Gay Emancipation: The Effort to Delete Paragraph 175

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In 1897 Berlin, renowned physician Magnus Hirschfeld founded one of the world’s earliest gay rights movements in response to German Penal Code Paragraph 175. The Prussian-dominated German government had introduced the law, which criminalized homosexual acts between men, to the German Empire in 1871. The empire had then forced states like Bavaria and Hanover to recriminalize sodomy, despite decades of its legality in those regions. Opposition to this attack on gay rights remained uncoordinated until 1897, when, led by Hirschfeld, several activists created the Scientific Humanitarian Committee (WhK). The committee stated their goal was “Justice through Science,” via the repeal of Paragraph 175.

A Brief History of Homosexuality in Europe

The oppression of homosexual men in Europe developed over many centuries, accelerated by the rise of Christianity in the Middle Ages. Classical Rome enforced no statutes against sex between men, and it was generally not punished. The Romans ridiculed men who were penetrated during sex acts, evident in the Roman consul Curio teasing Julius Caesar as “every woman’s husband and every man’s wife,” both for his infidelity and scandalous relationship with King Nicomedes of Bithynia. This sort of teasing was usually as far as discrimination went. Homosexuality in the classical world most often took the form of pederasty, or sexual acts between older men and young boys. Sexuality in the ancient world was not divided into categories of same-sex or opposite-sex attraction, but rather into a hierarchy of social and political power, in which a man would “prove” his authority in the patriarchal system by forcing the younger partner to perform sex acts. In Judaism, the stigmatization of homosexuality emerged from the rise of ascetic celibacy as a whole following the Babylonian exile in 538 BCE. Yet, same-sex eroticism was not yet singled out as worse than non-reproductive sex acts between opposite-sex partners. Early Christians adopted the practice of sexual self-discipline into their own doctrine. Through the Roman Empire, Christians spread out from the Middle East, bringing with them a culture that suppressed all sexual expression, not just between men. By the Middle Ages, Christianity was the dominant religious
institution in Europe. Throughout this era, the church targeted same-sex intimacy more specifically. In the eleventh century, Benedictine monk Peter Damian petitioned Pope Leo IX to punish homosexuality as harshly as his authority would allow, and although his proposal was rejected, European nations only 200 years later punished repeat sodomy with burning at the stake. In medieval Europe, sodomy included not just anal intercourse, but also any sex acts “against nature,” or not for the purpose of reproduction, regardless of if the couple accused was same-sex or opposite-sex. In the fourteenth century, the church deployed inquisitors to torture confessions out of accused sodomites, including monks, nuns, and Templar knights.

In 1517 North Germany, Martin Luther started the Protestant Reformation, but his popular new movement only guaranteed more harm for gay men who dared to express their love. The Reformation sparked witch-hunts across Europe as Catholics and Protestants struggled for power, killing each other, Jews, Muslims, and homosexuals. The Holy Roman Empire in central Europe served as the grounds for many religious wars following the Reformation, including the brutal Thirty Years’ War, in which Protestants and Catholics desperately tried to assert their institutions and beliefs onto the continent by force. Christians took on increasingly extreme stances during this age of crises and paranoia, drawing connections between demons, witches, and homosexuality. Leaders across the continent adopted anti-sodomy laws, carried by the fear of its association with witchcraft. By the Renaissance, leading theologians denounced sex between men as so abhorrent they claimed the devil himself would “[flee] with horror” at the sight of it. In the wake of the Reformation and witch-hunts, one nation built itself on Lutheran dogma, militarism, and absolutism, aiming to impose its values onto the fractured Germanic states.

Shadows over Germany

From the sixteenth to the nineteenth century, Prussia grew from one of many states in the Holy Roman Empire into the near-absolutist military kingdom that would shape the identity of a united German Empire. In the Middle Ages, central Europe was made up of hundreds of semi-autonomous electorates, principalities, bishoprics, and other states under the Holy Roman Empire. Among them were Austria and Prussia, two nations that engaged in a centuries-long “struggle for supremacy” as they vied to unify the hundreds of other German states under a common emperor, religion, and code of laws. Hohenzollern Prince Albert of Ansbach, Grand Master of the Teutonic Knights, converted to Lutheranism in the mid-1500s, making Prussia the first state in history to formally adopt Protestantism. Although the Austrian Habsburgs controlled the Holy Roman Empire of which Prussia was a part, the Hohenzollerns did not hesitate to challenge their hegemony on several occasions, due primarily to a difference in religion. Prussian victory in the Seven Years’ War wrenched the smaller German states free of Austrian authority and boosted national pride within Prussia. West of the Holy Roman Empire, massive legal changes dawned that accommodated LGBT+ people at a time when ‘sodomy’ still invoked the death penalty.

