlets de la révolution française," <http://dx.doi.org/10.18778/8088-896-8.07>.

⁴³ Although homosexual subcultures also existed in major cities in Holland such as Amsterdam and The Hague, and Dutch sodomites expressed a variety of self-justifications, explicit formulations or pleas in terms of bodily self-determination have not been found in that context. E-mail communication by Theo van der Meer, 16 November 2020; see also Van der Meer, *Sodoms zaad in Nederland*.

⁴⁴ Norton, "Recovering Gay History"; LeJacq, "Run Afoul," 273–400; O'Keeffe, "'A Natural Passion?'"

these were articulated among particular groups not only in the homosexual and libertine underworld but also among leading Enlightenment thinkers and social reformers, in particular, Jeremy Bentham and his followers, and in literary circles, such as the entourage of the famous poets Lord Byron and Percy Bysshe Shelley.

TO EACH HIS OWN

Bentham went further in his criticism of the common denunciation of sodomy than most eighteenth-century philosophers. Objecting to Christian morality and the penal code, enlightened legal thinkers acknowledged that homosexuality occurred everywhere and at all times, but they still considered it to be unnatural. More rational, preventive, and “humane” approaches had to prevent such undesirable behavior, including (re)education aimed at self-control, willpower, and a sense of responsibility; the promotion of a well-ordered society with social control and behavioral regulation; a stable and healthy lifestyle; diligence and productivity; stimulation of marriage and family; and the fight against moral erosion and decadence.⁴⁵

Bentham recorded his criticism of the criminalization of sodomy between 1774 and 1816 in extensive yet hitherto unpublished notes.⁴⁶ Just like the legal philosopher Cesare Beccaria, Bentham argued that the excessive punishments were completely disproportionate to the assumed harm to society. Based on his utilitarian principle—minimization of suffering and maximization of happiness among as many people as possible—he systematically discussed all existing and conceivable objections to same-sex love, concluding that none of them could be rationally justified. There was no historical or contemporary evidence that pederasty was a threat to third parties, population growth, military resilience, marriage, the health and virility of men, or the position of and appreciation for women. While he extensively referred to Greek pederasty as historical evidence for the truth of his view, he denounced intolerant and hypocritical Christianity that denied people all happiness and pleasure: “If then . . . it were right

⁴⁵ Jacob Stockinger, “Homosexuality and the French Enlightenment,” in *Homosexualities and French Literature: Cultural Contexts / Critical Texts*, ed. George Stambolian and Elaine Marks (Ithaca, NY: Cornell University Press, 1979), 161–85; Michel Delon, “The Priest, the Philosopher, and Homosexuality in Enlightenment France,” in Maccubbin, *'Tis Nature's Fault*, 122–31; Bryant T. Ragan, “The Enlightenment Confronts Homosexuality,” in Merrick and Ragan, *Homosexuality in Modern France*, 8–29.

⁴⁶ Only in 1978 was the treatise *Offences against One's Self: Paederasty* (1785) published by the literary scholar Louis Crompton. Louis Crompton, ed., “Jeremy Bentham's Essay on 'Paederasty,’” *Journal of Homosexuality* 3, no. 4 (1978): 389–405; 4, no. 1 (1979): 91–107. I use a later version, edited by John Lauritsen, with several corrections of Crompton's edition: Jeremy Bentham, “Offences against One's Self: Paederasty,” ed. John Lauritsen, <https://paganpressbooks.com/jpl/JB-INTRO.HTM>.

that paederasts should be burnt alive monks ought to be roasted alive by a slow fire. If a paederast, according to the monkish canonist Bermondus, destroys the whole human race Bermondus destroyed it I don't how many thousand times over. The crime of Bermondus is I don't know how many times worse than paederasty."⁴⁷

