1. Introduction

My dissertation will present an analysis of Swedish law on homosexuality, transsexualism, and intersexuality in the twentieth century. The period brought many legal changes that are often ascribed a sense of optimistic development, where society moves towards a greater degree of tolerance by extending legal rights to deviant minorities. Few critical voices have been raised in academia at large, and hardly any other view is to be found within social studies, gender studies, or history. The ethnologist Pia Lundahl (Lundahl 2001) is a rare exception, since she points out that most legal changes regarding homosexuality concern male homosexuality, the result of an andro-centric definition of sexuality that renders lesbian desire invisible. However, because the material used in Lundahl’s study spans the eighty years between 1880 and 1960, her critique is not extended to more recent developments. There have been no other analyses of the legal texts I have used in my research, although the historian Jens Rydström (2001) has mapped out the legal definition of homosexuality until 1950.

Above all, no other research has considered the legal and scientific definitions of transsexualism and intersexuality. By their inclusion, and by drawing on material from the entire century, I propose to examine both law and proposed law on sexual identity and sexual belonging as a means of social discourse. My hypothesis is that both historical development and the deviant subject are moulded by a perception of normality. Here theoretical concepts such as the heterosexual matrix, interpellation, and abjection are useful. The heterosexual matrix is a term coined by the professor in comparative literature, Judith Butler (Butler, 1990), and is used to describe the linguistically (and psychologically) constructed world view that reproduces itself by reproducing subjects as ‘being’ one of two sexes that have an always already implied desire for each other. My over all intention is to define in what ways and for what reasons the heterosexual matrix has changed over time. To do that, I will use the concept of interpellation as established in the works by Louis Althusser, where it signifies the naming of an individual by a certain ideology. I use it in a slightly elaborated version where the concepts of both power and subject are reformulated. (Edenheim, 2003) Abjection, which is a central term in this paper, is seen as an important factor in the reproduction of the heterosexual matrix and will be defined below in a brief introductory section that is followed by two sections of analysis. In my final analysis, the concepts of tolerance and liberal humanism will also be elaborated on.
2. Abjection - or ‘I would rather die than to be that!’

In her introduction to *Powers of Horror* (1982), Julia Kristeva states that ‘[we] may call it a border; abjection is above all ambiguity. Because, while releasing a hold, it does not radically cut off the subject from what threatens it - on the contrary, abjection acknowledges it to be in perpetual danger.’ Kristeva’s work, abjection is a process that the child goes through, and exists in relation to the child’s care-giver. In a pre-oedipal stage, the child understands itself in relation to “the mother”, and during that process there is a moment when the child simultaneously perceives its “mother” as both the Other and as part of itself. This state causes insecurity, even antipathy towards that which both is and is not part of the self. In other words, it is a self-recognition where that which is perceived as the Other becomes too intrusive, the result being a desperate attempt to reject and separate oneself from the abject. Everything one does not want to be, but still is part of, transmutes into a smothering slime that tries to penetrate the skin. The result? Nausea, confusion, panic. Since we all are what Kristeva calls ‘subjects-in-process’, abjection becomes a permanent part of our lives, released every time we are faced with something or someone who is not ‘like us’, but yet not quite like ‘the others’: ‘[it] lies there, quite close, but it cannot be assimilated.’ The abject cannot be incorporated, but nor can it be categorised as the other since it contains elements that belong in the category ‘us’. If it can be neither assimilated by the self nor objectified, to prevent complete confusion, even a profound crisis, it must be ignored, over-looked.

