

HOMOPHOBIC DISCOURSES AND THEIR SOVIET HISTORY IN ESTONIA

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Abstract: In this article I discuss the links between homophobic discourses and the history of non-normative sex-gender subjects in Soviet Estonia. How was homosexuality seen and handled publicly during the Soviet period? What was the relationship between official discourse and non-normative sex-gender subjects? By working through a selection of archival materials on criminal investigations under the Pederasty Article of the Soviet Estonian Criminal Code and analysing the period's sexual health discourse I outline an official discourse about non-normative sex-gender subjects in Soviet Estonia. I also analyse the manifestations of this official discourse in historical sources. In addition to the official discourse, the archival and ethnographic sources allow me to trace some of the experiences that differed and dissented from the repressive ideologies set by legal, medical, and social regulations.

Keywords: Soviet Estonia, queer history, ethnographic history writing, queer criminology, homophobia

Some of the most common and explicit homophobic discourses in Estonia have been captured in the video installation “Kuuldud jutt” (Heard Story) (2011) by artists Minna Hint and Liisi Eelmaa. The piece presents interviews with seven men and one woman who made notoriously homophobic statements in 2011. The title implies that such stories have been “heard enough already”. At the exhibition¹ the interviews were shown on black and white television screens mounted on a large canopy bed with rainbow-coloured bed linen to create a contrast between the diversity of the expected audience and the strict normativity conveyed by the interviewees. Indeed, the interviewees are represented as people who do not accept the LGBT community as they describe homosexuality as a disease, as a deviation, as something that belongs to prison culture, as a threat to national

reproduction. The interviewees conflate homosexuality with paedophilia, confuse sexual and gender identities, and present theories of secret homosexual societies. In the context of my ethnographic research this artwork has acquired new significance as it captures homophobic discourses common in Estonia.

This article discusses the official discourses on homosexuality in Soviet Estonia, in which several discourses that are similar to those expressed in the artwork surface. Thus, I would argue that some of the homophobic discourses presented in the “Heard Story” (2011) have a historical basis and belong to a field of memory (Foucault 1972: 58): these discourses have not been forgotten, yet they can no longer be considered as valid as they used to be in Soviet Estonia. I focus on the following questions: What were the official discourses on non-normative sex-gender subjects in Soviet Estonia and how were they constructed and distributed? By employing Judith Butler’s (2007 [1990]) ideas on gendered subjectivity, Michel Foucault’s (1972) approach to discourse and Karen Barad’s (2007) agential realist theoretical models, I aim to outline the official discourse on homosexuality in Soviet Estonia as presented in the Criminal Code and its use in courts as well as in popular sexual health handbooks which were the most widely distributed source of information about homosexuality in Soviet Estonia from the 1960s onwards. To discuss sexual and gender subjects, e.g., homosexual and transgender people who have been marginalised by the dominant discourse in the past, I use the term non-normative sex-gender subjects instead of ‘queer’ as the latter is a specific and evolving category which would not translate to the historic context studied in this article.

While there has been very little historical research on non-normative sex-gender lives in Soviet Estonia (cf. Kurvinen 2007; Nögel 1991; Samma et al. 2015; Taavetti 2018), Eastern European and Soviet history of sexual and gender minorities in the twentieth century has been studied more extensively (e.g., Alexander 2021; Aripova 2020; Healey 2018; Kurimay 2020; Valodzin 2016). This article aims to contribute to this transnational scholarly endeavour. Similarly to these scholars, I have found most of the empirical material for this article from archival sources that document how official discourses were promoted and applied.

I gathered the majority of the empirical material for this article in 2021 from the National Archives of Estonia in Tartu, Tallinn, and Rakvere, where I located one hundred court investigations, and in the Supreme Court of Estonia in Tartu, where I located seven cases.² As the Pederasty Article cases are not easily identifiable in the archives, I had to find them with the help of the archivists, some of whom also shared their knowledge about Soviet court practices with regard to homosexuality. In this process I learned that only about one-third of the court investigation case folders have been fully preserved and

that only court orders and judgement conclusions have been preserved about the other investigations in annual criminal court catalogues that contain trial summaries. With the exception of the Chairman's investigation folder, which is discussed in the final part of the article, all the investigation folders with more extensive information concerning the Pederasty Article accusations that I located discussed non-consensual acts.

In parallel to the archival fieldwork (cf. Harris 2001: 333) I studied Soviet Estonian Criminal Codes and their annotations to analyse the changes in legal regulations and practices concerning homosexuality and trans identities. In addition, I analysed Soviet era Estonian language print media in online media libraries, Soviet Estonian encyclopaedia articles, and sexual health handbooks which were widely distributed in Estonia from the 1960s onwards and provided information about homosexuality, making them a valuable source.

Besides legal, medical and educational materials I used five oral history interviews conducted in 2021 with the first Estonian gay and lesbian activists with experience of the Soviet period for background knowledge and consultation, and I had conversations and e-mail exchanges with other researchers to discuss and share our findings and challenges in identifying sources on homosexuality in the Soviet period.³ To maintain the focus on the official discourse, most of these conversations are not separately analysed in this article.

Despite the relatively broad scope of fieldwork, the sources about non-normative sex-gender subjects from the Soviet period are rather limited. For this reason, I have studied above all the criminal cases under the Pederasty Article that are preserved in the archives. I analyse them by diffractively reading (Barad 2014) them together with popular Soviet period print media sources. From the 1940s to 1992, homosexual intercourse between men was defined in Estonia by the Soviet Criminal Code. I have predominantly studied the implementation of the Pederasty Article from 1957–1991 on the basis of materials preserved in the archives of Tallinn, Harju County (until 1990 raion) and Tartu city and county Soviet People's Courts. I have also explored other Soviet Estonian People's Courts' archives, focusing on the years when the official Soviet Estonian statistics recorded the highest numbers of convicts (cf. Valodzin 2020). Of the 107 located court cases tried under the Pederasty Article in Soviet Estonia, only eleven investigated consensual sex between men. Based on these findings I argue that in Soviet Estonia homosexuality was defined through sexual violence. In the court investigations consensual same-sex relations remained rare and were not distinguished from the abusive ones.

