

INVESTIGATING THE HISTORY OF HOMOSEXUALITY IN SOVIET LITHUANIA: DECONSTRUCTING COURT VERDICTS

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This article examines the Soviet court verdicts under Article 122 of the Criminal Code of the Soviet Lithuania, which tried men for homosexual relations, as historical sources. The author argues that the documents stored in the contemporary archives remain programmed according to Soviet logic. The 20 verdicts examined reveal that in practice, men in Vilnius Lenin District were mainly tried for having relations with minors or for sexual coercion rather than consensual sexual relations. The testimonies in which the convicted men's traces of subjectivity can be detected are proposed to be defined as 'post-voice'. In some cases, these 'post-voices' reveal how the 'weak' resorted to their own tactics when they found themselves in the judicial and political power field.

Keywords: homosexuality, Soviet Lithuania, court verdicts, post-voices, archival research

Introduction

The rapid growth of research on the history of sexuality in the 1980s and 1990s has turned the archives of the institutions responsible for controlling and disciplining "deviant" sexual behaviour into valuable research sources. Estelle

B. Freedman and John D’Emilio, discussing the research on the history of sexuality in the United States, wrote that “so many sources of sexual ‘deviance’ have survived”, resulting in increased attention from historians. Those scholars researching the history of sexuality “must be careful not to write a history of the unusual”.¹ Homosexuality has been one of those phenomena historically rendered “unusual”, and the criminalisation of male homosexual relations has not only made it the subject of strict scrutiny but has consequently documented it as a subject of legal proceedings.

Scholars in the history of homosexuality have repeatedly noted the paradox of how the past legal persecution of homosexuals has become an opportunity for historians to gain insights into their lives.² What should have repressed and silenced the men now allows them to be heard and seen. Criminal investigations, interrogation and trial records, testimonies of defendants and witnesses, court verdicts and other legal documents offer a wealth of material, albeit no less problematic. In Soviet-occupied Lithuania, Article 122 of the Criminal Code, as relevant articles in the codes of other Soviet republics, meant the prosecution for homosexual intercourse. So, in theory, there should be similar materials for historical research accessible. Unfortunately, in reality, they are almost non-existent. Men were prosecuted for homosexuality in Soviet Lithuania, but only 2–5% of all criminal cases were kept in archives by law, meaning that almost all records had been destroyed. Only court decisions or verdicts remained archived and accessible.

In this article, I examine the Soviet court decisions as historical sources, asking what kind of source it is, whether we can learn anything from it, and if so, what can we learn. The aim here is not to analyse and interpret the content of these documents but to reflect on and evaluate the sources themselves – their nature, their purpose, the images, and the assumptions they suggest. Similar questions and issues raised by legal (and specifically court) documents have long been discussed by historians of queer history. They are seen as a potential “vantage point”³ for a study of the history of sexuality, especially in everyday life and its practices. However, serious questions about using these sources in historical research are raised, especially for a study of “authentic experiences”.

In the context of the queer history in the Soviet period, such discussions and reflections are still rare and sporadic. Dan Healey, Rustam Alexander, and Laurie Essig analysed and wrote about the Soviet history of surveillance and persecution

1 Freedman, D’Emilio 1990, 482–483.

2 For example, Cook 2006, 64–86; Brickell 2008, 25; Houlbrook 2005, 218.

3 Erber, Robb 1999, 5.

of homosexuality in general.⁴ Healey, in his book, *Russian Homophobia from Stalin to Sochi*, discussed, among other things, the difficulties for historians to access archival documents in Russia.⁵ However, he prioritised finding out where and what could be uncovered about the persecution of homosexuals over how these documents and archives shape the understanding of queer history. Moreover, his research mainly focuses on the Soviet Russia. In addition, Healey acknowledged that to study the persecution of homosexual men, “a comparative approach, exploiting the differentiated archival regimes of peripheral post-Soviet states, would seem the most promising way to address this problem”.⁶ In the Baltic states and other post-Soviet republics, a broader analysis of Soviet queer history is slowly gaining momentum,⁷ but only in recent years criminal cases have captured closer attention.⁸ Meanwhile, in Lithuania, the queer history of the Soviet era was started to be explored at the beginning of the third decade of the 21st century.⁹ Thus far, Lithuanian historians have not analysed either the criminal cases or their verdicts. This might be due to a lack of understanding on how such sources should be analysed and their significance in the writing of Soviet queer history.

I have searched for verdicts in one court of the first instance, known as the People’s Court, during the Soviet era. This court was located in Vilnius, the capital of Soviet Lithuania, and was responsible for the central district named after Lenin. I have reviewed all the verdicts of this People’s Court from 1970 to 1986¹⁰. The end date of the verdicts is set to the *perestroika* period, which marked the change in the prosecution policy, even if not always publicly declared. I found convictions of 20 cases during this period. A few more convictions were listed, but they were either not transferred to the archive or removed from it.

4 Essig 1999; Healey 2001; Alexander 2019; Alexander 2021.

5 Healey 2018, 151–175.

6 Ibid., 175.

7 For example, Čičelis 2011; Lipša 2017; Lipša 2021; Lipša 2022; Valodzin 2016; Clech 2018; Clech 2021; Pöldsam, Arumetsa 2023.

