



Paragraph 175

by Craig Kaczorowski

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Paragraph 175 was the national German law that prohibited sex between men. It was incorporated into the German penal code in 1871. Some 60 years later, when the Nazis rose to power, it was expanded to punish a broad range of "lewd and lascivious" behavior between men, and was used to justify the incarceration and murder of between 5,000 and 15,000 homosexual men in Nazi concentration camps.

Origins

In 1871, Wilhelm I, King of Prussia was made Emperor of Germany and united the disparate German kingdoms into the federal state that we know today as Germany. That same year he created a constitution and penal code based on the Prussian model.

The Prussian code included a law prohibiting sexual contact between members of the same sex, which was punishable by one to four years in prison. This law was adopted unchanged and included in the newly formed German penal code as Paragraph 175. It read: *"An unnatural sex act committed between persons of the male sex or by humans with animals is punishable by imprisonment; the loss of civil rights might also be imposed."*

Several of the states absorbed into the German empire in 1871 possessed more liberal penal codes. These codes were modeled on the Enlightenment principle that men have the right to act as they choose so long as it is consensual and does not harm others. Those dedicated to such ideas were disheartened when the Prussian law was imposed on all the German states.

Although homosexuality continued to be illegal under Paragraph 175, and led to the arrest and conviction of approximately 1,000 men per year, during the Weimar Republic (1919-1933), German homosexual-
emancipation activists became worldwide leaders in efforts to reform anti-homosexual attitudes and laws. Indeed, the elimination of Paragraph 175 was the chief goal of such emancipationists as Magnus Hirschfeld (1868-1935).

During the Weimar era, Berlin became known as a homosexual mecca, where gay men and lesbians could live relatively open lives. A vital subculture developed, including bars and clubs for groups with highly specialized sexual tastes.

However, many conservative leaders, including those within the burgeoning Nazi party, regarded the Weimar Republic's tolerance of homosexuality as a sign of Germany's escalating decadence and dishonor.

Nazi Ideology and Homosexuality

In 1933, Nazi party leader Adolf Hitler (1889-1945) was sworn in as chancellor of Germany and immediately moved to consolidate his power. The Nazi party had risen to prominence on a platform of national



Top: Kaiser Wilhelm I.
Above: The entry gates at the Sachsenhausen concentration camp where many "175ers" were imprisoned during the Nazi era.

revitalization through an emphasis on law and order, traditional values, and racial purity that included virulent anti-Semitism and the persecution of undesirable social groups.

Nazi ideology focused on the growth and strength of the Aryan population. The Nazis considered it unlikely that homosexuals would produce children and increase the German birthrate, but would instead diminish the country's reproductive potential. They also believed that male homosexuals were weak, effeminate men who could not fight effectively for the German nation.

As the Nazis took control of the government, efforts were intensified to stamp out the "vice" of male homosexuality and to reverse the gains previously made by homosexual-rights activists. Propaganda linked homosexuality to subversion, even treason, thereby encouraging public intolerance.

Soon after coming to power, the Nazis plundered Hirschfeld's Institute for Sexual Science, which had been founded in 1919, and destroyed the Institute's extensive library and archives.

Early efforts toward eliminating an openly homosexual culture from Germany included closing bars and clubs where gay men and lesbians gathered, banning homophile publications such as *Die Freundschaft* (Friendship), and encouraging citizens to denounce homosexuals as "asocial parasites."

On June 30, 1934, the "Night of the Long Knives," Hitler ordered the assassination of the leaders of the SA, the Nazi paramilitary group headed by Ernst Röhm. In justifying this purge, which helped Hitler consolidate his control of the military, the Nazi leader specifically evoked Paragraph 175 to explain the massacre as a cleansing of the party of degenerate corrupters of youth.

Nazi Revisions to Paragraph 175

In 1935 the Ministry of Justice revised Paragraph 175, punishing a broad range of "lewd and lascivious" behavior between men. The revisions provided a legal basis for extending Nazi persecution of homosexuals.