The French Revolution brought freedom to gay Europeans generally unheard of since before the reforms of Peter Damian in the eleventh century. France’s National Assembly wrote the French Penal Code in 1791, which “simply ignored sodomy—inspired by the liberal principle that the state should not meddle in private affairs—making France the first European state to decriminalize same-sex eroticism,” a mindset that Prussia refused to embrace. Three years after France passed its revolutionary Penal Code, Frederick the Great of Prussia began legal reforms to unite eighteenth-
century Prussia under one system of laws, which would oppress homosexuals for decades. Though Frederick never lived to see his plan fully implemented, his handpicked chancellor Johann Heinrich Casimir von Carmer created the Allgemeines Landrecht (ALR), a code to be enforced in all Prussian provinces, which was adopted by King Friedrich Wilhelm II in 1794. Although the ALR was progressive in some ways, even removing the death penalty for homosexuality, Carmer included ALR Paragraph 143, criminalizing gay and lesbian relationships. Prussian lawmakers rewrote Paragraph 143 in 1851 to only include male offenders, rewording the paragraph to frame sex between men as comparable to bestiality, a sentiment perpetuated into the 20th century.

Despite ideological differences between Napoleon’s empire and the republic preceding it, the Napoleonic Code refused to punish sodomy as well. The Napoleonic Code influenced the laws of Bavaria, Baden, Württemberg, and Prussia’s former ally Hanover, all of which decriminalized sodomy by 1848. Regardless of what the rest of the German world did, Prussia and Austria held on to their antisodomy laws throughout the nineteenth century, with Austria continuing the persecution of both male and female same-sex relationships. After Napoleon’s fall in 1815, Prussia and Austria continued fighting to assert their cultural and political outlooks onto the smaller German states which had been liberalized by their time under Napoleon’s empire. Otto von Bismarck, head of King Wilhelm I of Prussia’s cabinet, dismissed the ideological differences between Prussia and the rest of the new German Confederation, saying “Germany does not look to Prussia for liberalism, but for power.” As Prussia sought to prove its might, its government committed to repressive, conservative ideology in the name of internal authority at the cost of citizens’ rights, including those who were subject to Paragraph 143. Prussia won the Austro-Prussian War in 1866 due to its large, well-trained, and loyal army, annexing Hanover, Hesse, Nassau, and Schleswig-Holstein. With the North securely in the grip of the Hohenzollerns, all that remained was to take the South, and Napoleon III gave them their opportunity in 1870. The Franco-Prussian War provided the perfect conditions for Prussia to consolidate power over Germany for good. Less than two months into the war, Napoleon III surrendered to Bismarck, and, in January 1871, King Wilhelm I was crowned Emperor of Germany. The German Empire was born, dominated by Prussia and its legal institutions, including ALR Paragraph 143, which was reshaped into German Penal Code Paragraph 175. Paragraph 175 threatened up to five years in prison, one more than was under ALR Paragraph 143, for any erotic acts between men.

1890s Germany saw the gradual “parliamentarization of a semi-authoritarian regime,” alongside a more medical and less moralistic view of homosexuality, giving some hope that change would be possible if the Reichstag could be persuaded. Courts across Germany interpreted Paragraph 175 differently, unsure about the innocence of the recipient of sexual penetration, while the crime the perpetrator was charged with could vary from sodomy to sexual assault. Confusion permeated the empire over what laws were even meant to be followed, until January 1, 1900, when the German Penal Code was formally institutionalized in all states. Amidst this chaotic rewriting of laws, activists worked to get Paragraph 175 deleted.