8 For example, Aripova 2020. It is also worth mentioning Kamil Karczewski’s article about a homosexual relationship between two men and a trial in the 1920s in the Suwałki Region, near the Polish border with Lithuania (Karczewski, 2022).

9 Rasa Navickaitė is working on a postdoctoral project entitled *Modernization of Sexuality and the Construction of Deviance in Soviet Lithuania* (University of Vienna). See also: Klumbys, Vaiseta 2022, 202–219.

10 The archive did not have lists of verdicts before 1970.

Methodological note: a two-way road

When research on social history, including non-heterosexual history, gained momentum in the second half of the 20th century, many scholars, not only historians, went into the archives. Archives became so popular that French philosopher Jacques Derrida ironically called this phenomenon “an archive fever”.¹¹ He reflected the growing critical attitude among historians, especially homosexuality researchers, in the 1990s towards archives and the documents they contain. Many researchers, then and now, are enthusiastic to find in the archives a variety of historical sources that can supposedly reveal the “experience” of non-heterosexual people. Discovering a story and telling it to others seems like a significant event in itself. But such attitude is increasingly being questioned. For example, Anjali Arondekar, who later wrote the book *For the Record: On Sexuality and the Colonial Archive in India*,¹² had criticised historians that although they “foregrounded the analytical limits of the archive, they continue to privilege the reading practices of recovery over all others”.¹³ She argued that this approach to archival materials means that “writing the history of colonial homosexuality is ruled by the paradoxical proposition that the homosexual is most himself when he is most secret, most absent from writing – with the equally paradoxical consequence that such self-fashioning is most successful when it has been recovered for history”.¹⁴ Arondekar furthermore suggested “to shift archival attention from the ultimate discovery of this report to understanding the compacted role its evocation plays”.¹⁵

In other words, Anjali Arondekar puts forward what anthropologist Ann Laura Stoler, in more general sense, calls a move “from archive-as-source to archive-as-subject”.¹⁶ The need to see the subjectivity of archives and to see them as “active sites of agency and power”¹⁷ has been expressed repeatedly. However, this call to move “from archive-as-source to archive-as-subject” is often perceived and used methodologically as a one-way action. It critically reflects on archives, the political and ideological notions shaped by them as centres of power, and the context in which they are organised. But it underestimates the historical sources as a legacy from the past, which still have something to tell us about that

11 Derrida 1996.

12 Arondekar 2009.

13 Arondekar 2005, 12.

14 Ibid., 16.

15 Ibid., 26.

16 Stoler 2002, 87–109.

17 Cook 2011, 600–632.

past. This article aims to show that legal and other archival documents can be read based on a two-way approach rather than the one-way approach. It encourages us to look at archival documents as if there was a field of tension between two poles – considering both what is discovered, shown, and made visible, as well as the way archives influence our thinking. In this way, I will discuss the decisions the People’s Court of Lenin District handed down, which referred to Article 122 prosecuting male sexual intercourse.

Historicising “the sexual zoo”

Article 122 of the Soviet Lithuanian Criminal Code, like similar articles in the codes of other Soviet republics, had two parts. The first part provided punishment for male sexual intercourse, while the second part did so for the same act if it involved threats, physical assault, taking advantage of a minor or exploiting the victim’s helplessness. Thus, male consensual sexual intercourse was clearly linked to abuse and sexual abuse of minors. It was implied that the acts were of the same nature, though not entirely identical.

When men are convicted based on this implication, and afterwards, almost immediately by default, their criminal files end up in archives, years later becoming historical sources, they pose at least a twofold problem for historians. Firstly, the notion is formed that male consensual sexual intercourse is a social and moral deviation, and not a “normal behaviour”. Furthermore, even when historians analyse such cases using the so-called “reading against the grain” method, they still essentially maintain that they are studying people who “are atypical in their behaviour or at least in being caught committing such acts”.¹⁸ Secondly, male consensual sexual intercourse is linked to what is still considered a criminal act today, such as assault or abuse of minors. This, according to Graham Robb, places homosexuals in the “same sexual zoo as exhibitionists, paedophiles, and sex-murderers”.¹⁹

These critical remarks imply that historians confine homosexual men within a “sexual zoo”, which is an “unfair” treatment of homosexuals. The historians who conduct the research are responsible for this, too. Thus a “fair” historical study should focus on examining the history of homosexuals separately, without the context of the “sexual zoo” and without any assumptions imposed by the culture of a particular era. But an urge to oppose the association of homosexual men with criminals, which seems logical and understandable from today’s political

18 Robertson 2005, 163.

19 Robb 2003, 17.

viewpoint, may hinder learning the politics, ideology, law, and culture of the past for what it was. Understandably, historians who study the history of homosexual men during the Soviet period draw a clear distinction between them and the men who were punished for violating Article 122 (2) of the Criminal Code. However, these male same-sex acts should not be excluded from the context in which they were perceived at the time. In other words, it is wrong to place homosexuals in the same “sexual zoo” as paedophiles, rapists, and sexual abusers, but the Soviet legal and political system of that time²⁰ did just that. This must be considered when studying the history of homosexuals during the Soviet era. Because by making the distinction, we lose the opportunity to learn about the concepts of the Soviet time and the logic of the Soviet system.