When Butler introduced the idea of abjection, it was because of the problems she had run up against when discussing ‘outside’ and ‘inside’ constructions or discourses. She argues that the division is itself political since “[this] “outside” is the defining limit, or exteriority, of a given symbolic universe, one which, were it brought within its ambit, would destroy its integrity and coherence. In other words, what is set outside is repudiated from the symbolic universe in question is precisely what binds that universe together through its exclusion.’ (Butler, 1997b: p. 179, n. 17) Within this context Butler distinguishes between things foreclosed and things repressed, arguing that the foreclosed ‘is not integrated into the unconscious of the subject; it cannot be recalled or remembered and brought into consciousness.’ (“Foreclosed” originates in Lacan’s “foreclusion” (and Freud’s “Verwerfung”), meaning repudiation or rejection. “Repressed”, on the other hand, is part of the unconscious; indeed, it is a very important and necessary part. In Kristeva’s interpretation it comes down to a question of abject (foreclosed) and object (repressed), where the two elements have very different functions and effects. The abject either goes unrecognised or, when it does intrude, has to be dealt with in one way or another - it cannot go on being abject, and has to be changed or adapted. The object, on the other hand, becomes the Other, and plays a central part in the life of the mind and its discourses. In short, the Other is repressed, not rejected, and as such does not have to be faced, for it is the Other that forms the limit of the self and, if one believes Lacan, is even the source of desire, since desire is above all a desire for love, a yearning for the recognition of one’s identity by the Other (what Lacan calls ‘the desire of the Other’) (Grosz, 1990:59ff).

Can we go so far as to claim that abjection, when (almost) recognised, has to be refashioned as either the subject or the Other to be comprehensible, to be ascribed an ontology? I intend here to consider the ways in which the homosexual body, the intersexed body, and, finally, the lesbian body are perceived within the legal and scientific discourses. Is it possible to say that all, or any, of them are abjected bodies? What is the abjected body? How is it defined and treated? What roles do objectification and subjectification play in the process of abjection?

---

1 Kristeva implies that the actual sex of this person is of no importance (Oliver, 1997).

2 For reasons of space, the lesbian body as the abjected gender will not be discussed in this paper. It will, however, be part of a fuller chapter on abjection in my thesis.
2.1 The abjected sex

If certain bodies are abjected, how to identify them as such? If our starting point is something that is foreclosed, rejected, not even recognised, how can we ever prove a theory of abjection? In her attempt to explain the effect and function of these bodies, Butler mentions the intersexed body as an example of what she is writing about. However, this specific example is not elaborated upon. Of course, the theory of abjection is not really limited to intersexed bodies, and could probably be exemplified using many other bodies: the “handicapped” body (Mitchell and Snyder, 1997); the “cyborg” body (Harroway, 1991); the lesbian body (Butler, 1993:57ff); the interracial body (Sollors, 1997); and so on. I have chosen to concentrate on the intersexed body, since - in a modernist definition - it represents matter per se, the “actual” sexual organs, the “actual” sex chromosomes, the “actual” sex hormones, the “actual” genes.

The main question here is how bodies that defy categorisation as male or female are understood within legal and medical discourses. My study is based on an analysis of Swedish governmental reports (SOU 1968:28), reports and information from the Board of Social and Health Affairs (Socialstyrelsen kunskapsdatabas, 2001), and the opinion of medical experts recorded in these reports (Jan Wålinder professor in psychiatry, Karl-Henrik Gustavsson professor in clinical genetics, and Martin Ritzén professor in endocrinology). In this official material, spanning thirty years from 1968 to 2001, the answer is unanimous: it is essential that everyone be ascribed a male or female gender, and if ambivalent cases should occur, the medical sciences are obliged to step in and pick the “appropriate” category:

‘The issue of establishing gender has in practice been resolved on a case by case basis. Where there is uncertainty, the decision as a rule should be line with the opinion expressed by the medical board or other medical expertise.’(SOU 1968:28, p. 13)

‘A new-born baby with suspected androgyny-sensitivity syndrome should within the first twenty-four hours be referred to a university hospital competent to investigate the condition.’(Socialstyrelsen, 2001)

Clearly, “fuzzy gender” is considered a case for the medical sciences, reaffirming the strong influence of medical discourses on legal discourses in the twentieth century.