In comparison to the representations of male homosexuality in Soviet Estonia, I have located very few ones of female homosexuality and transgender persons. In our article about the emergence of the LGBT community in late-Soviet

Estonia (Põldsam & Arumetsa 2023), Sara Arumetsa studied trans people's legal and medical struggles in late-Soviet Estonia (cf. Arumetsa 2021). However, both the oral and written sources I have gathered indicate that in the Soviet period lesbian women were publicly less visible than gay men at least partly because women's homosexuality was not defined by law. Therefore, female homosexuality and trans people in Soviet Estonia require separate research. In this article I have focused on the non-normative sex-gender subjects related to male homosexuality.

In the first part of the article I discuss the theoretical framework for studying official discourses about sex-gender normativity in Soviet Estonia. In the second part I discuss the Pederasty Article in the Soviet Estonian Criminal Code, its implementation and influence on the formation of homophobic discourses. In the final part I revisit the archival sources of a criminal investigation folder which contains rare self-descriptions of homosexual men in the 1960s' Estonia. These documents have previously been studied and interpreted by artist Jaanus Samma in his art project *NSFW: The Chairman's Tale* (2013/2015).⁴ The Chairman's investigation offers a detailed insight into how official discourses were applied and into the lives of those subjected to the Pederasty Article.

THEORETICAL FRAMEWORK

To embrace the variety of meanings of the term 'homosexuality' in both Soviet Estonia and at the time of writing, I use the term 'non-normative sex-gender subject'. I have arrived at the term by following Karen Barad's (2007) model for analysing the construction of meanings through entangled material-discursive relations. For Barad, the discursive is always materialised in a specific situation at a particular moment and hence the material and the discursive are always intertwined and need to be attended to in analysis (cf. Barad 2007: 148–149). Thus, I have employed Barad's analytic model for analysing the impact of dominant discourses on individual lives.

'Non-normative sex-gender subject' also evokes Judith Butler's (2007 [1990]: 26) argument that the "binary regulation of sexuality suppresses the subversive multiplicity of a sexuality that disrupts heterosexual, reproductive, and medico-juridical hegemonies". The extent of conformity with binary reproductivity distinguishes normative from non-normative sex-gender subjects. In Soviet Estonian public sources (e.g., ESE 1971, 1988) homosexuality was contextualised through criminal punishment and deviation from the heterosexual norm.

As there were relatively few public representations of homosexuality in Soviet Estonia, it can be argued, following Judith Butler (2007 [1990]: 2–3),

that people were subjected to non-normative sex-gender frames largely through juridical regulations, “in purely negative terms – that is, through the limitation, prohibition, regulation, control, and even ‘protection’ of individuals related to that political structure” so that “the subjects regulated by such structures are, by virtue of being subjected to them, formed, defined, and reproduced in accordance with the requirements of those structures”. In the following I demonstrate how such regulations characterised the official discourses of Soviet Estonia that constructed homosexual men as non-normative sex-gender subjects. I analyse how non-normative sex-gender subjects were positioned in the official discourses of Soviet Estonia, i.e., in the legal frameworks regulating sexual relations and in popular sexual health education (cf. Butler 2007 [1990]: 10–11). In Soviet Estonian public and official sources – i.e., the Criminal Code, sexual health handbooks, encyclopaedias, media representations – homosexuality was strictly framed as a moral deviation, a crime and a threat to the Soviet social order. Following Michel Foucault’s (1972: 41–42) analysis of discourse, these realms surveilled by Soviet authorities can be studied as means of power which enforced and encouraged the wider society to participate in the social control of non-normative sex-gender subjects. Under this control non-normative sex-gender expressions were mostly camouflaged by public silence and denial during the Soviet era.

While the official discourses on and regulations of non-normative sex-gender subjects can be studied, the individual voices of the suspects in the Pederasty Article investigations were subjected to legal protocols, i.e., official discourses (cf. Foucault 1972: 42–45). Due to the fear of punishment, anything anyone expressed in these documents has to be viewed as subject to the official discourses and the truthfulness of these stories remains ultimately ambiguous and limited. Nevertheless, the first-person accounts of the suspects contain at least some information about how homosexuality was individually perceived at the time.

THE PEDERASTY ARTICLE IN THE SOVIET UNION AND ESTONIA

The central theme under which non-normative sex-gender subjects were represented in the Soviet period was ‘pederasty’. The word also appears in the title of the Criminal Code article in the chapter on crimes against persons, which prohibited sexual acts between men. Homosexuality was first decriminalised in Estonia in 1935 (Kalkun 2018: 143). From 1940 to 1941 and from 1944 to 1991 Estonia was incorporated into the Soviet Union as the Estonian Soviet Socialist Republic (ESSR), and in these periods male homosexuality was

re-criminalised until 1992.⁵ Whereas the central government set the general regulations, policies and plans for the USSR as a whole, each republic had its own local adaptations of the laws and plans. An example of such adaptations can be seen in the following comparison of the Criminal Code articles from the Russian Soviet Federative Socialist Republic (RSFSR) and the ESSR, regulating intercourse between men.

Historian Rustam Alexander (2021: 18) describes the anti-sodomy law adopted in 1934 under Stalin, which remained in force until 1960 (cf. RSFSR 1941):

Article 154a of the USSR Criminal Code ... consisted of two parts: the first (154a – I) criminalised consensual sodomy (punishable by deprivation of liberty for a term of three to five years), while the second (154a – II) criminalised so-called ‘forcible’ sodomy (with a more severe penalty of five to eight years).