So, even now, when we search for cases and convictions of homosexual men, we indeed find the archives programmed by the logic of the Soviet system. However, this does not mean we should reject the archive, but rather recognise and deconstruct its logic. The aim of historical research when reading the archives should not define the context of the “sexual zoo” as incorrect, but to historicise it, for instance, to analyse the normative power of these links between homosexuality and paedophilia or sexual abuse at a specific time and in a specific society.

Practice beyond statistics

Upon examining specific verdicts of the Soviet court, we find that the same logic prevailed linking homosexual relationships to other criminal acts. It is important to note that despite the internal debate within the Soviet Union on whether to decriminalise male consensual sexual intercourse,²¹ the first and second paragraphs of Article 122 remained unchanged, and the link between homosexuality and criminality remained. However, it is possible that this link was rather a formality. Analysing the specific sentences handed down by a particular court can reveal what charges the men were actually convicted of.

Between 1961 and 1989, a total of 232 men were convicted in Soviet Lithuania, both for the first and second paragraphs of Article 122.²² If we take into account that two, three, or even more men could be tried in a single case, we could probably, in a speculative way, divide the number by, say, two, and estimate that there might have been around 110–120 court cases. As I mentioned earlier, I discovered

20 At least at the legal and ideological level, if not at the level of legal practice.

21 Valodzin 2016, 13–18; Alexander 2018, 30–52.

22 Lipša 2017, 61.

20 criminal cases and their verdicts in one district of Vilnius over 16 years. Although this number is not representative, it could represent about a sixth of the total cases if we follow these speculative calculations. I do not intend to draw generalised conclusions from such a small sample size. However, the information I found in these cases raises questions about whether they might reflect more general trends.

Only two men were prosecuted under the first paragraph of Article 122 out of 20 cases. The rest of the cases include paedophilia or sexual intercourse without consent, using force or exploiting the victim's helplessness. Some of these cases in an interpretative and speculative manner could be classified as 'grey area' cases and may blur the line between consensual sex and violence. It is not uncommon for one of the parties to deny that the intercourse was consensual and to present himself as the victim as soon as the case becomes public.²³ This can happen when alcohol is involved. On such occasions, becoming a victim could result in avoiding imprisonment and a criminal record. I found at least two cases where the intercourse took place under the strong influence of alcohol. In one of those cases, in July 1970, two men were drinking in a courtyard of a dormitory in Vilnius. After getting very drunk, one of the men topped the other man and put his penis in the guy's mouth. The latter was allegedly already helpless because of his inebriation, even though he insisted on refusing the sexual act.²⁴ The accused and the victim differed in their statements. The former was found guilty based on the testimony of other witnesses.

In another case, on the night of 1 June 1986, two men drove to a remote location in the city and drank a bottle of alcohol. According to the court verdict, the driver of the car tried forcing his penis into the passenger's anus. The latter resisted, so the driver resorted to more violence and finally forced the victim to satisfy him twice by masturbating his penis.²⁵ The defendant did not admit the charges and denied that he had any kind of sexual intercourse with the victim. He also claimed that he did not use violence. According to him, the two men got into an argument, and the victim got out of the car, kicked the door, then started to run and fell, which caused his injuries. He said they slept in the car overnight, and in the morning he drove his passenger to the dormitory. The victim admitted in his testimony that the man he met around midnight invited him to go for a ride in the car and he accepted. They decided to have a drink

23 Brickell 2008, 37–41.

24 Verdict, 13.10.1970. *Vilnius Regional State Archive* (Vilniaus regioninis valstybės archyvas, hereinafter: VRVA), 1097–5–7, pp. 48–53.

25 Verdict, 25.09.1986. VRVA, 1097–5–210, p. 65–65. v.

while they were driving around the city, and in the morning, he was dropped off at the dormitory.²⁶ However, the victim also claimed that he was assaulted and forced to sexually satisfy the defendant, and that he had been unable to return earlier because of an injury to his leg. The victim did not immediately disclose everything that he had gone through. The court's verdict summarised his testimony stating that he was unable to "give a full and honest account of the circumstances of the crime committed against him" due to his poor health and the threats he received from both the defendant and the staff of the High School of Militia, where the defendant was studying.²⁷ The court found that the defendant was guilty based on the testimonies of the victim and witnesses, and other materials in the criminal case.²⁸

In both cases, some circumstances or details could cast doubt on what really happened between the two men. However, a retrospective revision would be speculative and would risk undervaluing the victim's experience. Moreover, it is common for the perpetrators in cases of sexual assault, to deny their guilt. This was observed in some of the examined verdicts. Additionally, victims of sexual abuse often conceal their experiences in fear of intimidation or threats, particularly in a legal system where justice is very selective, as it was the Soviet legal system.

In two cases where men were convicted under the first paragraph of Article 122, they were prosecuted for having sex in prison. This means that in 16 years, there were only a couple of cases in Lenin District of Vilnius, and both involved men having consensual intercourse while imprisoned. As mentioned earlier, to conclude, it is necessary to examine other districts in Vilnius and other cities. However, it seems that in Lenin District, during the late Soviet period, mainly men were tried for non-consensual intercourse or exploitation of minors under Article 122. If this is indeed the case, it raises a question of whether in Lithuania, during the late Soviet era, the prosecution of consensual male sexual intercourse may have existed only formally, and if, in reality, it was more of an ever-present threat that was rarely, but not never, acted upon. In the Criminal Code, linking consensual male sexual intercourse with other sexual offences committed by men might have been politically, ideologically, and culturally significant, as it reflected a certain logic of the Soviet system. However, in practice, law enforcement tended to differentiate between the actions rather than treating them similarly.