The Early Gay Rights Activists in Germany

Concurrent to the formation of the German Empire, some activists pushed for new understandings of sexuality. Hanoverian attorney Karl Heinrich Ulrichs published confrontational works in 1864 calling for the acceptance and normalization of “man-manly love” in places where it was already legal. These volumes invented a new label for those who felt same-sex attraction: “Urnings,” defined as
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being neither male nor female, but an entirely distinct “sexual species.” Ulrichs described himself as an Urning, expanding on his identity in The Riddle of Man-Manly Love by writing “I have the beard of a man, my limbs, my body are those of a male. Inside, however, I am and remain a female”. This label emerged during a time in which gender and sexuality were thoroughly entangled, so although this definition aligns well with more modern concepts of being transgender, it is entirely possible that Ulrichs was using “female” to describe his attraction to men as being similar to how a heterosexual woman would experience sexual attraction. Ulrich’s new term helped lay the foundation for the perception of sexuality as something related to inborn identity, not criminal or sinful behavior.

Like Ulrichs, Hungarian author Karl-Maria Kertbeny tried inventing a new term for describing same-sex attraction, which would not carry the criminal or sinful associations of the word “sodomy.” In 1869, he coined the term “homosexual,” which, like “Urning,” was terminology intended to describe a type of person, instead of someone who committed a prohibited action. Berlin’s chief medical officer, Johann Ludwig Casper, concluded “same-sex love was often a natural, inborn characteristic,” agreeing with the findings of Ulrichs and Kertbeny.

Amidst these advances in thinking about sexuality, the Royal Prussian Scientific Commission for Medical Affairs objected to the continued persecution of homosexual men in 1869, yet the Prussian government stubbornly ignored its own experts by retaining its ‘antisodomy’ laws. Renowned psychiatrist and neurologist Richard von Krafft-Ebing, inspired by Ulrichs, advocated for the deletion of Paragraph 175 in his 1886 book Psychopathia Sexualis, claiming the law only encouraged blackmail. He continued to argue that the vast majority of cases of mental illness found in gay men was not a result of their sexuality, but a result of the stigmatization they faced from the law and the dominant view of homosexuality. Still, the German government ignored expert opinions. In spite of this, one expert refused to allow the suffering of gay men under Paragraph 175 to continue unnoticed.

Dr. Magnus Hirschfeld led the first campaign for gay rights in Germany. Hirschfeld was born in 1868 in Kolberg, Prussia to a Jewish family. He followed the careers of his father and two brothers by studying medicine. He traveled across Central Europe, before opening a practice in his hometown in 1894. Hirschfeld relocated to Berlin two years later, where he encountered the works of Ulrichs and Krafft-Ebing and became “the first physician to specialize in psychosexual diseases,” which included but was not limited to homosexuality. He also began speaking out against homophobic discrimination. According to historian Vern L Bullough, Hirschfeld was prompted to devote himself to defending homosexuality after the death of one of his patients, a young man, by suicide, after the young man’s family pressured him into an arranged heterosexual marriage. The young man bequeathed several notes and
drawings to Hirschfeld outlining his internal struggles with his sexuality, some of which Hirschfeld included in his very first pamphlet defending same-sex desire. This pamphlet, entitled Sappho and Socrates, was published anonymously in 1896. Hirschfeld’s reputation spread across Germany, prompting ordinary men and women to come to him or write letters seeking answers to understand their own anomalous sexual desires or revulsions. Several courts called on him to give expert testimony in trials involving homosexuality. Hirschfeld was so impacted by the persecution and abuses gay men faced under Paragraph 175 that he dedicated an entire chapter in The Homosexuality of Men and Women, published in 1914, to sharing their stories.

In his efforts to stop the institutional intolerance of same-sex relationships, Hirschfeld primarily targeted German Imperial Penal Code Paragraph 175, but his influence spread far beyond the borders of the German Empire. Hirschfeld’s earliest efforts involved publishing pamphlets stating how homosexuality was inborn and natural, and existing laws should be changed to reflect this, an opinion echoed by activists around the world. In 1913, Hirschfeld helped found the British Society for the Study of Sex Psychology alongside George Cecil Ives, Edward Carpenter, Havelock Ellis, and several others in England. Ellis had already published a work in 1897, the same year as Oscar Wilde’s release from prison and the founding of the WhK. This work defended homosexuality as no more harmful than any other abnormality and protested the law Wilde had been convicted under. Following his time stationed in Europe, an American soldier, Henry Gerber, created his own Society for Human Rights in 1924, one of the first gay rights organizations in the United States, inspired by the efforts of Hirschfeld and the Institute for Sexual Science. Together with Havelock Ellis and the Swiss scientist August Forel, Hirschfeld founded the World League for Sexual Reform (WLSR), organizing its meetings from 1921 to 1932.