The same Article 154-a was effective during the first Soviet occupation in 1940–1941 and in 1944–1960. The only difference is that in Estonian the article never mentioned sodomy (Rus. мужеложство) but called intercourse between men ‘pederasty’. In 1961 the new Sodomy Article in the RSFSR Criminal Code (Article 121) contained only one change: there was no minimum punishment for consensual acts, but the maximum sentence of five years remained (Alexander 2021: 138). In Estonia from 1961 to 1992 the Criminal Code Article forbidding sex between men was formulated as follows:

118 Pederasty. Subsection 1 – is punishable by deprivation of freedom for up to two years. Subsection 2 – Pederasty committed with the use of physical violence, threats or taking advantage of the victim’s helpless condition or having intercourse with a younger than 18-year-old person while being aware of their age – is punishable by deprivation of freedom from two to six years along with deportation up to three years or without it. (Rebane 1965: 275)

Thus, in the ESSR the punishments for both consensual and violent intercourse between men were slightly milder than in Lithuania, Latvia and the RSFSR, where the imposed punishment for consensual acts was up to three years in Lithuania and up to five years in Latvia and Russia (Lipša 2017: 61; Alexander 2021: 138). Dan Healey (2018: 170) argues that while Nikita Khrushchev reviewed and cancelled many of Stalin’s statutes, anti-sodomy laws remained in place and secret documents encouraged the police to “make greater efforts to crack down on homosexuality between men”.

While the Criminal Code did not define what was meant by pederasty, the annotated editions of the ESSR Criminal Code of 1965 and 1980 by Ilmar Rebane provide some important additional information about the prosecution and implementation of the laws prohibiting sexual crimes. The comments explain that this Article only punishes for anal intercourse and “[i]n consensual circumstances both so-called active and passive participants are considered responsible. ... When violence is involved, only the active participant is responsible, and when the active participant is aware that the passive participant is younger than 18-years-old, then the crime is considered under subsection 2. ... However, if the 16- to 18-year-old participates consensually, the crime is qualified under subsection 1” (Rebane 1965: 275–276).

In his 1965 annotations Rebane (275) states that such “intercourse between women does not qualify as *corpus delicti*”, i.e., they would not constitute a crime, while in the annotations from 1980 he adds that “women could be punished for similar crimes with Article 115¹ (Expressing sexual desire in an unnatural manner) or Article 117 (Corrupted sexual activity with a minor younger than 16-years old)” (Rebane 1980: 387). In 1980 Rebane explained that Article 115¹ was enforced in 1965 as an addition to Article 118 for sexual behaviour that was violent, abusive, or threatening with sexual abuse and did not necessarily include anal intercourse.

Rebane adds that if violence or threat of abuse “was not used when expressing unnatural desire, the crime can be qualified as a crime against social order and security, Article 195 (Hooliganism), Article 200 (Distribution of pornographic items) or as ... Article 117” (Rebane 1980: 383). While this shows that there was some flexibility in prosecuting sexual crimes, I did not come across any traces of same-sex relationships between women in the court archives under any of the sexual offence articles.

The implementation of the Pederasty Article

Until now scholarship concerning the history of the implementation of the Pederasty Article in Soviet Estonia has been limited to Jaanus Samma’s artistic research project *NSFW: A Chairman’s Tale* (2013/2015) and to two surveys of statistics. Historian Teet Veispak (1991: 112) gathered implementation statistics of the Pederasty Article from the Archive of the Ministry of Justice of Soviet Estonia from 1960–1989. A report of official statistics on the number of people prosecuted under anti-sodomy articles in all Soviet republics in 1946–1991 was published in a working paper by Belarus researcher Uladzimir Valodzin (2020: 7–11). Valodzin’s statistics are based on annual court statistics sent from each

Soviet republic to the central authorities in Moscow, which are now kept in the State Archive of the Russian Federation.

Remarkably, only some of the statistics detailed by Veispak and Valodzin coincide, with official numbers from the Russian State Archive sometimes being higher. The differences between the statistics and the number of men convicted, whose cases I located during my archival fieldwork, grew even larger when I started counting the numbers of men convicted under Article 154-a and Article 118 in the archived court materials. Official statistics state that in 1946–1991, 212 men were convicted for pederasty in the ESSR. I located 107 court investigations, including 76 investigations from Tallinn and Harju County, 13 investigations from Tartu city and county, 9 investigations from Viljandi County, and 9 more investigations from other People's Courts across the ESSR and the Supreme Court. As a result of these investigations, 204 men were convicted under the Pederasty Articles 154-a and 118 between 1957 and 1991. I found more Article 118 cases in counties which had detention institutions, e.g., Tallinn, Harju County, and Viljandi, while in the People's Courts of the less populated counties I found no cases for decades (e.g., Kingissepa, Paide, Rapla). Although the 107 cases are only a part of all Pederasty Article investigations, these findings demonstrate that the official statistics are unreliable. For example, the official statistics show that in 1966 there were eight pederasty convictions in Estonia, yet I found seven investigations and thirteen convictions. I found similar differences in 1969, 1973, 1977, 1979, 1980, 1982, and 1991. The two possible explanations for the discrepancies in the data are either that the statistics excluded crimes in detention institutions, e.g., prisons and youth detention centres, or the statistics may only represent the most serious crime of a person who committed several crimes.

Out of the 107 located investigations 20 were paedophilia cases with boys younger than 16, 68 cases in prisons, youth detention centres and care home institutions, out of which 66 were rapes and two were consensual cases. Outside of prisons there were twelve rape investigations and nine consensual sex cases, out of which one is an unspecified case that I found from a list of crimes but could not locate its court order. The only full investigation file of a case of consensual same-sex intercourse prosecuted under the Pederasty Article is the so-called Chairman's case. Only court orders or summaries survive about all other consensual cases. In addition, I found one acquittal where a 17-year-old youth accused a 30-year-old man of raping him at a well-known cruising beach. The suspect was discharged for a lack of *corpus delicti* in 1987.