The new law had three parts:

175. A male who commits lewd and lascivious acts with another male or permits himself to be so abused for lewd and lascivious acts, shall be punished by imprisonment. In a case of a participant under 21 years of age at the time of the commission of the act, the court may, in especially slight cases, refrain from punishment. 175a. Confinement in a penitentiary not to exceed ten years and, under extenuating circumstances, imprisonment for not less than three months shall be imposed:

1. Upon a male who, with force or with threat of imminent danger to life and limb, compels another male to commit lewd and lascivious acts with him or compels the other party to submit to abuse for lewd and lascivious acts; 2. Upon a male who, by abuse of a relationship of dependence upon him, in consequence of service, employment, or subordination, induces another male to commit lewd and lascivious acts with him or to submit to being abused for such acts; 3. Upon a male who being over 21 years of age induces another male under 21 years of age to commit lewd and lascivious acts with him or to submit to being abused for such acts; 4. Upon a male who professionally engages in lewd and lascivious acts with other men, or submits to such abuse by other men, or offers himself for lewd and lascivious acts with other men.

175b. Lewd and lascivious acts contrary to nature between human beings and animals shall be punished by imprisonment; loss of civil rights may also be imposed.

Paragraph 175 did not ban sexual acts between women, and the Nazis never enacted an equivalent law against lesbians. Lesbians were not regarded as a threat to Nazi racial policies and were generally not targeted for persecution. While lesbian bars and clubs were closed, arrests solely for being lesbian appear to have been very rare.

Nazi Persecution under Paragraph 175

The Nazi revisions of Paragraph 175 led to widespread arrests and imprisonments.

The German criminal courts had interpreted the presence of the word "unnatural" (*"widernatürlich"*) in the original Paragraph 175 to mean that the offense required sexual intercourse or acts resembling sexual intercourse. Hence, prosecutions required proof of penetration.

But with the changes introduced in the new Paragraph 175, the courts ruled that the offense no longer required such acts, and that any sexual act fulfilled the requirements of the statute.

This revision of Paragraph 175 opened the door to prosecution for even relatively insignificant forms of erotic interaction between males, including kissing, holding hands, and mutual masturbation. By 1938, German courts ruled that any contact between men deemed to have sexual intent, even "simple looking" or "simple touching," could be grounds for arrest and conviction.

Enforcement of the criminal law fell to the Criminal Police and the Gestapo, under the leadership of Heinrich Himmler. The Criminal Police and the Gestapo worked in tandem, occasionally in massive sweeps but more often as a follow-up to individual denunciations.

The police created networks of informers and undercover agents to identify and arrest suspected homosexuals. Acting on the basis of these informants, the Gestapo arbitrarily seized and questioned suspects as well as possible corroborating witnesses. Those denounced were often forced to give up names of friends and acquaintances, thereby becoming informants themselves.

The Gestapo instructed local police forces to keep lists of all men suspected of engaging in homosexual activities. The Nazis used these so-called "pink lists" to hunt down individual homosexuals during police actions.

Victims of Paragraph 175 came from all levels of German society, although the majority came from the working class. Less able to afford private apartments or homes, they found partners in semi-public places that put them at greater risk of discovery or police entrapment.

According to Nazi documents, from 1935 to 1945, approximately 100,000 men were arrested for homosexuality under Paragraph 175. Of these, nearly 78,000 were arrested between 1936 and the outbreak of World War II in 1939.

Just as arrests rose precipitously after the 1935 revisions of Paragraph 175, so, too, did conviction rates, reaching more than ten times those of the last years of the Weimar Republic.

Around 50,000 officially defined homosexuals were sentenced by the courts and spent time in regular prisons. Additionally, 5,000 to 15,000 were sent directly to concentration camps.

Homosexuals in the Nazi Concentration Camps

Once in the camps, official records suggest, homosexual men had short life expectancies and high death rates from overwork, starvation, physical brutality, or outright murder.

All prisoners of the Nazi concentration camps wore marks or symbols of various colors and shapes that allowed guards and other camp functionaries to identify them by category. The uniforms of those sentenced as homosexuals bore the identifying mark of a pink triangle. Homosexual prisoners were commonly known by the slang name "the 175ers," referring to their conviction under Paragraph 175.

Because some Nazis believed homosexuality was a sickness, medical experiments designed to "cure" homosexuals of their "disease" were conducted. These experiments caused illness, mutilation, and even death, yet yielded no scientific knowledge. At the Buchenwald concentration camp, for example, Nazi physicians performed operations designed to convert homosexual men to heterosexuals. The operation consisted of surgically inserting a capsule that released the male hormone testosterone.