The Love that Dares Speak Its Name

The release of Irish poet Oscar Wilde served as the catalyst for Hirschfeld to create the first organized movement advocating for gay rights. In 1895, the Marquis of Queensbury accused Oscar Wilde of being a “sodomite.” Wilde sued him for libel, but the opposing council proved he had engaged in sexual acts with a dozen other men. The court sentenced him to two years in prison with hard labor, the harshest legal sentence for “gross indecency.” The trials gained immense coverage across the continent, and according to Magnus Hirschfeld in 1932, “long after Oscar Wilde’s trial (1895), a homosexual was called an ‘Oscar,’ and to have anal intercourse ‘to Oscar’.” Hirschfeld often used Wilde in his writings as an example of the struggles gay men underwent. After being released in 1897, Wilde lamented to his publisher that he had been reduced to “a pathological problem in the eyes of German scientists,” possibly alluding to Hirschfeld among others. It was in May 1897, only days before Wilde was released from prison, when Hirschfeld, alongside the activists Max Spohr and Franz Josef von Bülow, founded the Scientific Humanitarian Committee (WhK).

The Wissenschaftlich-humanitäres Komitee in the German Empire
The Scientific Humanitarian Committee employed awareness campaigns and petitions to advocate for the repeal of Paragraph 175 throughout the turn of the nineteenth century. In 1897, the committee presented a petition to the Reichstag (the lower house of Germany's parliament) calling for the repeal of Paragraph 175 through the Social Democratic Party chairman and friend of Hirschfeld, August Bebel. The petition called for the repeal of Paragraph 175, and received thousands of signatures. When the petition failed, Hirschfeld and Spohr collected and re-released the works of the late Ulrichs in 1898. Together they also published the first Journal of Sexual Science in 1908, and in 1913, Hirschfeld founded a second organization, the Medical Society for Sexual Science.

In a pamphlet put out by the WhK, reprinted for an English audience, Bebel told the Reichstag in 1898 “if the offences against paragraph 175—offences committed by thousands of persons from the highest to the lowest—were really brought to light, there would be a scandal such as the world has never known,” and he was proven correct in 1907.

The Eulenburg Affair proved the greatest challenge thus far to Hirschfeld’s reputation and the work of the WhK. In 1907, the inflammatory journalist Maximilian Harden accused Prince Philipp Eulenburg, a close friend of Emperor Wilhelm II, of belonging to a group of homosexuals holding high positions of office. Harden’s narrative also accused Eulenburg’s circle of plotting against Chancellor Bismarck and isolating the emperor. Harden built his conspiracy theory mainly on the “evidence” of letters he received. These letters, written between Prince Eulenburg and Count Kuno von Moltke, contained affectionate pet names for each other and the emperor. Authorities tried Eulenburg under Paragraph 175, based on Harden’s accusation, but subsequently cleared him of guilt. Moltke sued Harden for libel later the same year, but it was Moltke whom the jury found guilty of Harden’s accusations, although poor procedure initiated a retrial. These trials became what professor Robert Beachy called a “multi-year media spectacle,” reaching an infamy comparable to the trials of Oscar Wilde. Eulenburg’s name, like Wilde’s, also became a term ubiquitous with gay men. By 1909, the court declared Moltke innocent of sodomy and acquitted Harden of libel; Eulenburg’s trial was postponed up until his death in 1929. Magnus Hirschfeld provided expert testimony for the trials, involving himself in a scandal which harmed his own public image. Participating in the trials drew unwanted attention from the press towards Hirschfeld and his efforts, attention which often had an overtly antisemitic bias. Critics accused Hirschfeld of sexualizing and effeminizing “normal” masculine friendships because he was Jewish. In the wake of the affair, Hirschfeld observed an increase in paranoia from the public over who might secretly be homosexual.
Hirschfeld’s Institute in Weimar Germany