Although working through all the Soviet People's Courts' annual catalogues in the Estonian National Archives would give a more exact overview of how many men were investigated using the Pederasty Article, I decided not to do

this for two reasons. Firstly, the located findings quickly became repetitive, which allows me to hypothesise that the Pederasty Article was dominantly employed for non-consensual sexual acts. Secondly, at an early stage of conducting archival fieldwork the Supreme Court archivist shared a hearsay that he had heard from senior judges and prosecutors that in the 1960s, when the Criminal Code of the ESSR was introduced, the courts in Tartu had decided not to prosecute men engaging in consensual sexual relations under the Pederasty Article.⁶ According to the archivist, the decision was motivated by the violence with which people convicted under the Pederasty Article were treated in prisons (Üllar 1990) and the fact that socialist Hungary and Czechoslovakia decriminalised homosexuality in 1962 (cf. Szulc 2018: 212). Hence, at least some Soviet Estonian legal practitioners did not consider this crime socially threatening and some consensual cases were hidden, for example under Article 195 (Hooliganism) (cf. Rebane 1980: 383; Epner 2021).⁷ Therefore, studying all the Pederasty Article cases would not give a definitive picture of how homosexual relations were treated by the legal authorities. Yet, studying a wide selection of court materials allows me to analyse the legal treatment of same-sex relations between men in Soviet Estonia.

Sexual violence and the Pederasty Article

Of the court materials that I have located, over 90% of the Pederasty Article investigations focused on sexual violence. This article was most often implemented in detention institutions and against paedophiles and was rarely implemented in the case of consensual relationships. In order to study the rumour about the differences in Tallinn and Tartu courts, shared by the State Court archivist, I systematically studied the People's Courts of Harju County (1957–1990, 34 cases, 62 convictions), and four People's Courts in Tallinn districts: Kalinini (1957–1990, 27 cases, 62 convictions), Mere (1957–1990, 5 cases, 12 convictions), Lenini (1974–1990, 5 cases and convictions), and Oktoobri (1974–1990, 5 cases and convictions).⁸ In Tartu County's People's Court, I found 3 cases and convictions during the period 1957–1990, and in Tartu City People's Court 10 cases and 11 convictions. In contrast, in Tallinn and Harju County 57 of the located 76 pederasty investigations during this period were conducted in closed institutions, i.e., in care homes and youth centres, but mostly prisons. This is because the Rummu prison camp and the Patarei prison's investigation isolator were the largest prisons in the country and most of the statistical findings cover inmate rapes. According to my observations of court files, prison cells held from six to thirty inmates, which facilitated crimes.

Twenty of all the located cases prosecuted under the Pederasty Article covered paedophilia: 7 of the 13 convictions in Tartu city and county and 8 of the 76 cases in Tallinn and Harju County were paedophiles who had molested children from the ages 5 to 14. In addition, I located five paedophilia cases in other counties. Article 117 was used to punish adults who had had sexual relations with 14- to 17-year-olds, and Article 116 for grooming or molestation of girls younger than 15 years old, both with up to four years imprisonment. Therefore, prosecuting the molestation of boys under Article 118 (Pederasty) officially conflated homosexuality with paedophilia.

Prison cases were usually violent rapes which included more than one offender and often Article 115¹ was added to increase punishment. I located two consensual cases (Article 118 subsection 1) from prisons. In 1973 a convict infected three other men with gonorrhoea and was found to be the source. In 1980, a convict solicited another man to be his “passive” partner, but they were quickly caught by guards and arrested. The so-called “passive” partner told the court psychiatrist that prior to imprisonment he had been an “ordinary heterosexual man”, but in prison he was repeatedly abused by other inmates. I also found a victim who was beaten and threatened with rape by other inmates after his Pederasty Article conviction was made public on the prison’s information board. Arguably one of the reasons why Tartu courts decided to hide consensual homosexual conduct from the 1960s onwards was prison violence.

In the city and county of Tartu there were no prisons, which seems to contribute to a relatively lower number of cases and convictions: in total there were 13 Pederasty Article cases and 14 convictions from 1957 to 1991, four of which were rapes. Remarkably, a 49-year-old convict, who groomed and then raped a 19-year-old man while the latter was sleeping, was placed on a three-year probation for a sentence of two years of ordinary imprisonment (i.e., not solitary confinement), something that could not be seen in any other Article 118 subsection 2 cases. In comparison, in Tallinn and Harju County there were seven Pederasty Article rapes outside of the prison.

With the criminalisation of certain acts of male homosexuality, Soviet law officially prescribed a specific sex-gender normativity discourse. This was imposed through the criminal code, court practices, and the constant threat that nearly anyone could suddenly be involved in such an investigation either as a suspect or a witness. As most of the Pederasty Article cases took place in prisons, this nurtured disgust towards homosexual relations, as is pointed out by historian Adi Kuntsman (2009: 317), who argues that in Gulag memoirs homosexuality was associated with moral and class hierarchy of the prisoners, relating homosexuality to violence and moral deviance. A similar moral narrative was also emphasised in the sexual health handbooks to be discussed below.

Consensual Homosexual Relations

The largest network of homosexual men that I located was in an investigation in Pärnu in 1967, in which ten men were accused of “active pederastic relationships”⁹ from 1936 to 1965, nine of them under Article 118 subsection 1 (consensual conduct) and one under subsection 2 (sexual abuse). From this investigation only a 32-page court order has survived, which describes men whose ages ranged from 23 to 61. The starting point of the case was a rape accusation against one of the men. The court order reveals that the men had met on the Pärnu beach and visited each other’s homes as a clandestine community of friends and sex partners, with some of them having known each other for up to 15 years. Most of the men received positive characterisations and letters of support from their workplaces, asking for a pardon or probation. None of the men had a higher education, but they were all working as specialists, skilled labour and factory workers. Despite solemn confessions, which sometimes acted as mitigating circumstances, all the men were sentenced to prison for eighteen months.