Even though Bentham made it clear that personally he was not interested in homosexuality, he unequivocally posited that emotional aversion, often coupled with blind hate and aggression, could never ever be a reason to prohibit pederasty. To each his own, according to Bentham. Why cause trouble about differences in sexual preference when one might not be bothered at all about other differences in taste? Based on the utilitarian assumption that in principle all things contributing to pleasure and happiness—and lust gratification did so in large measure—are good, it was only logical in Bentham's view that people had the right to sexual self-determination. State and church should refrain from any interference in sexual conduct, whether involving customary partners, positions, and acts or deviant ones. What applied to pederasty—conceived broadly by Bentham, in line with the Greek model, as a practice that did not exclude heterosexual conduct and inequalities of age—equally applied to other variants, such as tribadism and even bestiality. But he excluded masturbation, thus uncritically echoing the view, which in the course of the eighteenth century grew common, that onanism undermined people's health.⁴⁸

Bentham probably shared his views with fellow travelers, including his brother Samuel, James and John Stuart Mill, and William Godwin. Also in *An Introduction to the Principles of Morals and Legislation* (1789), which influenced criminal law reform efforts in the 1820s and 1830s, Bentham argued against the criminalization of sodomy, but in a much more concise, implicit, and abstract way than in his unpublished manuscript.⁴⁹ Apart from the logic of his utilitarian philosophy, Bentham also appealed to a humanitarian reinterpretation of Christian ideas, which included a rejection of current principles as the basis of morality, such as the idea of the “unnatural” and emotional antipathy. According to Bentham, current religious condemnations had come down from the erroneous ascetic teachings of St. Paul. Jesus's more positive approach to sensuality, as Bentham argued in

⁴⁷ Bentham, “Offences against One's Self,” 11.

⁴⁸ Paula Bennett and Vernon A. Rosario, *Solitary Pleasures: The Historical, Literary and Artistic Discourses of Autoeroticism* (London: Routledge, 1995); Jean Stengers and Anne Van Neck, *Masturbation: The History of a Great Terror* (New York: Palgrave, 2001); Thomas W. Laqueur, *Solitary Sex: A Cultural History of Masturbation* (New York: Zone Books, 2003).

⁴⁹ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, rev. ed. (1789; repr., Kitchen, ON: Batoche Books, 2000), 162, 219–22, <https://socialsciences.mcmaster.ca/econ/ugcm/3ll3/bentham/morals.pdf>. For a discussion of this work, see Upchurch, “*Beyond the Law*,” 15–22.

his pseudonymously published *Not Paul, but Jesus* (1823), was much more in line with his own utilitarian thinking about the virtue of pleasure.⁵⁰

Bentham may have been triggered by executions for sodomy in the early nineteenth century and the media attention they raised as part of his effort to influence public opinion and politics. In 1817 he was in touch with the eccentric gothic novelist, art collector, and member of Parliament William Beckford in order to promote his ideas in politics. There was no public response by Beckford, who lived in self-chosen exile from British society after having been accused of homosexual activities in the early 1780s.⁵¹ But some MPs—who were not only inspired by enlightened and humanitarian ideals but also familiar with same-sex relations through family and other personal connections, involving in particular Lord Byron's circle—took up Bentham's principles when they initiated parliamentary discussions about abolishing the death penalty for sodomy around 1825, in the early 1830s, and again in 1840–41. In 1841 a two-thirds majority (overwhelmingly Whigs) in the House of Commons voted on a law amendment that would have ended the death penalty for sodomy had not a majority in the House of Lords voted against it.⁵²

Such ideas were echoed in other circles at the start of the nineteenth century. That Bentham and some MPs acted against the demonization and criminalization of sodomy was known within the literary company of Lord Byron and Shelley.⁵³ Shelley translated Plato's *Symposium* and introduced this classical dialogue on Eros with an essay on the "manners" of the Greeks. Following the German art historian Johann Joachim Winckelmann, Shelley idealized Greek pederasty in light of Hellenist art and aesthetics, if systematically evading the sexual aspect and modeling same-sex love after romantic love.⁵⁴ Shelley's argument marks the nineteenth-century turn to a more defensive and concealed approach to homoeroticism.

A much more daring and assertive approach, partly along the lines of what Bentham had argued and partly in the style of eighteenth-century libertinism, can be found in the epic poem *Don Leon*, which first surfaced

⁵⁰ Jeremy Bentham, *Not Paul, but Jesus* (1823; online edition 2013), <https://www.gutenberg.org/files/42984/42984-h/42984-h.htm>.