26 Verdict, 25.09.1986. VRVA, 1097–5–210, p. 66.

27 Ibid., p. 66. v.

28 Ibid., p. 66.

It may seem that men were rarely punished in the People's Court of Lenin District of Vilnius under the first paragraph of Article 122. This finding might lead to drawing a similar conclusion to the one Graham Robb made about the situation of homosexual men a century ago. He doubted the court documents' portrayal of a constant fear of legal persecution among homosexuals. He discussed that in their daily lives this might not have played a significant role.²⁹ However, we should rather agree with Matt Cook's observation that "[t]he law can have a significant impact without ever being directly applied".³⁰ The threat of criminal prosecution made it possible to maintain public silence on homosexuality during the Soviet period. Clearly, the aim was not necessarily to convict as many men as possible for same-sex relations, but rather to make them hide their relationships. This was to prevent individuals from disclosing their identities and avoid setting a precedent for questioning the existing norms of sexual and gender relations.

Meanwhile, it is possible that some forms of persecution did not end up in court but were carried out in other, more common or useful ways for the system or its agents. Court verdicts alone are not enough to explain why there are so few men convicted under the first paragraph in the People's Court of Lenin District. It is possible that known homosexual relations were not reported to the militia by others. Or, perhaps there were other ways of sanctioning the men that were preferable to authoritarian society, such as dismissal from a job, social exclusion and ostracisation, blackmailing, threats, or humiliation. Or perhaps reports of such relationships did not pass through some law enforcement filter and were rejected by the militia, the prosecutor's office, or the courts. Maybe the militia or KGB was inclined to deal with such men without trial?³¹ Perhaps the societal belief that homosexuality was a disease had replaced the legal notion that it was a crime. Theoretically, it is possible that, in some cases, men, despite the consent, were intentionally charged under the second paragraph of Article 122 regardless. This was likely done because the charge under this paragraph was considered to be more serious. Such manipulations of accusations are well known in the Soviet

29 Robb 2003, 17–18.

30 Cook 2006, 74.

31 For example, the Latvian poet Knuts Skujeniēks has said that the KGB officers used their knowledge about the sexual orientation of the men to coerce them into collaboration (Lipša 2017, 63). In Lithuania, some stories suggest that militias used to create lists of homosexual men (V. Simonko: Pirmieji LGBT aktyvistai Lietuvoje už atvirumą sumokėjo skaudžią kainą. *www.15min.lt*, 29.08.2019. Accessible at: <https://www.15min.lt/naujiena/aktualu/lietuva/v-simonko-pirmieji-lgbt-aktyvistai-lietuvoje-uz-atviruma-sumokejo-skaudzia-kaina-56-1194854> (viewed 10.07.2023)).

legal system. However, it is difficult to confirm this or any other hypothesis based solely on court decisions.

Over-pollution with authority

In legal systems, documents are drafted based on their internal, self-referential logic and traditions. These traditions can vary significantly across different countries. Nevertheless, often these documents leave little or no room for the spontaneity of the subject matter, personal expression, and authentic experiences. Legal documents describe these aspects by translating them into a vocabulary, categories, and structure that are subjugated to their own rules. This applies even to eyewitness testimonies, which are captured using a certain procedure without necessarily recording everything said or in the same way as it was expressed. This is even more true for testimonies in court and, in particular, verdicts. The latter are always just a brief summary of what was said during the process and written down on hundreds of pages.

A verdict does not usually summarise different interpretative accounts of, say, one event. Instead, it synthesises those interpretations and transforms them into a new interpretation, the sole purpose of which is to justify the verdict's correctness. In other words, it affirms the righteousness of those who wield the legal power. This logic is reflected in the standard structure of the Soviet People's Court verdict. It included the following sections: personal information of the defendant, identification of criminal activities, a summary of the defendant's testimony, and summary of the testimony from victims and witnesses that usually refutes the defendant's testimony (if he denies his guilt in part or in full), supplementing it and proving the criminal acts committed by the defendant; a summary of the court's findings of evidence confirming the defendant's guilt, and the final sentence of punishment. In the verdict, the different versions of the defendant, the victims, and the witnesses are presented. However, they are clearly categorised into "subjective" accounts and "objective" facts, with the latter being seen as more credible. This means that the version expressed by the defendant, which may contradict the verdict, is framed by the court's interpretation as unreliable and not to be considered credible. Moreover, historians who have studied court records have noted that the narratives recorded in the court documents, the evidence presented, are inevitably "polluted with authority". Meaning that all the participants in the trial, especially witnesses, defendants, and victims, are confronted with an authority in court that determines their fate. This creates a justification

for all those who speak to tell a lie or to give an interpretation that serves their own interests.³²

In authoritarian systems, the courts tend to favour the state, specifically the prosecutors. Soviet courts were notorious for their reluctance to acquit the innocent.³³ Judges would typically send a case back for additional pre-trial investigation rather than acquitting the accused because an acquittal was seen as a failure of the investigators and prosecutors,³⁴ which would then appear as a failure of the system and a sign of its weakness. From a historical perspective, this should also be considered in cases where a person is convicted despite denying his guilt, as in the cases described earlier in this article. While it may not be possible to revisit court judgments many years later without all the pre-trial material, it is important to take into account similar features of logic used by Soviet courts when making new historical interpretations.