With the help of activist archivist Taavi Koppel, I by chance found a letter pertaining to the case in the Estonian Gay League (Eesti Gayliit, EGL) archive folder in the special collection of the Harju County Museum.¹⁰ When the EGL was publicly established in 1993, dozens of men contacted them asking for help in finding other gay men. Among these was a letter from one of the ten Pärnu men, who wrote in 1993 that in 1968 he had stood in front of the court with his friends, having to explain why they were ‘queer’.¹¹ He added that the others served time in the Patarei prison but that he was released with an amnesty in celebration of the October Revolution anniversary. In this brief recollection, he added: “This is what our secret and delightful love was worth. But when there’s love, even chains won’t hold.”¹² The combination of these sources allows me to speculate that these ten men were friends and lovers who constituted at least part of the Pärnu gay community in the 1960s. This court case and the letter are among the very few traces proving that such communities existed despite legal sanctions.¹³

Of the located Article 118 subsection 1 cases, nine investigations into consensual cases took place in civil life. In 1961 a man was investigated in Tartu County for having had consensual sex with another person who claimed they were a ‘hermaphrodite’. However, the court medical examination stated that this person was physically male. This is the only found case that involved gender non-conformity or potential cross-dressing. In 1972 two men who had met in the summer of 1970 while cruising by the river in Tartu and had since then started visiting each other’s homes, were convicted for consensual homosexuality but

placed on probation “as they were old already”. They were 67 and 46 years old respectively. There was a similar couple from Tallinn who were put on probation. In Rakvere two men who had sex in a dormitory were investigated, one argued that he had been raped by the other, but the witnesses did not confirm this claim, and so both men were sentenced for two years. Notably, three of the eleven located consensual cases were related to the Chairman: the 1964 investigation of seven men in Tallinn, the 1966 case of Chairman and his sex partner, and two cases relating to the Chairman’s circle in 1966.

This suggests that the police found most homosexual men not by systematically hunting them down, but rather demanding the accused men to list all their sexual contacts.¹⁴ There are several oral accounts about the Raadi cruising area in Tartu from the 1970s and 1980s, where the Chairman, among others, used to go (Samma et al. 2015; Rünk 2022), but the court cases do not reflect that. Although in Tartu there were remarkably fewer Article 118 cases than in Tallinn, no located case would confirm the rumour that People’s Courts in Tartu sheltered men from Pederasty Article accusations.

To conclude, the Pederasty Article differentiated between consensual homosexual intercourse and violent same-sex acts in its two subsections, where consensual case suspects were at times placed on probation or discharged, but at other times sentenced to eighteen months in prison. The violent intercourse offenders were usually punished with at least two and a half years of imprisonment. Nevertheless, from the perspective of the law, sexual acts between men were considered a crime regardless of the participants’ intentions. Therefore, when looking at the implementation of Article 118, it can be argued that Soviet laws and legal practice contributed to the myth that homosexuality was a violent, deviant, and dangerous phenomenon in all circumstances.

HOMOSEXUALITY IN PUBLIC DISCOURSE

Apart from the Criminal Code and its implementation, homosexuality was rarely discussed publicly in Soviet Estonia. Based on the digitised media archives, it can be argued that there was nearly no public conversation about homosexuality in the Soviet Estonian media prior to the wave of discussions that emerged in the 1980s in response to the global AIDS epidemic (cf. Nögel 1991; Kurvinen 2007). The most significant public discussion related to homosexuality was the 1978 court case of the Lithuanian Catholic dissident Viktoras Petkus, who was convicted for anti-Soviet propaganda and organised crime together with Estonian national activists, and for homosexual relationships with 16-year-old boys in Lithuania (Navickaitė 2024). This case was widely reported in Estonian

newspapers in exile (e.g., AMI 1978: 2–3) and in the memoirs of Estonian dissidents (cf., e.g., Niklus & Kukk 1983: 74), who claimed that it was a staged case to implement political repression.

The most accessible discussions about sex-gender topics during the Soviet period can be found in the popular sexual health and education handbooks targeted to youth (cf. Alexander 2021; Lišková 2018). From the 1960s onward several handbooks written by Estonian authors (e.g., Kadastik 1970 [1963]; Kahn 1970) had print runs and reprints of up to 100,000, which was enormous as there were approximately one million Estonian speakers in the ESSR. This attests to active popular interest in these books. Folklorist Andreas Kalkun (2006) has analysed these handbooks from the perspective of their lasting impact on sex-gender normativity, and feminist scholar Eve Annuk (2015) has traced shifts in Soviet Estonian gender discourse within these books.

Annuk (2015: 84) has noted that while heteronormativity was discussed fairly similarly across these handbooks, a strikingly different approach to homosexuality appeared in the translation of the Finnish book *Sukupuolielämän tietokirja* (Encyclopaedia of Sexual Life), originally published in 1968, and translated into Estonian in 1974 under the heading *Avameelselt abielust* (Openly About Marriage). This book presented homosexuality in a list of sexual perversions, but it also contained a subchapter arguing that latent homosexuality was “completely normal” (Paloheimo & Rouhunkoski & Rutanen 1975: 209).

The description of homosexuality in Soviet-period Estonian-language sexual education handbooks was dominated by a 1960 Russian translation of a book *Юноша превращается в мужчину* (The Youth Becomes a Man), written by the esteemed Czechoslovakian sexologist Josef Hynie. The book was first translated into Estonian in 1962. It describes homosexuality in only one paragraph:

There are people who have abnormal attraction to individuals of the same sex. They are called homosexuals. Homosexuals are aroused by and satisfy themselves with adolescents and youngsters, even though the latter have a normal interest in girls. Homosexuals go all out to gain young people's affection; they buy sweets and cigarettes for youngsters, tickets to the cinema, give them money, help them to do homework and generally pretend that they unselfishly love youngsters. However, after such preparation, they sooner or later proceed to act. Do not let them touch you! Do not be shy about reporting them to your parents or educators, do not hesitate to report such attempts aimed at you or other young men! Both parents and educators are willing to help. Homosexuality is a punishable crime, and homosexuals are perfectly aware of that! (Hynie 1962: 27–28; cf. Alexander 2021: 63)