⁵¹ Upchurch, "Beyond the Law," 31–33; see also Rictor Norton, "Oddities, Obituaries and Obsessions: Early Nineteenth-Century Scandal and Social History Glimpsed through William Beckford's Newspaper Cuttings," in *The Beckford Society Annual Lectures 2004–2006*, ed. Richard Allen (2008), 53–72.

⁵² Upchurch, "Beyond the Law," 140–64, 165–84.

⁵³ Louis Crompton, "Don Leon, Byron, and Homosexual Law Reform," *Journal of Homosexuality* 8, no. 3–4 (1983): 53–72; see also Crompton, *Byron and Greek Love: Homophobia in 19th-Century England* (London: Faber and Faber, 1985); John Lauritsen, *The Shelley-Byron Men: Lost Angels of a Ruined Paradise* (Dorchester, MA: Pagan Press, 2017).

⁵⁴ Plato, *The Banquet*, trans. Percy Bysshe Shelley, ed. John Lauritsen (Dorchester, MA: Pagan Press, 2001); Nancy Goslee, "Shelley's Cosmopolitan Discourse: Ancient Greek Manners and Modern Liberty," *Wordsworth Circle* 36, no. 1 (2005): 2–5.

in the 1830s as a posthumous work of Byron, who had left Britain in 1816 after having been accused of sodomy with men as well as his wife and incest with his sister.⁵⁵ *Don Leon*, which was edited and expanded repeatedly over the years and published in 1866 by the political subversive and pornographic bookseller William Dugdale, was probably written by one or more authors from Lord Byron's circle of followers and by libertarian radicals. The long poem, including explanatory notes titled "Notes to *Don Leon*" and an additional poem, "Leon to Annabella," is an apology for Greek love as a passion intrinsic to nature.⁵⁶ It contains, in addition to all sorts of *faits divers*, information on Byron's life; his sexual self-discovery and development; his intimate bonds with young men; his defense of his "natural" inborn longings, with references to ancient as well as Christian writers; and the vicissitudes of those with similar feelings. Apart from the pornographic content (allusions to anal sex, pederasty, and other sexual practices such as lesbianism, prostitution, exhibitionism, voyeurism, fellatio, flagellation, incest, and flogging), *Don Leon* contained detailed information about the actions of some MPs seeking legal reform and presented a political message against the background of the harsh prosecutions of sodomites in England. References to inevitable natural inclinations as well as the fundamental right of individual self-determination served the purpose of voicing disapproval of the cruel punishments:

Though law cries "hold!" yet passion onward draws;
 But nature gave us passions, man gave laws,
 Whence spring these inclinations, rank and strong?
 And harming no one, wherefore call them wrong?
 What's virtue's touchstone? Unto others do,
 As you would wish that others did to you.⁵⁷

HOMOSEXUALITY AS FATE OR AS CHOICE?

Organized homosexual emancipation took root at the end of the nineteenth century, particularly in Germany and, to a lesser degree, in England, with the publications and activities of pioneers such as Karl Heinrich Ulrichs, Magnus Hirschfeld, Edward Carpenter, and Havelock Ellis. Their plea for the abolition of the criminalization of homosexual relations between men

⁵⁵ According to Upchurch ("*Beyond the Law*," 117), the poem probably originated around 1825, not long after Byron's death in 1824, and not in 1833 as assumed earlier.

⁵⁶ "Leon to Annabella" is a plea for the privacy of marriage regardless of what partners do with mutual consent, indicating that the criminalization of sodomy could also affect heterosexual couples.