The end of World War One and the creation of the Weimar Republic allowed the WhK and other activists to operate more freely. According to Hirschfeld, it took “25 years of preparation” involving the collection of thousands of books and photographs until, in 1919, just after World War One and the end of the German Empire, he could open the Institute of Sexual Science in Berlin. The Institute was more than just a library, offering marriage counseling and taking anonymous questionnaires from the public for Institute physicians to answer on particular days. It also served as a refuge and home for homosexual and transgender individuals, with Hirschfeld and his partner Karl Giese living there, as well as visitors and staff. Hirschfeld himself did not limit his advocacy to just gay emancipation; he was also a vocal socialist who supported nationalized healthcare and invited members of Germany’s communist party to the institute.

Within the WhK, not everyone agreed with Hirschfeld’s beliefs and methods. Adolf Brand and Benedict Friedländer seceded from the organization in 1903 to create the Community of Free Spirits (GdE). They challenged the concept of gay people having the opposite sex’s brain or soul, instead suggesting that all humans were innately bisexual. In 1919, Friedrich Radszuweit founded the League for Human Rights (BfM) as a moderate alternative to the WhK and the GdE, attempting to improve public perception of LGBT+ people with respectability politics.

The same year as the creation of the Institute of Sexual Science, Hirschfeld cowrote and starred in Anders als Die Andern (Different From the Others), the first film to portray a gay character in a positive light. In 1931, one of the Institute’s maids, all five of whom were transgender, successfully underwent one of the world’s first sex-change operations from the Institute’s surgeons. The maid, Dorchen Richter, also known as Dora, received hormone treatment overseen by Hirschfeld, followed by a successful penectomy and vaginoplasty, the publicity of which established the Institute as the leading center for such operations.

In 1929, the WhK’s awareness campaign almost paid off. The Reichstag voted to adopt a new legal code which would no longer include Paragraph 175. If this legal code had been implemented, Germany would have become the second major nation in Europe to decriminalize homosexuality after France. Though Hirschfeld and the media celebrated the adoption of the new set of laws as a victory of their advocacy, some members of the WhK opposed the new code, viewing it as “one step forward and two steps backward,” because the new law replaced Paragraph 175 with Paragraph 297, which raised the age of consent for men to twenty-one and made male prostitution illegal. The younger members of the WhK, led by Kurt Hiller, denounced the new law as an illusory success that would only enable more blackmail. Hirschfeld resigned from his role as president of the WhK over the schism, replaced by his colleague in the Institute of Sexual Science, Otto Juliusburger. Regardless of the WhK’s consensus on the new laws, the Reichstag delayed its implementation indefinitely while a new, radical party rose to power.

Homosexuality and the Holocaust

From January 1933 onward, the Nazi regime destroyed most of Hirschfeld’s progress. They targeted Hirschfeld not just for his Jewish heritage, but also because he was a socialist, a pacifist, and because of his work in the field of sexology. After Hirschfeld gave a lecture in Munich in 1920, Nazi sympathizers assaulted him so severely that when he recovered, he read his own obituary in the newspaper, published under the assumption he must not have survived. In 1931, Hirschfeld left Germany to travel the world, teaching in places like the United States, Egypt, Japan, and Palestine.
When he returned to Europe in 1933, he learned the Nazis broke into the Institute for Sexual Science while he was away and publicly burned the majority of his library, numbering over 12,000 volumes. Hirschfeld sought exile in France. In a Paris cinema in 1935, he watched a newsreel of the Nazis burning down his Institute as they called out “Burn Hirschfeld,” making him the symbolic target of their attack. Shortly after this attack, Hirschfeld died in Nice, France on his sixty-seventh birthday. His partner Karl Giese died to suicide in 1938 as the Nazis invaded Czechoslovakia, where he had failed to reopen the Institute.

The Nazis did not just attack Hirschfeld, they also persecuted homosexuality more severely than at any other point in the history of Germany. The Nazis amended Paragraph 175 in 1935 so that even kissing or looking at another man violated the law. Germany saw almost ten times more men convicted under Paragraph 175 after 1937. These men were subject to castration and being put in concentration camps by the Gestapo. The Nazi regime charged over 100,000 men with Paragraph 175, and upwards of 15,000 of the accused died in concentration camps. The Nazis targeted homosexuality not just because it went against their obsession with increasing the German population, but also because gay people tended to gather in their own clubs or bars, which SS leader Heinrich Himmler believed could be used for plotting treason if left alone. Additionally, some Nazi scientists appropriated the medical view of sexuality pioneered by activists like Hirschfeld and Krafft-Ebing to justify “curing” gay men with forced sterilization or the death penalty.