Some criminal justice officials advocated castration as a way of "curing" sexual deviance. Homosexual defendants in criminal cases or in concentration camps could agree to castration in exchange for lenient sentences. Later, judges and camp officials were given the power to order castration without the consent of a homosexual prisoner.

Concentration camp personnel also administered policies to "cure" homosexuals through humiliation and hard work. Guards ridiculed and beat homosexual prisoners upon arrival. Physically demanding or even life-threatening assignments in the stone quarries at Flossenbuerg and Buchenwald, or at the Dora-Mittelbau underground rocket factory, were often given to homosexuals. Homosexuals were segregated in order to prevent their "disease" from spreading to other inmates and guards.

The death rate of homosexual prisoners in the Nazi concentration camps has been estimated to be as high as 60 percent--among the highest of non-Jewish prisoners. By 1945, with the end of World War II and the dissolution of the Nazi government, only about 4,000 homosexual prisoners in the camps had survived.

Paragraph 175 after the War

After the war, homosexual survivors of the Nazi concentration camps were not seen as political prisoners but rather as criminals under Paragraph 175, which remained in effect even after liberation.

The original Paragraph 175 was not eliminated until June 11, 1994, four years after the reunification of East and West Germany.

Under the Allied Military Government of Germany, some homosexuals were forced to serve out their terms of imprisonment, regardless of the time already spent in concentration camps. Many homosexuals were actually re-arrested and re-imprisoned after the war. All were excluded from reparations by the German government.

When the international community sought atonement for the victims of Hitler's Germany at the Nuremberg Trials of 1946, neither the atrocities committed against homosexuals nor Paragraph 175 were mentioned. Holocaust research, memorials, and museums likewise ignored the fate of homosexual concentration camp inmates.

It was not until the 1980s that researchers began to document the histories of the gay men imprisoned under the Nazi government.

Since 1984, memorials to homosexual victims of the Nazi regime have appeared in various cities and memorial sites at former concentration camps, including, most famously, the "Homomonument" in Amsterdam (1987). Other commemorations are at Nollendorfplatz, Berlin-Schöneberg (1989); Sachsenhausen Memorial and Museum, Oranienburg (1992); "Angel," Platz Schäfergasse/Alte Gasse, Frankfurt (1994); and on the bank of the Rhine River at the Wallraf-Richartz-Museum, Cologne (1995).

In 1999, the documentary film by Rob Epstein and Jeffrey Friedman, *Paragraph 175*, was released. The film used new and archival film, family photographs, and accounts of a half-dozen elderly survivors of the German concentration camps to tell the history of gay men under Nazi rule.

In May 2002, the German parliament completed legislation to pardon all homosexuals convicted under Paragraph 175 during the Nazi era.

Bibliography

Burleigh, Michael, and Wolfgang Wipperman. *The Racial State: Germany 1933-1945*. Cambridge: Cambridge University Press, 1991.

Giles, Geoffrey J. *Why Bother About Homosexuals? Homophobia and Sexual Politics in Nazi Germany*. Washington, D. C.: United States Holocaust Memorial Museum, 2001.

Grau, Günter. *Hidden Holocaust? Gay and Lesbian Persecution in Germany, 1933-45*. Patrick Camiller, trans. Chicago: Fitzroy Dearborn, 1995.

Heger, Heinz. *The Men with the Pink Triangle: The True, Life-and-Death Story of Homosexuals in the Nazi Death Camps*. David Fernbach, trans. Boston: Alyson Publications, 1994.

Lautmann, Rüdiger. "Gay Prisoners in Concentration Camps as Compared with Jehovah's Witnesses and Political Prisoners." *A Mosaic of Victims: Non-Jews Persecuted and Murdered by the Nazis*. Michael Berenbaum, ed. New York: New York University Press, 1990. 200-21.

_____. "The Pink Triangle: Homosexuals as 'Enemies of the State.'" *The Holocaust and History: The Known, the Unknown, the Disputed, and the Reexamined*. Michael Berenbaum and Abraham J. Peck, eds. Bloomington: Indiana University Press, 1998. 345-57.

Plant, Richard. *The Pink Triangle: The Nazi War against Homosexuals*. New York: H. Holt, 1986.

Rector, Frank. *The Nazi Extermination of Homosexuals*. New York: Stein and Day, 1981.

Steakley, James D. *The Homosexual Emancipation Movement in Germany*. Salem, N. H.: Ayer Company Publishers, 1975.

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