Remarkably, the same paragraph on homosexuality is used by Estonian psychiatrist Heiti Kadastik in his sexual education manual *Vestlusi noorukitele* (Conversations with Young Men) (1970 [1963]: 37), which had at least three reprints, making it the most common sexual education book targeted to young men. Interestingly, according to Katerina Lišková's (2018: 229) study of communist Czechoslovakia's sexology, Josef Hynie – a student of Magnus Hirschfeld – was against the criminalisation of homosexuality and did not consider homosexual people 'perverts' at least until 1948. How the Soviet translation of Hynie came to argue the opposite is yet to be studied.¹⁵ Twenty-four years after publishing his handbook for the youth, Heiti Kadastik (1987: 278) also started to argue for the decriminalisation of consensual homosexual relations.

This finding allows me to argue that Soviet ideology created an extensive homophobic dominant discourse in which medical and legal discourses of sexuality were intertwined. In addition to the sexual health handbooks, the Estonian Soviet Encyclopaedia (1971: 68) defined male and female homosexuality within the same narrative of deviation and punishment. Thus, it could be argued that the homophobic discourses were officially prescribed as the norm.

Here I have described the sources that created the official discourse on non-normative sex-gender subjects in the Soviet period from the 1960s to the collapse of the Soviet Union in 1991. The legal framework that defined homosexuality as a criminal act and the medical framework, popularly introduced in sexual health handbooks and encyclopaedias, treated homosexuality as a sexual deviation. It could be argued that these discourses formed an episteme (Foucault 1972: 191–192) according to which a homosexual man was a socially dangerous non-normative sex-gender subject who had to be regulated and controlled by the society at large. Hence, the official discourse about non-normative sex-gender subjects was constructed around repulsion towards deviation from heteronormativity and the fear of getting caught.

THE CHAIRMAN'S TALE REVISITED

In this section I examine a 1966 Pederasty Article investigation of a man nicknamed the Chairman. Revisiting the Chairman's investigation allows me to discuss in greater detail how consensual and non-consensual intercourse was approached, and to look more broadly at how Soviet sexual normativity was imposed on an individual. This court investigation folder consists of 330 two-sided pages and is the most multifaceted, informative, and wide-ranging Article 118 investigation file that has been located in court archives. Importantly, it is the only consensual relationship investigation file from the Soviet Estonian courts

that has been found, although a rape accusation acted as its catalyst. Documentation of criminal court investigations sheds light on the ways in which official normativity was imposed on the suspects by the authorities. These documents make visible how the ambiguity of legal language caused confusion, how some cases were dismissed, and how men could avoid Article 118 and, perhaps most glaringly, how men were subjected to unsparing inquiries about their sexual activities. The Chairman's investigation folder holds documents from all the standard procedures of such investigations: accusation, copies from previous and parallel investigations, court medical and psychiatric examination records, various types of witness statements that show how confessions could change in the course of the investigation, letters from the accused, and documentation of physical evidence.

To receive a lighter punishment – eighteen months of imprisonment – the suspects had to give detailed descriptions of their sexual practices. They had to express so-called solemn regret by clearly demonstrating their understanding of their abnormality and will to abstain from practicing it. Moreover, the examination statements offer fragments of how individuals resisted the official discourse, e.g., by preferring sexual practices that were not defined as punishable. All things considered, the Chairman's investigation offers snippets of how the official discourse about homosexuality was individually practiced on either side of the law.

The Chairman's investigation

The Chairman was born into a farming family in 1921. In the 1940s he fought in the Red Army and returned from the Second World War as a hero, who in the following years was appointed to chair several collective farms. He then completed chairman's training, high-school, and vocational education as an agronomist. In the 1950s he married and had children. In the 1960s he was investigated twice and sentenced once for homosexuality. From the 1970s he lived in Tartu, where he hosted parties and had many sexual contacts until he was murdered in his home in 1990 (cf. Samma et. al. 2015; Rünk 2022).

The 1966 court folder shows that over a dozen men were interrogated about their sex lives as part of this investigation. It is an exceptionally heavy folder because it includes additional materials from a 1964 case, in which the Chairman had been discharged and an investigation into another man who was connected with the Chairman, but who – similarly to the Chairman in his 1964 case – was cleared of charges. The Chairman's case is both extraordinary and exemplary of the ESSR Pederasty Article investigations for four reasons: 1) it is

the most detailed investigation of the located cases; 2) it is one of the few cases that dealt with consensual sex; 3) it includes interviews where men speak about their sexual self-understanding; and 4) it is connected to other investigations, which gives a good idea of how the surveillance of homosexual men functioned and of the reasons why men were charged, acquitted or placed on probation.

The 1966 criminal investigation was started by a 24-year-old collective farm worker Mart Tross, who accused the 59-year-old bartender Kalev Post of sexual abuse (Article 118 subsection 2) and within this mentioned the 45-year-old Chairman as Post's friend.¹⁶ Tross's accusations changed in the course of the proceedings, but he claimed that on two or more occasions the two men had given him too much alcohol and that subsequently Post had sexually abused him. The folder includes a blackmail letter from Tross demanding 5 roubles (the price of a litre of vodka) from Post to prevent Tross from informing the police about Post's pederasty. Post did not pay and so the case began.

The court investigation procedure dictated that the accusers and the accused had to name all their homosexual encounters. Naming all sexual contacts was in this context conceptualised as a 'solemn confession', which the courts could consider as a mitigating circumstance as described in the annotated edition of the Criminal Code (Kadari & Raal & Rebane 1963: 309–310). Thus, the main accuser, Tross, named his 25-year-old unemployed friend Kain Veski as someone who had participated in homosexual activities that were not defined in Article 118. Both young men mentioned in their statements that besides the Chairman and Post, there had been a leading local civil servant, whose name they did not know. The police found that this was 49-year-old Tõnu Kinnas, who was then investigated for sexual conduct with his 19-year-old employee Raivo Palgi, who had slept over in Kinnas's house after getting heavily drunk. Kinnas was cleared of charges as the men had not performed acts defined in Article 118. Nevertheless, the court order mentioned that Kinnas's behaviour with an employee was amoral and the town should reconsider his suitability for the high-ranking job.