Despite the Nazi’s clear disdain for homosexuality, several gay men were drawn to the party. In 1938, Hitler orchestrated the assassination of Ernst Röhm, leader of the SA, the group which preceded the SS and protected the Nazi Party officials, attributing it to Röhm’s open homosexuality. Before Hitler’s takeover, Röhm had even joined Radszuweit’s BfM, self-identifying as homosexual and influencing Radszuweit’s political opinions. After 1933, Radszuweit tried to placate his following by assuring them the Nazis were only attacking the socialist teachings of Hirschfeld, and the Nazi Party would soon repeal Paragraph 175. Heinrich Himmler proved him wrong by opening the Reich Office to Combat Homosexuality and Abortion in 1936. Röhm was not the only member of a gay rights movement to join the Nazis. Erwin Gohrbandt, one of the surgeons who performed Dora Richter’s sex change operation at the Institute of Sexual Science in Berlin, went on to become the Luftwaffe’s chief medical advisor, conducting human experimentation at the Dachau concentration camp.

Paragraph 175 in Divided Germany

Despite the defeat of the Nazi regime, Paragraph 175 persisted into postwar Germany. At the end of World War II in 1945, the United States, United Kingdom, France, and Soviet-occupied Germany, split into four sectors, later becoming West Germany and East Germany. LGBT+ people who survived the Holocaust largely remained in West Germany, East Germany, and Austria, but they did not find much acceptance in the postwar period. In response to a 1960 attempt to create a memorial for those killed at the Dachau concentration camp, the mayor of Dachau responded coldly with, “You must remember that many criminals and homosexuals were in Dachau. Do you want a memorial for such people?” This statement illustrated that homophobia did not die down simply because the Third Reich fell.

The Federal Republic of Germany (FRG) gained independence from its occupiers in 1949, electing Konrad Adenauer, cofounder of the Christian Democratic Union (CDU), as chancellor. Adenauer, a devout Catholic, attempted to appease his supporters within the clergy by creating policies
which strongly promoted stable, explicitly patriarchal family structures in order to increase birth rates in the aftermath of World War II. These policies denied equal rights for men and women, leaving no room for those who did not fit into the traditional heterosexual family model. Churches and doctors alike praised the Third Reich for upholding “moral law” by persecuting homosexual men and other “community aliens,” even as other western nations such as France, Italy, and Switzerland called for West Germany to decriminalize same-sex relationships. The FRG underwent a series of reforms throughout the 1950s, and in 1958, the commission appointed by the West German Ministry of Justice reworked the version of Paragraph 175 used by the Nazis into Statute 363. The Allied Powers displayed negligence and complacency in allowing West Germany to keep any statute written by the Nazis. The Allies demanded all Nazi laws be abolished at the end of the war, but still let Paragraph 175 stay in the German penal code, thus allowing the continued persecution of gay men in Germany. Although convictions under the new Statute 363 were not as high as they had been in Nazi Germany, by the 1960s they were four times higher than in the Weimar Republic, at around 50,000 convictions. West German lawmakers, believing homosexuality to be learned behavior rather than an inborn trait, pushed the inherently contradictory idea that gay people were simultaneously so weak of will that they had been seduced away from heterosexuality, as well as conniving enough to orchestrate the downfall of modesty and public morality if left unchecked.

In 1969, activists convinced the Bundestag (West Germany’s parliament) to reform the sexual criminal laws. The progressive Social Democratic Party (SPD) pushed for Germany to be more progressive in the late 1960s, rather than cling to the conservative values of Adenauer and the CDU. Social Democrat Willy Brandt was elected as chancellor in 1964. The jurists Adolf Arndt and Barbara Just-Dahlmann criticized the Christian moralists for their leniency in punishing Nazi war-criminals and attempted justification for continuing to criminalize sexual acts between consenting adults. In 1969, the FRG decriminalized same-sex acts between men over twenty-one, still keeping the higher age of consent suggested by the Weimar Republic and adopted by the NSDAP. Attitudes began to shift further with the release of the film _Nicht der Homosexuelle ist pervers, sondern die Situation, in der er lebt_ (The Homosexual isn’t Perverse, but, Rather the Situation in Which he Lives), the premiere of which inspired the founding of many gay rights organizations, beginning with West Berlin’s Homosexual Action (HAW) in 1971. In 1973, the laws were amended again, and the age of consent between men became eighteen.

