

Abstracts

Nikolaus Benke, Elisabeth Holzleithner, Sexual Discipline by Law. Legal Construction of Decency in Austrian Criminal Law

The societal approach to and concept of the human sexual capacity has traditionally worked according to a dichotomous regime, thus promoting an idea of proper sexual discipline (*Zucht*) as opposed to the lack of such discipline (*Unzucht*), which is seen as being expressed by undesirable sexual conduct. The article confines its perspective to Austrian criminal law, which has traditionally backed up this regime, making exhaustive use of the category of *Unzucht*. Its analyses focus mainly on three peculiar features that reflect (amongst other aspects) remarkable gender inequalities: First, although the movement of Enlightenment has created an unprecedented concept of personal autonomy, it has almost schizophrenically maintained traditional gender roles and traditional assumptions of masculine and feminine sexuality. Second, Austrian criminal law still works largely by the legal notion of *Unzucht*, although this notion has been criticized for being morally loaded to an extent that cannot be accepted in the light of an individualistic liberal legal system. Third, although the field of criminal law has seen some improving shifts towards gender equality, particularly as far as rape is concerned, a close look reveals that institutionally accepted constellations like marriage or long term heterosexual companionship still contain inequalities working to the benefit of male partners. As the article intends to prove, the concept of *Unzucht* appears most questionable in its regime of homosexuality and pornography. The Austrian criminal code still provides severe punishment for male adults who perform consentaneous sexual acts with men between 14 and 18. In addition, the regulations on pornography have traditionally been construed with a gender bias, and, beginning in the seventies, with a special bias against lesbian and gay material. In brief, the study leads to the obvious result that the use of the expression *Unzucht* in the legal discourse is deeply problematic: *Unzucht* is interconnected with a moral evaluation that is not adequate to modern criminal law. Therefore it should be replaced by more neutral expressions such as "sexual act". In addition, this change of rhetoric must be accompanied by further substantial change: Austrian criminal law needs full acknowledgment of the maxim of sexual integrity. The law is to promote sexual integrity; on the basis of its individualistic liberal constitution, it is not to promote conventional moral attitudes.

Angelika Epple, Heike Uffmann, The Body Makes History – History Makes Body

The conference on the human body, power, history and their interdependence at the Institute of Interdisciplinary Research in Bielefeld (15–17. December 1997) began within two provocative questions: Does historical research make the body? Does the body make history? This conference report firstly focuses on how the discussion set about – at the beginning by stressing the opposition between concepts of the history of experiences and the history of discourse (medical, juridical, scientific etc.). Yet, eventually an attempt was made to combine these seemingly contradictory approaches to the history of the human body. Secondly, the report briefly summarizes the empirical works presented at the conference (grouped in four sections: I. The ideal body, II. The body at work, III. The body positioned in space, IV. The governed body).

Anja Huovinen, *Between Celibacy, Family and Indecency. Catholic Clergymen in Andalusia at the End of the Ancien Régime*

The patterns of catholic clergymen's lives contained elements of potential disorder that were threatening to society. As a figure, the ordained priest questioned the dominant model of the family as well as the dichotomous symbolic order of gender. The essay examines records of indecency trials against clergymen in Southern Spain in the second half of the 18th century and reads them as part of an ongoing debate over the establishment of (symbolic) boundaries between laity and clergy and between men and women. It shows under which circumstances *indecency* became an offence and how the accusation of having carried on *illicit sexual relations* can be seen within the context of familial conflict.

Alison Jeffries, *Conservative Politics and Sexual Immorality: A Comment on the Significance of Sexual Scandal in British Politics*

This paper considers the role of sexual scandal in recent British political history, and examines why sexual scandals were particularly damaging to Conservative politicians during the Conservative administrations in the 1980th and 90th. It is argued that this damage did not result from public puritanism but was a consequence of the significance accorded to the patriarchal family in free-market Conservative discourse, and a artefact of the particular, contradictory, view of gender roles to be found in British Conservative thought. It is argued too that the response to sexual scandal by Conservative politicians itself illuminated the gendered discourse of Conservatism further, while also serving to embed Conservative assumptions within wider, socially shared, perceptions of gender roles.

Franziska Lamott, *Fantazied Immorality – Immoral Fantasies. Freud's Discovery of Psychoanalytical Space*

Psychoanalysis developed in the context of a nineteenth-century moral double standard. It was connected in a special way to the cultural fate of female sexuality that had consequences in the conversion symptoms of hysteria. While Charcot tried to control hysteria by hypnosis, Freud decoded the symptoms as a conflict between wish and prohibition, in the intimacy of the two-person analytic relationship.

The analytical *chambre separeé* evoked fantasies of sexual excesses in the scientific community, that Freud met by his concept of analytical space, purified by methodology. Here these conflictual, ambiguous and culturally immoral fantasies of his patients could find a space that was pure and marked by abstinence. The *intimacy-distance* kept desire in balance, neither wiping it out or acting it out, and made it available for a process of cognition.

Katharina Waldner, *Sexuality between Purity and Pollution: Problems and Solutions of an Anthropology of the Antiquity*

This is a review article on research about religious and social concepts of purity and pollution and their relation to roles of chastity in the pagan religion of the Greek city states in classical antiquity. The article starts with a brief outline of these pagan concepts as we can reconstruct them from the few historical testimonies. The historicity of the Christian discourse becomes evident when compared to the religion of the pagan city states. While there is a growing body of critical work on the Christian discourse influenced by Michel Foucault and Peter Brown the same cannot be said for research on pagan religion. There are the standard works by Walter Burkert and Robert Parker based on Mary Douglas who was the first to state that concepts of pollution and purity structure the organisation of each society. But they do not yet consider that concepts of sexuality, corporeality, chastity and virginity are social constructed as well. On the other hand feminist research on these topics is often restricted to the symbolic level and neglects social history.