Under investigation, Kain Veski mentioned one more man as his sexual contact – 55-year-old Rudolf Tepp, a collective farm worker from a rural area, who had had sex with Veski when the latter was under 18 years old. Hence, a separate investigation into Tepp was started and the court order states that Tepp had given an earnest statement where he solemnly confessed that he had "systematically participated in pederasty" since 1954 and had named three of his partners, some of whom had been minors like Veski at the time when the acts took place. However, his crimes had expired, and he could only be punished at a minimum rate, which meant that he was on probation for one year and during that time 20% of his income was withheld by the state.

While Mart Tross did not accuse the Chairman through the Pederasty Article, the investigators quickly discovered that the Chairman and Post had had a sexual relationship and that the Chairman had paid 3 roubles and 50 kopeks to have sex with the 19-year-old collective farm transport worker Vladislav Trepenko. Trepenko was also mentioned as a sex partner by Rudolf Tepp, which might indicate a network of gay men in this county. Despite the Chairman's denial of any payments and sexual acts defined in Article 118 with Trepenko, the prosecution could now confirm that the Chairman had had at least three known sex partners: Trepenko, Post, and Mati Tõug from a previous investigation. While in 1964 the Chairman had been discharged thanks to his high-ranking position, Tõug had been convicted for having sexual relationships with seven men, including the Chairman, who formed a network of gay men in Tallinn and Tartu between 1959 and 1963. Tõug's new 1966 statement revealed that he had been released after six months of imprisonment in order to get married, i.e., to start a so-called "normal life" after his 1964 conviction.

In 1966 the court decided that the 1964 case had not expired and it was subsequently added to the Chairman's case. Hence, in 1966 Mati Tõug and another man from the 1964 case along with the Chairman's and Kalev Post's wives, colleagues, other relatives and acquaintances came to give statements to the prosecutor and in court. In court both wives supported their husbands by saying that they had no idea about their husbands' homosexual behaviour before the trial. The Chairman's wife had known from the 1964 court case that her husband had done "silly things while drunk" after which they had separated, but in court neither of the wives expressed any condemnation.

In 1966 the Chairman was convicted of consensual sex with men and Kalev Post was at first convicted of violent acts, but following an appeal his conviction was reduced to consensual acts. The Chairman was sentenced to the standard imprisonment in a corrective labour camp and Kalev Post to a strict regime labour camp. The exact prisons to which they were sent are unknown. The young men, Mart Tross and Kain Veski, were cleared of charges as they were by law considered morally superior for reporting socially dangerous men.

The Chairman within the official discourse

The presence of the dominant discourse about sex-gender normativity among the men involved in the Chairman's case failed to prevent homosexual acts. Contrary to the prescription of sexual health handbooks, the wives of the men did not publicly condemn their husbands. The men had deviated from numerous norms and laws set by the state: they abused alcohol, the Chairman had paid

for sex, and they had sex with each other while knowing the risks. Nevertheless, it is impossible to ascertain how the men defined themselves.

From the perspective of the self-identification of homosexual men in Soviet Estonia and the discourse around sex-gender normativity, the Chairman's 1964 witness examination statement is a particularly interesting part of the court file because of its explicitness. The account starts with a brief biography but then continues with his sexual development: how he first experienced "abnormal sex" in 1955, in a public toilet with a stranger who approached him through a hole during a work trip to Tallinn. This had made him "think seriously" – we do not learn about what exactly – and soon he met other men with some of whom he had longer relationships, while in the case of some men he never knew the names. He also mentioned some men whom he had recognised as "such" just by sight but did not have sexual relationships with. The account ends with a description of how he became acquainted with the other suspects in the case, which reveals a small network of homosexual men in at least three Estonian towns.

This confession might suggest that Soviet homosexual men understood themselves as defined by the "special gaze" that connects "such men" with each other. The gaze created a community that transgressed against the official normative discourse, or the men simply recognised each other beyond the cruising paths by noticing each other in bars. These clandestine networks of homosexual men may have fed the narrative about the existence of secret gay societies that hid the community from the public in a hostile environment.

In his 1966 statement the Chairman's final words directly addressed the court's expectation that the suspect had to give a solemn confession of his deeds which would then function as a mitigating circumstance. As being caught in the same crime that he had previously been accused of was an aggravating circumstance, the Chairman expressed his regret for deviating from normal sexuality and claimed to have succeeded in lately avoiding such people. However, because the Chairman's narrative follows a prescribed format for a witness statement and there are no other sources that would tell us about his life during that period, it is difficult to assess how much of his narrative is solemn and how much it corresponds to his public defender's advice. These statements also align with the sexual health handbooks, which advised abstinence and self-repression of homosexual acts. Thus, each individual had to demonstrate awareness of and conformity to the narrow Soviet official discourses about homosexuality as sex-gender non-normativity.

CONCLUSION

In this article I have tried to outline the official discourses on non-normative sex-gender subjects in Soviet Estonia. I found that the official discourses on the subject were rather narrow and formed an episteme according to which male homosexuality was a deviation that was regulated by criminal law. These discourses were distributed and practiced in Pederasty Article cases, in the vocabulary in the Soviet Estonian encyclopaedias and sexual health handbooks. The sources revealed the presence of a significant amount of sexual violence in prisons. The official discourses also referred to homosexuality as a deviation and the Pederasty Article conflated homosexuality with paedophilia. Gay men indeed very probably did have clandestine circles to meet partners. The purpose of distributing homophobic information and threatening people with imprisonment in the Soviet period was to generate fear and to gain control over the intimate lives of a large majority of society.