East Germany reformed Paragraph 175 faster than West Germany, but it still took effort from activists. Early efforts by psychiatrist and activist Rudolf Klimmer to get homosexuals recognized by the Organization of Those Persecuted by the Nazi Regime as victims of the Holocaust failed in 1946. The
response to the riots and protests which followed the death of Joseph Stalin in 1953 pushed leaders towards communist values such as respectability, masculinity, and the traditional family model. Within the German Democratic Republic (GDR), this initiated a wave of homophobic repression. The Social Unity Party of Germany (SED), East Germany’s only political party, did not oppose gay equality because of religious moralism or eugenics, but because of the unfounded belief that same-sex desire had bourgeois origins and links to fascism, due to the existence of gay Nazis such as Ernst Röhm. Several GDR politicians, including the former Minister of Justice and the founder of the Stasi, were purged from the government for being “morally degenerate,” although this was more likely an excuse for removing political enemies of Walter Ulbricht, leader of the SED.

Attitudes relaxed as the revolts died down, and the GDR stopped enforcing Paragraph 175 entirely after 1957. In 1968 they rewrote their criminal code to delete it entirely, with the East German Supreme Court stating “homosexual persons... are guaranteed the same civil rights as all other citizens.” This set a precedent not just for equality in law, but in society as well. The GDR followed up on this promise by replacing Paragraph 175 with the far less harsh Paragraph 151 in 1968, which restricted sex acts between gay men under eighteen until 1989, when sixteen was set as the age of consent for both homosexual and heterosexual couples. The legalization of homosexuality had an immediate positive effect. Physicians echoed Hirschfeld by publishing defenses of homosexuality as a safe, normal trait; lectures were given in universities about homosexuality as it transitioned from “a subject of expert knowledge to an issue of wider concern;” and several gay liberation movements arose such as Berlin’s Homosexual Interest Group (HIB), which was active throughout the 1970s.

The Legacy of the WhK

In 1990, East and West Germany reunited and confronted the issue of whether they would keep the remnants of Paragraph 175 still existing in West German law, or abolish it as East Germany had done years prior. In 1994, the Bundestag struck Paragraph 175 from the German Criminal Code, and the goal many had fought for since 1869 was finally realized. Chancellor Angela Merkel pardoned all men convicted under Paragraph 175 in postwar Germany from 1949 to 1969 and offered them compensation based on how long they had been imprisoned and how many times they were convicted, also giving a fund of €500,000 per year to a government-created LGBT+ research and advocacy group called the Magnus Hirschfeld Foundation.

Paragraph 175 was a cruel, senseless law that took away the lives and freedom of thousands of innocent people across centuries. None of the various excuses or justifications for homophobia given by different regimes, from the Kingdom of Prussia to the Republic of Germany, can account for suffering induced by this law. There is no excuse for hate, and
the only way to make sure the efforts of Magnus Hirschfeld and every other gay rights activist from Ulrichs to Klimmer were not in vain is to ensure that a law like Paragraph 175 never comes back into being. There is no guarantee that the progress so many have struggled to attain will not be erased, especially in the United States. The infamous "Don't Say Gay" bill was passed in Florida last year, which, according to NPR reporter Laurel Wamsley, prohibits educators from discussing anything to do with sexuality or gender expression in classrooms with students under ten years old, and permits parents to sue schools if they believe the law was violated. The American Civil Liberties Union has reported that over 400 bills attacking the rights of LGBTQ+ people are currently advancing through state legislatures, regarding healthcare access, freedom of expression, education, and in some cases attempting to outright criminalize the existence of transgender people. Lasting change is only possible if people stay active, remain vigilant, and learn from the past.

ENDNOTES


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126 Evan, “‘Unnatural Desire’ in East Germany,” 557.


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