⁵⁷ Anonymous, "Don Leon (c. 1823–36), attributed to Lord Byron (1788–1824)," in *Hidden Heritage: History and the Gay Imagination; An Anthology*, ed. Byrne R. S. Fone (New York: Avocation Publishers, Inc., 1980), 174–75. For the latest historical research on *Don Leon*, see Upchurch, "*Beyond the Law*," 116–39.

in central Europe and Great Britain strongly relied on the biomedical and psychiatric conceptual frames of their era. Together with progressive physicians and sexologists, these activists shared the conviction that scientific knowledge was the key to social acceptance of homosexuals as a clearly delineated minority. The so-called urnings or the third sex would be distinguishable through specific physical and psychological features, in particular effeminacy in men and the reverse. The focus was on character traits for which supposedly natural causes could be found, whereas attention was drawn away from sexual acts. And the message was that homosexuals should be tolerated because they could not help it.

In contemporary discussions on gay rights, the issue of the causes of same-sex desire is still frequently raised, and the answers are mainly expected to be provided by biomedical science and psychology. Although thus far no convincing evidence has been offered for any biological or mental cause of homosexuality, the notion of an innate predisposition persists—as shown by speculations on the “homosexual gene” or “gay brain”—not least because many homosexual people themselves tend to rely on it. Such thinking reassuringly confirms the idea that their preference is not something they can be blamed for and that therefore they have no alternative. Homosexuality’s right to exist appears to depend on undisputable evidence of its inevitability. Conceiving of homosexuality as a choice or option for everyone—a somewhat less comforting notion perhaps for the heterosexual majority—is largely impossible in this perspective. Up until the 1960s, the gay movement employed an apologetic tone: we are here, and that’s simply how it is; if we are different, we cannot help it; we are struggling with ourselves and with society, so, please, grant us our place in the sun. The more militant gay activism of the 1970s equally reinforced the hetero-gay division and the notion of sexual preference as a deep-seated trait. Even present-day LGBTIQ (lesbian, gay, bisexual, transsexual, intersex, and queer) activism is not so much a revolutionary breakthrough as a continuation of the focus on orientation and (gender) identity, which are based on *being* rather than *doing*.⁵⁸ The modern discourse of homosexual emancipation is engrained in a testimony of incapacity.

As I argued above, in the eighteenth century it was possible to find examples of homosexual self-justification, at least in England, in Paris, and, although not so politically outspoken, in Holland. These rather haphazard and short-lived initiatives were perhaps less coherent and sustainable than the later emancipatory model but also more radical and daring in their form and content. The spokespersons derived their inspiration from liberal principles and enlightened philosophy, cultural history and literature, libertinism, and pornography. If they barely dealt with causes and fixed

⁵⁸ Gert Hekma, “The Various Stages of the Alphabet Soup: From Sade to Modern Times,” in *Histories of Sexology: Between Science and Politics*, ed. Alain Giami and Sharman Levinson (Cham: Palgrave Macmillan, 2021), 295–309.

orientation, they addressed sexual pleasure all the more, often in flowery and racy language. Calling upon choice and self-determination, they referred to multifarious nature as leaving room for a broad sexual repertoire instead of determining certain preferences and behavior. And they did not restrict the preference for same-sex relations to a separate minority group, even though this notion was gaining ground in the eighteenth and early nineteenth centuries. Their homosexual manifestation, in other words, was not based on a strictly demarcated category or identity, as would be the case in the later emancipatory model.

The libertine and sexually explicit defense of same-sex relations lost ground over the course of the nineteenth century. Adding a sexual dimension to liberal possessive individualism might have served as a powerful political principle for homosexual emancipation and sexual citizenship, and this would have made thorny discussions on the underlying biological and mental causes of sexual preference altogether irrelevant. Things played out differently, however. If this liberal perspective would actually feature in the struggle for gay rights, it was eclipsed by the other justification strategy, which was also rooted in the eighteenth century: that of naturalist and deterministic explanations in terms of unchangeable orientation and irresistible inner urge—or the fate of not being able to be “normal.” Significantly, perhaps, treatises on homosexuality in terms of inborn traits show similarities with presumptions about the unchangeable essence of ethnicity and “race.”⁵⁹ But the view that homosexuality, in whatever form and from whichever motivation, can be a matter of choice for everyone—just like in the traditional model of sin, but without denunciation and with a positive connotation—was structurally evaded. Apart from discussions of bisexuality (either as general human feature or as a specific double preference of a marginal minority), the line between heterosexuality and homosexuality was drawn ever more strictly.