Regarding all these concerns outlined above, Soviet courts were over-polituted with excessive authority. Even though after the Second World War, attempts were made to professionalise and bureaucratise the justice system,³⁵ it was fundamentally unfair due to its unlimited power. Judges were not independent, and courts often did not seek justice. At the start of *perestroika*, even the Central Committee of the Communist Party warned party agencies against interfering with the judges' decisions,³⁶ highlighting the widespread nature of such interference at the time. The courts were often corrupted to serve the interests of the Soviet government or influential state and party agents. If the cases were not relevant to the government and party, interference, pressure, so called "blat"³⁷ or bribery from other influential or well-connected people often corrupted the courts. Interference was not limited to the courts, but also extended to investigations. Thus, even the material submitted to the court could be influenced by interested parties. In such cases, the decision and the final narrative supporting it, i.e., the verdict, was predetermined, especially in politically sensitive cases. Consequently, the interpretation itself and the action that the interpretation

32 Robertson 2005, 162.

33 Quigley 1988, 465.

34 Ibid.

35 Cadiot, Penter 2013, 167.

36 Quigley 1988, 467.

37 The term defines an act of exchanging a favour for another favour in the Soviet system.

explains were presented in a purely politicised, ideologised or intentionally one-sided way³⁸.

Although the verdicts of the Soviet People's Court may not be entirely reliable, they still contain some valuable information. In addition to learning the logic of Soviet disciplining, the homosexual culture in correctional institutions and their role in the lives of homosexual people, the most valuable findings in the 20 cases reveal "everyday practices" that were treated as a criminal offence. These practices include information about the type of sexual acts that were performed, the location of the acts, such as in prison, venereal dispensary, building site, car, flat, basement, staircase of an apartment block, etc., and the circumstances under which they occurred. It also sheds light on whether or not the practices were continuous.

For example, a man was convicted under Article 121³⁹ and the second paragraph of Article 122 for sexually assaulting five underage boys. The verdict shows that the boys met with the man on more than one occasion between 1970 and 1973, and at least one met with him regularly. During these meetings, the man would massage the boys' genitals, and sometimes they would give the man genital "massages". The offender had intercourse with one of the boys. Initially, he wanted to insert his penis into the boy's anus, but the boy refused and instead inserted his penis into the man's anus.⁴⁰ However, all these details are selected and presented to fulfil the final interpretation of the court.

It is important to note that the verdicts of the People's Court follow both structural and semantic order. In the 20 examined cases, all homosexual interactions are treated as the fulfilment of a "perverted desire". In this sense, the court would not distinguish whether the sexual acts were consensual or non-consensual, and between the means of satisfaction, such as oral sex, anal penetration, or masturbation. The difference in the treatment of the various sexual acts we may not find due to the fact that a vast majority of the cases dealt with the exploitation of minors or violence, while in the two cases where men were tried for consensual intercourse, anal penetration was involved. However, to a certain degree, this could have been in line with the general legal and cultural notion at the time that any sexual satisfaction not achieved by vaginal penetration is "abnormal". In some legal textbooks in the 1970s, any sexual acts without vaginal intercourse, such

38 This is not to say that these were the unique features of the Soviet judicial system. Similar problems, from corruption to politicised decisions, albeit to varying degrees, have affected the judicial systems of other authoritarian and democratic countries, too – for example, Ginzburg 1999; Greer 1994; Gong 2004.

39 Acts of sexual abuse against a person under the age of 16.

40 Verdict, 17.04.1974. VRVA, 1097–5–34, pp. 118–122.

as oral sex, were treated as “abnormal”, not only for same-sex relations, but also for heterosexual relations.⁴¹ Article 122 of the Soviet Lithuanian Criminal Code punished a broadly defined act of “sexual intercourse between a man and a man” without specifying it. This definition of the Soviet Lithuanian Criminal Code was unusual. One report comparing the law in different post-Soviet countries found that Soviet Russia and other Soviet republics used the term *muzhelozhstvo*, which was defined as “satisfaction of sexual desire contrary to nature between two men in the form of anal contact”. Whereas in Soviet Lithuania and Belarus such prohibited same-sex relations included both anal sex and oral sex.⁴² Regardless, the definition of ‘sexual intercourse’ is broad and leaves room for interpretation in a courtroom. But the 20 cases that were examined, which mostly involved violence or sexual acts against minors, do not provide enough information to summarise the practices of the courts. For example, in the case of consensual intercourse, was it only anal sex that was prosecuted, or was it also oral sex and mutual masturbation?

The act itself, which is treated as a crime, and its circumstances are described in the verdicts only to the extent necessary to justify its criminal nature. For example, in the case in which two men were convicted of having intercourse in a prison cell, the act is described in considerable detail. There were three men in the cell. One inmate initiated sex with the other while the third stood at the cell door to cover the peephole. The verdict describes how one of the inmates took off his pants, bent down and propped himself on the bed. Next, the other man walked up and penetrated him from behind.⁴³ However, this description is given only to prove they indeed had performed an “illegal act”. Such descriptions purposely reduce the true circumstances of the events, so we do not learn the actual context of the interaction.