All these aspects were also present in the interviews of the “*Heard Story*” (2011), showing that the Soviet-era dominant discourses on non-normative sex-gender subjects continue to circulate in the twenty-first century. In this way these discourses – even if they belong to the field of memory (Foucault 1972) and have lost their former dominance – continue to contribute to the construction of the meaning of ‘homosexuality’ as something disruptive of heteronormativity.

The studied court investigation materials reveal the structures that regulated homosexual subjects by imposing limits, prohibitions, and control on them. These practices are parallel to Judith Butler’s (2007 [1990]: 2–3) analysis of defining subjects through normativity. The article demonstrates that in practice the official discourses were not that all-encompassing: some suspects were acquitted and not all men who had homosexual relations were investigated under the Pederasty Article. In order to escape punishment, some men may have changed their sexual practices.

By outlining the official discourses on non-normative sex-gender subjects in Soviet Estonia in the period from 1957 to 1991, I have tried to demonstrate that some of the extant homophobic discourses can be traced back to a totalitarian political regime governed by repressive laws and that they should be viewed as a field of memory that lacks force today. Therefore, it is my hope that this article will provide material for rethinking the non-normative sex-gender subjects in Soviet Estonia and today.

ACKNOWLEDGEMENTS

The research has been granted an approval 323/T-20 from the Research Ethics Committee of the University of Tartu.

NOTES

- ¹ The exhibition *Untold Stories* (Tallinn Art Hall), curated by Rebeka Põldsam, Airi Triisberg and Anders Härm in 2011, was dedicated to the lives of homosexual, queer and transgender people in post-socialist Eastern Europe. The exhibition is a precursor to this article as two works discussed in this article were commissioned for it: “*Heard Story*” by Minna Hint and Liisi Eelmaa; and *Stories*, a selection of interviews with homosexual men from Soviet Estonia by Jaanus Samma, which were also the foundation for *The Chairman’s Tale* (2013/2015).
- ² In alignment with the best practices of personal data protection, I have not included direct references to the criminal files or folders in this article. For verification or for further study purposes the archival references can be asked directly from the author.
- ³ I would like to thank Vahur Aabrams, Toomas Anepaio, Sara Arumetsa, Eero Epner, Andreas Kalkun, Ken Kalling, Taavi Koppel, Liisa Lail, Ineta Lipša, Uku Lember, Rasa Navickaitė, Airi Pöder, and Riikka Taavetti for sharing their knowledge and findings in conversations and e-mails in 2018–2023.
- ⁴ See <https://www.jaanussamma.eu/nsfw-a-chairmans-tale/>, last accessed on 17 January 2024.
- ⁵ From 1941 to 1944 Estonia was occupied by Nazi Germany. I have found one file hinting at an investigation of “Päderastie” from July 1944 in Estonia. However, there was no actual information about the investigation in this file. Medical historian Ken Kalling (2007) suggests that in Estonia, unlike in Germany, the Nazis did not repress the patients of mental hospitals, except for the Jewish patients. It can be hypothesised that homosexual people were also out of Nazi occupation’s focus in Estonia. According to historians of sexuality in Germany, the Nazis were unsystematic in their treatment of homosexual people (cf. Heineman 2002: 34–35; Whisnant 2016: 229). The lack of investigations in the Estonian archive could be explained by the fact that the Nazi occupation restored Estonian laws from 1940, i.e., before the first Soviet occupation, when homosexuality was decriminalised. The few publicly known non-normative sex-gender persons from the interwar years in Tallinn and Tartu, whom I have previously studied, survived the Second World War (Põldsam 2020, 2022).
- ⁶ Similar information was confirmed by sources shared by Eero Epner (e-mail exchanges in 2021).
- ⁷ The Hooliganism Article was very flexible in its application and was therefore widely used. Thus, it would require separate research to ascertain whether and how much it was applied to men engaging in homosexual relations. In addition, thanks to one of my interviewees who remembered the disappearance of a celebrated stage choreographer because of his homosexuality, I found an investigation under Article 117 (Attracting minors to sexual activity). The 35-year-old man had sexual relationships with four 15-year-old boys and was sentenced to two years of imprisonment. This unusual legal treatment suggests that public figures were not prosecuted under Article 118 but under other articles.

- ⁸ The Lenini and Oktoobri district People's Courts in Tallinn opened only in 1974.
- ⁹ In the original Estonian “pederatiivsed suhted”.
- ¹⁰ The chief treasurer of the Harju County Museum and LGBT activist Taavi Koppel has created a special collection of LGBT activist organisations from the 1990s. Among other things it includes letter exchanges, meeting minutes, publications, project reports and newsletters of these organisations, and is thus an invaluable source for studying the dawn of Estonian LGBT community organisation.
- ¹¹ The original for queer was ‘lillad’, ‘purple’ in direct Estonian translation.
- ¹² The original in Estonian: “Vat nii oli meie salajane ja mõnus armastus väärt. Aga kui on armastus, siis ei ahista ka ketid.”
- ¹³ Beach cruising in the Soviet Baltics is also described in the diaries of a Latvian, Kaspars Aleksandrs Irbe (1906–1996), who mentioned handsome Estonians coming to cruise at Latvian beach resorts (Lipša 2017: 76), but also in other Eastern bloc socialist countries (Kurimay 2020; Szulc 2018).
- ¹⁴ Similar information about sexual contacts was demanded from the patients of sexually transmitted diseases. Ken Kalling (e-mail exchange in September 2023) has found a list of 168 homosexual patients from the Tallinn dermatovenerology clinic's archives, who were regularly monitored in the Soviet period.
- ¹⁵ A similar use of Hynie's Russian translation has been found in Lithuanian sources by Rasa Navickaitė (personal communication in April 2023).
- ¹⁶ I have adopted the pseudonyms that Jaanus Samma uses in his artwork; I have given new made-up pseudonyms to the men who were not part of Samma's artwork.

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