That the naturalizing angle gained the upper hand among homosexual individuals and the emancipatory movement, as well as in science, care services, the media, and the general public, is partly the outcome of the one-sided way in which possessive individualism was realized, against the background of social and political inequality, in the course of the eighteenth and nineteenth centuries. Civil rights were not given a sexual component in liberalism, except in civil marriage and family law and criminal provisions concerning forced sex and sex in public. Sexuality would largely be relegated to the intimate private sphere rather than the public domain

⁵⁹ Siobhan B. Somerville, “Scientific Racism and the Emergence of the Homosexual Body,” *Journal of the History of Sexuality* 5, no. 2 (1994): 243–66; Dana Seitler, “Queer Physiognomies: Or, How Many Ways Can We Do the History of Sexuality?,” *Criticism* 46, no. 1 (2004): 71–102; Robert D. Tobin, *Peripheral Desires: The German Discovery of Sex* (Philadelphia: University of Pennsylvania Press, 2015), 83–161.

and was hardly discussed in terms of political, liberal-democratic principles. The positive understandings of same-sex desire in terms of possessive individualism among libertines, even during the French Revolution, were mainly elitist, and they were partly related to hierarchical patterns of same-sex relations. Moreover, actual self-determination remained limited to economically independent, self-reliant men of means. All others—nearly all women, children, wage workers, those dependent on support or charity, and the infirm or otherwise deviant people—were excluded from full citizenship based on their assumed unsuitable or inferior nature, and they were not in a position to fully determine their own lives. Within the private sphere, homosexual men from the upper classes and an occasional lesbian woman of means could benefit to some degree from possessive individualism by hiding their sexual lives behind a bourgeois facade of decency, solid character, and sound reputation.⁶⁰ Yet lower-class men largely lacked such a shield of privacy and social standing and were more at risk for policing and exposure. As to the legal prosecution of punishable homosexual behavior, they were more vulnerable than the more privileged, all the more where class injustice was the rule rather than the exception.⁶¹

While particular enlightened notions of human nature provided room for new and liberating opportunities, nineteenth-century biomedical science defined nature in more determinist and limiting terms: individuals were relegated exclusively to the human group or class to which they would belong on the basis of their innate traits. In the course of the nineteenth century, arguments derived from biomedical science on the supposedly inborn qualities of individuals and groups of human beings were increasingly deployed to present social inequality and selective attribution of liberal freedoms and civil rights as inevitable and unchangeable. This naturalization and limited realization of possessive individualism contributed to the clouding of an essentially liberal form of sexual emancipation as articulated in some circles during the eighteenth century (if flawed by elitism), as well as to liberal possessive individualism's failure in this respect to live up to its promise.

⁶⁰ Stefan Collini, "The Idea of 'Character' in Victorian Political Thought," *Transaction of the Royal Historical Society* 35 (1985): 29–50; George L. Mosse, *Nationalism and Sexuality: Respectability and Abnormal Sexuality in Modern Europe* (New York: Howard Fertig, 1985); J. A. Mangan and James Walvin, eds., *Manliness and Morality: Middle-Class Masculinity in Britain and America, 1800–1940* (Manchester: Manchester University Press, 1987); Anna Clark, "Anne Lister's Construction of Lesbian Identity," *Journal of the History of Sexuality* 7, no. 1 (1996): 23–50; Jill Liddington, *Female Fortune: Land, Gender, and Authority; The Anne Lister Diaries and Other Writings, 1833–36* (London: Rivers Oram, 1998).

⁶¹ Cocks, "Making the Sodomite Speak"; Harry G. Cocks, "Safeguarding Civility: Sodomy, Class and Moral Reform in Early Nineteenth-Century England," *Past and Present* 190, no. 1 (2006): 121–46; Polly Morris, "Sodomy and Male Honor: The Case of Somerset, 1740–1850," in Gerard and Hekma, *The Pursuit of Sodomy*, 383–406; Upchurch, "Beyond the Law," 61–86, see also 87–102, 106–14.

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