When voices become post-voices

In the second half of the 20th century, social and cultural history scholars started to focus on groups of people that were previously overlooked or ignored in historiography, or had their stories told from someone else’s perspective. In such a context, the term ‘giving voice’ became critical to the representatives of these groups. It meant that representatives of the marginalised and silenced groups

41 Buslius, Cēpla 1977.

42 Greif, Coman 2001, 24, 44.

43 Verdict, 24.04.1970. VRVA, 1097–5–3, pp. 167–171. v.

were given the opportunity to speak for themselves. The process of seeking, quoting, publishing and analysing sources allows people from such groups to express themselves in their own voice. This is believed to be a more ‘authentic experience’ than if their experiences were to be retold by people in positions of political, social, or cultural power. In the context of the official system and the dominant public discourses it produces, the concept of ‘voice’ challenges the idea of ‘authentic experience.’ Although some historians argue that legal records can give us “unique access to voices”,⁴⁴ this is hardly applicable in the case of the verdicts handed down by the Soviet People’s Court, as we have tried to show in this article. And yet, is there anything else in these documents beyond the legally bureaucratic, anonymous, and impersonal language?

To answer this question, one can look for cracks in the “scriptural empire”,⁴⁵ to paraphrase Michel de Certeau, as seen in the verdicts of the Soviet People’s Court. While some of these cracks could be taken literally, many others may be interpreted figuratively. Nonetheless, they can at least partly confirm Chris Brickell’s assertion that despite official interpretations dominating legal documents, relationships between dominant and marginal groups are often more complex. Therefore, in the court files, “we can recognize the interplay of numerous, interwoven voices”.⁴⁶

Many of the verdicts issued by the People’s Court of Lenin District were handwritten, and some of them were written in a hasty or negligent manner, leading to errors or surprises that can now offer us new insights into these documents. Out of the 20 cases examined, the most striking example of such a crack is a verdict that involved a group of prisoners charged with cruelty and sexual assault against another inmate. The victim was brutally beaten overnight because his attackers accused him of being homosexual. As he lay half-dead on the cell floor, the three aggressors continued jumping on him, and then each continuously raped him.⁴⁷ In the verdict, written in the same legal language, as other verdicts, we suddenly hear the victim’s voice. His testimony, as usual, was provided in the third person. However, two sentences accidentally written in the first person intervene in the text, e. g., “Ž(...) instigated all the inmates in the cell to

44 Cook 2006, 64. Nancy Erber and George Robb also wrote: “Since all too frequently court and police archives remain one of the few arenas in which the voices and experiences of working-class men and women are consistently present” (Erber, Robb 1999, 5).

45 de Certeau 1984, 154.

46 Brickell 2008, 25.

47 Verdict, 28.09.1977. VRVA, 1097–5–64, pp. 127–135. v.

beat me.”⁴⁸ This word ‘me’ suddenly sounds very strong and vividly stands out in an otherwise indifferent and bureaucratically written verdict. This error confirms that verdicts were recorded on demand by rewriting the participants’ testimonies in the trial.

As mentioned earlier, it is essential to treat these testimonies with caution because of pollution with authority. Even if written down word for word, they become a part of the official interpretation of the verdict when rewritten in the third person singular or plural. However, it cannot be completely disregarded that the victim’s, defendant’s, or the witness’s testimonies in such verdicts are derived from the original affidavit and still retain the trace of the authentic ‘voice’. Even though such a statement can no longer be called a ‘voice’ since it is altered into legal jargon for the interpretation of the verdict, neither can it be dismissed entirely as unrelated to the person’s genuine testimony. It is impossible to determine if some testimonies were obtained through coercion or falsification, as we do not know who influenced them or how. However, in some instances, subjectivity may still play a role in the remaining testimonies.

Such testimonies that survive in the verdicts could be called ‘post-voices’. These ‘post-voices’ in legal documents are formed by an unequal dialectic between the weak original ‘voice’ and the strong legal institution, its agents, its rules and traditions, in which the stronger transforms the original testimony for its own purposes. However, as the sources examined show, the authentic ‘voice’ cannot be permanently destroyed. When we encounter the word ‘me’, we might detect a transformation of ‘voices’ into ‘post-voices’, which was left accidentally. In most other cases, however, we do not find such accidental residues. When we read the versions given by the defendant, the victim, or the witness, we are confronted only with the ‘post-voices’ that have been formed in the synthesis of the verdict.

‘Post-voices’ can also be useful for historical research because behind them are real people who, if possible, tried to defend their interests in a court. ‘Post-voices’ could, therefore, be described as an indicator of the limited opportunities that the actors have in the trial. Even if their testimonies are polluted with authority, i.e. they adapt to power for their self-interests, saying what they feel is needed to say, we witness not only the field of action of that power but also, to quote Michel de Certeau, the tactics of the weak that they adopt.⁴⁹ The ‘weak’ in this context is defined relative to the institution and circumstances in which they find themselves, which can include victims testifying in court, as well as those on trial for coercion and abuse.

48 Verdict, 28.09.1977. VRVA, 1097–5–64, p. 129.

49 de Certeau 1984, 35–37.

For instance, one could assume that ‘homosexual’ might have functioned as a label, which, upon assigning to a person *a priori*, the court’s decision is made. However, in one case of the People’s Court of Lenin District, during the late Soviet period, allegations of same-sex relations did not automatically lead to a guilty verdict. In this case, a group of youth and an older man were tried for theft. The older man was not tried for stealing but for buying some of the stolen items, such as spoons or a velvet jacket. In addition to this main charge, he was also suspected of having sexual relations with an underage youth involved in stealing. The minor’s testimony raised suspicions. The youth was identified as a “passive participant in sexual intercourse”.⁵⁰ However, during the pre-trial investigation, he changed his testimony, at one point confirming and at another denying having had a sexual relationship with the older man, and finally rejected it at the trial. Meanwhile, the older man consistently denied the accusation and did not admit to sexual relations with the youth. The court eventually had to conclude that there was no evidence of their sexual intercourse. As a result, the older man was not convicted under Article 122.⁵¹ This verdict exemplifies weak tactics used to avoid punishment, even in a Soviet court that was not inclined to acquit.

Conclusion

Historians studying the history of homosexuality in Soviet Lithuania are confronted with a scarcity of sources. The available primary sources are often fragmentary, sporadic, and accidental. Despite this, any source, even if it is unreliable, dubious, or complicated, is considered valuable or at least deserves to be assessed for its potential historical value. Soviet court verdicts prosecuting men for homosexual relations are among such sources. Although it is a complicated and questionable primary source due to what I define as “over-pollution with authority”, it can still provide valuable insight into the lives of homosexual men⁵² in Soviet Lithuania.

The documents stored in the contemporary archives of independent Lithuania are still programmed according to Soviet logic. Therefore, to analyse, understand, and interpret the verdicts, first and foremost, this Soviet logic must be deconstructed. For example, male same-sex relations were treated as a punishable

50 Verdict, 11.04.1980. VRVA, 1097–5–96, p. 147.

51 Ibid., pp. 141–149.

52 The scope of this research excluded homosexual women.

deviance. Furthermore, consensual sexual relations on the legal ideological level were equated with sexual exploitation of minors and other sexual assaults. This association of homosexuality with paedophilia raises the fundamental question of how to interpret the history of homosexuality in Soviet Lithuania, as well as other Soviet republics. Or how to view the history of homosexuality during the time when it was equalled with paedophilia. The answer to these difficult questions must start with a clear distinction: paedophilia is not a part of the history of homosexuality, but the association of paedophilia with homosexuality is part of that history.

The analysis of 20 verdicts has revealed a pattern in the legal system of Soviet Lithuania. Homosexual men living in Vilnius Lenin District were often prosecuted for having sexual relations with minors or for using sexual coercion rather than consensual sexual activity. The sample size of the verdicts is too small to generalise about the court practice in Soviet Lithuania. Still, the findings indicate a passive approach in implementing the first paragraph of Article 122 of the Soviet Lithuanian Criminal Code. Further research will reveal reasons for this seemingly reluctant attitude of the legal system, and to what extent this was due to implementing the second paragraph charging for paedophilia and coercion. Moreover, to what extent could Article 122 have influenced the lives of homosexual men indirectly, and to what extent did other forms of persecution replace its implementation? And furthermore, to what extent did this trend indicate the ability of homosexual men to escape from the system's observation?

The verdicts' texts can tell us little about the men's behaviour or thinking. However, they do contain summaries of the defendants', victims' and witnesses' testimonies, modified to suit the interpretation required for the verdict. These versions of the testimonies in which remnants of subjectivity can be detected are defined as 'post-voice'. To this day, these 'post-voices' have either not been preserved or have preserved very little of the authentic narrative of experience. But in some cases, they tell us directly, and more often indirectly, how the 'weak' resorted to their own tactics when dealing with judicial and political power.

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PĒTOT HOMOSEKSUALITĀTES VĒSTURI PADOMJU LIETUVĀ: TIESU SPRIEDUMU ATŠIFRĒŠANA

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Zinātniskās intereses: padomju perioda sociālā un kultūras vēsture, psihiatrijas vēsture, seksualitātes vēsture

Rakstā kā vēstures avoti aplūkoti padomju tiesu spriedumi, kuri pieņemti, pamatojoties uz Lietuvas PSR Kriminālkodeksa 122. pantu, tiesājot vīriešus par homoseksuālām attiecībām. Autors uzskata, ka šie mūsdienu arhīvos glabātie dokumenti joprojām ir sistematizēti atbilstoši padomju loģikai. Tādējādi tiesu spriedumu analīze un interpretācija nedrīkst tikt šķirta no šīs loģikas atšifrēšanas. Viens no šīs loģikas pamatiem ir homoseksualitātes saistīšana ar pedofiliju un piespiedu seksuālajām darbībām. Šī asociācija raisa fundamentālu jautājumu par to, kā interpretēt homoseksualitātes vēsturi padomju Lietuvā un citās padomju republikās. Autors ierosina sākt ar skaidru nodalījumu: pedofilija nav homoseksualitātes vēstures daļa, turpretī pedofilijas saistīšana ar homoseksualitāti gan pieder pie šīs vēstures. No otras puses, 20 aplūkotie tiesu spriedumi atklāj izteiktu tendenci: praksē Viļņas Ļeņina rajona tautas tiesā vīrieši galvenokārt tika tiesāti par mazgadīgo seksuālu izmantošanu vai par seksuālo darbību uzspiešanu pilngadīgajiem, savukārt pilngadīgo vīriešu abpusēji labprātīgu seksuālo attiecību tiesāšana veidoja mazāku pētīto gadījumu vidū. Spriedumu teksti nesniedz daudz informācijas par notiesāto motīviem, uzvedību vai domām. Tomēr tajos fiksētajās liecībās var saskatīt notiesāto vīriešu subjektivitātes pēdas, kuras šajā rakstā tiek dēvētas par “balsis no pagātnes” (*post-voice*). Dažos gadījumos šīs “balsis no pagātnes” atklāj, kā “vājie” saskarsmē ar tiesu un politiskās varas sfēru lika lietā savu individuālo taktiku.

Atslēgas vārdi: homoseksualitāte, padomju Lietuva, tiesu spriedumi, balsis no pagātnes (*post-voices*), arhīva materiālu pētījumi

Kopsavilkums

Vēsturnieki, kuri pēta homoseksualitātes vēsturi padomju Lietuvā, saskaras ar avotu nepietiekamību. Pieejamie avoti bieži vien ir fragmentāri, sporādiski un nejausa rakstura. Tomēr jebkurš avots, pat ja tas ir neuzticams, aizdomīgs vai sarežģīts, tiek uzskatīts par noderīgu vai vismaz pelna tikt izvērtēts savas potenciālās vēsturiskās vērtības kontekstā. Padomju tiesu spriedumi prāvās pret homoseksuālās attiecībās apsūdzētiem vīriešiem pieder pie šādas avotu kategorijas. Lai gan šie avoti, būdami – kā definē raksta autors – “pārlieku piesārņoti ar varu” (*over-polluted with authority*), ir sarežģīti

un apšaubāmi, tie tomēr var sniegt vērtīgu ieskatu homoseksuālu vīriešu dzīvē padomju Lietuvā (homoseksuālas sievietes palika ārpus šī pētījuma loka).

Mūsdienu neatkarīgās Lietuvas arhīvos glabātie dokumenti joprojām ir sistematizēti atbilstoši padomju loģikai. Tādējādi, lai tiesu spriedumus varētu analizēt, saprast un interpretēt, pirmām kārtām tajos ir jāatšifrē šī padomju loģika. Piemēram, viendzimuma seksuālās attiecības starp vīriešiem tika uzlūktas kā sodāma novirze no normas. Turklāt tiesiskajā ideoloģiskajā līmenī abpusēji labprātīgas viendzimuma attiecības tika pielīdzinātas mazgadīgo seksuālajai izmantošanai un cita veida seksuālajai vardarbībai. Šāda homoseksualitātes saistīšana ar pedofiliju raisa fundamentālu jautājumu par to, kā interpretēt homoseksualitātes vēsturi padomju Lietuvā un citās padomju republikās. Vai arī, kā aplūkot homoseksualitātes vēsturi laikā, kad tā tika pielīdzināta pedofilijai. Atbildes meklēšana uz šiem sarežģītajiem jautājumiem jāsāk ar skaidru nodalījumu – pedofilija nav homoseksualitātes vēstures daļa, turpretī pedofilijas saistīšana ar homoseksualitāti gan pieder pie šīs vēstures.

20 aplūkotie tiesu spriedumi atklāj padomju Lietuvas tiesu sistēmas tendenci. Viļņas Ļeņina rajonā dzīvojošie homoseksuālie vīrieši bieži tika tiesāti par seksuālajām attiecībām ar mazgadīgajiem vai seksuālo darbību uzspiešanu, ne tik daudz par abpusēji labprātīgām seksuālām darbībām. Spriedumi veido pārāk nelielu paraugu grupu, lai uz to pamata varētu izdarīt vispārinājumus par tiesu praksi padomju Lietuvā. Tomēr pētījums norāda uz pasīvu pieeju Lietuvas PSR Kriminālkodeksa 122. panta pirmās daļas piemērošanā. Turpmākajā pētījuma gaitā tiks meklēti iemesli šādai šķietami negribīgai attieksmei no tiesu sistēmas puses un analizēts, cik lielā mērā tas skaidrojams ar šī panta otrās daļas piemērošanu, izvirzot apsūdzības pedofilijā un seksuālu darbību uzspiešanā. Tiks skatīts arī, cik lielā mērā 122. pants varēja ietekmēt homoseksuālu vīriešu dzīvi netiešā veidā un cik lielā mērā tā piemērošana tika aizstāta ar citiem kriminālvajāšanas veidiem. Un – attīstot šo jautājumu tālāk – cik lielā mērā šī tendence norāda uz homoseksuālu vīriešu iespējām izvairīties no sistēmas veiktas novērošanas?

Spriedumu teksts nevar mums daudz pastāstīt par notiesāto vīriešu uzvedību vai domu gaitu. Tomēr tajos ir iekļauti apsūdzēto, upuru un liecinieku sniegto liecību kop-savilkumi, kas ir pārveidoti, pielāgojot tos sprieduma loģikai nepieciešamajai interpretācijai. Šīs liecību versijas, kurās var saskatīt subjektivitātes paliekas, tiek definētas kā “balsis no pagātnes” (*post-voice*). Šīs “balsis no pagātnes” autentisko pieredzētā stāstījumu līdz mūsdienām nav saglabājušas vai saglabājušas to ļoti nelielā apjomā. Taču dažos gadījumos tās mums pastāsta tiešā vai visbiežāk netiešā veidā, kā “vājie” saskarsmē ar tiesu un politiskās varas sfēru lika lietā savu individuālo taktiku.

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