---

3 I agree when Butler says that “the abject for me is in no way restricted to sex and heteronormativity. It relates to all kinds of bodies whose lives are not considered to be “lives” and whose materiality is understood not to “matter”. To give something of an indication: the US press regularly figures non-western lives in such terms. Impoverishment is another common candidate, as is the domain of those identified as psychiatric “cases”. (Butler, 1998:281)

4 The division between body and mind, where the latter is supposed to be more exposed to discursive pressure is, of course, a modernist idea, and one that I do not wish to reproduce in claiming that the intersexed body is a “better” example because of its “closeness” to physical structures. Instead, it should be seen as a rhetorical, strategic choice on my part, using both the most controversial and, seemingly, the most tangible example to which to apply the theory of materialised bodies within a heterosexual matrix. The persistent criticism of the poststructuralists for ‘not talking about the body’ or ‘forgetting material facts’ triggered this choice, although in my view such criticism is hard to understand. Indeed, I have always viewed poststructuralist theory as a way of discussing the body - the very matter that modernist usually claim to study. Merely to state that ‘there are bodies/matter’, and then to proceed with a study of bodily experience without once mentioning the process of acquiring experience on the body/matter, is an all too common failing of modernist feminism. It was this very ‘lack of bodies’ and ‘unproblematised matter’ that inspired poststructuralist feminists like Butler, Grosz, and Haraway to look into the idea of the body. Hence, the body is very much present in poststructuralist feminism. Indeed it is the main focus from which all questions arise.

5 Older legislation had other methods of dealing with “hermaphrodites”, where the legal definition was sufficient as long as the individual submitted to that definition, regardless of what their actual
standpoint, stable gender is required by the existing legislative definitions. There are only “men” and “women” in legal texts, and many laws rely on this dichotomy for their intelligibility. However, it is not only social and legal arguments that are advanced for the necessity of stable and clear gender; in the governmental report, an ‘independent value over and above’ those values is mentioned:

‘It is important to establish gender so that the legal rules that pertain to gender difference may be applied effectively, and that other prevailing social values based upon the aforementioned difference may be observed. For the individual, it is also a matter protection before the law. Furthermore, for those to whom this applies, establishing an apt gender identity has an independent value over and above its significance for the coming into force of the other - legal and other - measures aforementioned.’ (SOU 1968:28, p. 33)

Exactly what this independent value consists of is, however, not elaborated on. It is taken for granted. May we perhaps find a definition of this special “value” in medical discourses? Both of the medical experts Gustavsson and Ritzén, as well as the Board on Health and Social Affairs, refer to the psychological traumas and difficulties of intersexed cases:

‘When a child is born with such malformed external genitalia that there is doubt as to its gender, its condition should be treated as acute. The condition entails an extraordinarily severe psychological trauma for the parents and relatives, and an examination directed at giving a clear recommendation on gender should be begun immediately.’ (Gustavsson and Ritzén, 1994, p. 27f)

‘There is considerable stress involved in having a child who is deformed or has a chronic disease. It can be particularly difficult when there is doubt as to the child’s gender.’ (Socialstyrelsen, 2001, p. 5)

The psychological traumas and strains are only ascribed to the parents and their close relatives. The intersexed child and its mental state are not mentioned at this stage. It is not yet an issue worthy of comment. It is not until the intersexed body has been surgically or hormonally changed, and thus officially “sexed”, that the child’s concerns are taken in consideration, and then by stating that the child and its parents will be in need of a psychologist, with an emphasis on continuity in treatment. (Socialstyrelsen, 2001:5; quoted below). There is surprisingly little comment on why surgery or hormonal treatment is thought important within the medical genitalia looked like. See, for example, the Talmud (Chagigah 2a, 4a, Eruvin 96 a-b, Rosh Hashanah 6b, Kiddushin 34b) and court cases from the American colonies in the eighteenth century (Herdt, 1996).

Psychological support is considered especially imported for teenage ‘girls’ since they need to ‘speak with an experienced gynaecologist about the syndrome [androgyny-insensitivity] and the future, including further operations and the possibility of having children.’ (Socialstyrelsen, 2001:5) Further, ‘adults with androgyny-insensitivity syndrome may require continued contact with specialist doctors, and even continued access to psychological support. The latter applies especially to women.’ (ibid.). Firstly, although most intersexed ‘boys’ with androgyny-insensitivity are infertile, they are not mentioned as having a special need for information on their inability to have children. Secondly, the operation for teenage ‘girls’ with androgyny-insensitivity is a ‘stretching’ the vagina, that ‘allows for a normal sex life’. Both these assumptions are clearly derived from a heteronormative, androcentric discourse and will be elaborated on in a forthcoming paper.
discourse. Gender Identity Disorder (GID)\(^8\) is hardly ever mentioned in the material that I have studied, although it is implied that a stable, clear gender identity is a necessity:

‘It should be seen as desirable that in future every examination of a child with ambiguous genital development includes a psychological examination. Psychologists have at their disposal projective tests by which the child’s gender identity may perhaps be more properly judged. Continuing therapeutic support in some form is also necessary for children with disrupted genital development. Such children, after all, suffer from a serious handicap […].’(SOU 1968:28, p.25).

‘It is often a hard decision [an early versus late operation], since at the same time it is desirable for a girl with almost total androgyn-insensitivity to be truly secure in her gender identity. Such security can of course [sic] be counteracted by a grossly enlarged clitoris.’(Socialstyrelsen, 2001:4)

There is no discussion on why a gender identity is essential, and why, e.g., an “enlarged” clitoris would pose a problem for such an identity. There are no further references, for example, to psychological studies on gender identity and psychological development in children, even though such studies did exist. When asked, most medical experts stated that it would be impossible for a child to grow up without a gender, not only for physical reasons, but also because of the risk of being an outcast and the awkward treatment the child would encounter.(e.g. DN, 2001)

As I mentioned, it is easier to find clear arguments in favour of stable sexual categories in the legal discourse, and the committee of 1968 even introduced the idea of the intersexed body by envisioning what would happen if there was no surgery and no attempt at classification:

‘The issue has also been raised that too liberal an attitude could bring with it the risk of the spread of homosexuality […].’(SOU 1968:28, p. 38)

‘[…] the introduction of intermediate forms between male and female genders may have consequences that cannot be overlooked.’(SOU 1968:28, p. 40)

‘[…] otherwise it cannot be ruled out that someone designated male could become a mother, and someone designated female could become a father.’(SOU 1968:28, p. 51)

‘To same end, there is a common interest in order and regularity within relationships.’(SOU 1968:28, p. 52)

The first quote is almost too obviously a slip: it explicitly states that homosexuality is related to uncertain gender, although the exact connection is taken for granted.\(^9\) Assumptions are revealing, however, and for this reason I will analyse this particular quote in greater detail in a forthcoming paper on materialisation and the heterosexual matrix. Here it suffices to mention it as just one example of the fears over the intersexed body. Since this is a legal text, the concerns are mainly legal in character: the legislation would have to be changed in impossible and unthinkable ways, and legal anarchy and disorder would ensue. How would inheritance work?

\(^8\) GID is a diagnosis listed in the DSM (Diagnostic and Statistical Manual of Mental Disorders) and was introduced into the medical discourse at about the same time as homosexuality was removed from the Swedish DSM in 1979 (which is why GID is not mentioned in SOU 1968). I have only come across the term GID in two texts: one concerning the classification of transsexualism; and one in SOU 2001:10, concerning homosexuals’ right to be assessed as potential adoptive parents.

\(^9\) Another example of this ‘mixing’ of categories is GID (see footnote 13) that has a number of subcategories, where transsexualism is one and ‘feminized pre-homosexual boys’ is another (DSM-IV). This will, of course, be elaborated on in my thesis.
Who is the father? What constitutes a father? A mother? The legislators clearly do not want to go down that path, and quickly dismiss the whole idea as unfeasible and, above all, undesirable. Nevertheless, they did consider it briefly, and in doing so verged on acknowledging the intersexual body as an alternative - a rare occasion in my source material as a whole. The second quote is equally interesting as it does define the intersexed body, while the report at the same time states that ‘[…] the introduction of intermediate forms between male and female genders can bring consequences that cannot be overlooked. (SOU 1968:28, p. 40). If the intersexed body “exists”, there is already an ‘intermediate form’, rendering speculation about its introduction unnecessary. The committee thus acknowledges the intersexed body, not as a “form” that can be accounted for by legislation or society, but only as a form that has to be altered to become something else (male or female). This implies that the legal discourse functions in much the same way as the medical discourse, since, as Suzanne Kessler puts it, ‘medical professionals name intersexuality in order to eradicate it.’(Kessler, 1998). It is between this acknowledgement and the “disacknowledgment”, or rejection, that immediately follows that the abjection takes place and the effect seems to lead to an idea on how to drop the abjected body from discourse altogether:

‘One way of settling these problems might be - while retaining such rules currently in effect - to legislate or otherwise rule on what generally should be taken to be the characteristics of male and female gender. From a systematic legal point of view, it would be useful to provide a definition that would determine in all cases where the boundaries lie.’(SOU 1968:28, p. 39)

The idea is to define male and female on all levels - biological, legal, and social - to be able to assert that the intersexed body either really male or female, depending on the number of “male” or “female” characteristics. This does not mean that surgery and the like would be unnecessary, although that may appear to be the case: if a child is defined as female “even though” it has an enlarged clitoris and no vagina, one might conclude that the child would be left alone as long as it was defined as female. The committee’s line, however, does suggest that the intersexual category is just as unwanted as the intersexed body. If male and female characteristics were clear on all levels, no body would be defined as intersexed, it could only be either male or female. The historian Alice Dreger has shown how the medical terms true hermaphrodite and pseudo-hermaphrodite are used to reduce the number of intersexed bodies in much the same way by classifying as “true” only the rarest kind of intersexualism.(Morland, 2001:537) The terms were coined at the end of the nineteenth century, and are still used in modern medicine to distinguish between different kinds of intersexuality (for example, in Gustavsson and Ritzén, 1994). True hermaphroditism covers only those who have mixed gonadal tissues (the same gonad has both testicular and ovarian elements), so-called ovotestes. This is not only extremely rare, but back in the 1890s was extremely hard to diagnose, leading to the conclusion that since ‘Victorian medical men insisted upon histological proof of ovarian and testicular tissue for claims of “true hermaphroditism”, the only “true hermaphrodites” tended to be dead and

---

10 It is never explained why it is important to know these things. Their necessity is taken for granted, the gender binary is naturalised, and no further inquires are felt necessary.

11 Butler admits that this linguistic acknowledgement is a ‘performative contradiction’, of which anyone talking or writing about abjected bodies is guilty. She then states that it all depends on the questions asked, on what your aim is: ‘how is it that certain kinds of subjects lay claim to ontology, how is it that they count or qualify as real? […] we cannot look at grammar and say, if I say that there are abjected bodies, then I must be able to reason back from the claim “there are” to a prior ontology. […] Hardly. I could say “there are abjected bodies”, and that could be a performative in which I endow ontology. I endow ontology to precisely that which has been systematically deprived of the privilege of ontology. […] So, I am performing a performative contradiction, on purpose.’ (Butler, 1998:280) The difference, then, between the academics’ statement that ‘there are intersexed bodies’ and the legislators’ (or medics’) statement that ‘there are intersexuels’, is that for the latter it leads to the rejection of the intersexed body and hence destroys its possible ontology within the legal and medical discourse, whereas the academics want to create an ontology that continues to acknowledge the intersexed body.
autopsied hermaphrodites.’ (Dreger, 1998) So, the only good hermaphrodite is a dead one, a non-subject, unworthy of our consideration? Perhaps this is one of several ways of dealing with the abjected body: refuse to name it until it is a corpse, and hence disposable, or, as in the case of the homosexual body, say it can be remade by surgery or psychoanalysis; or, as during the nazi-ideology, deny its right to exist all together.\textsuperscript{12}

During the twentieth century, definitions of sex ceased to be fixated on gonads and became a question of hormones and chromosomes. As a result, the definition of \textit{true hermaphrodite} became even odder, since it persisted in taking gonads as being the determining factor between the (two) sexes. In its turn, \textit{pseudo-hermaphroditism} is always defined as either \textit{male pseudo-hermaphroditism} or \textit{female pseudo-hermaphroditism}, even though the criteria for male or female elements (genes, chromosomes, hormones, gonads, inner and outer genitalia, and so on) are just as “mixed up” as the ovotestes of the \textit{true hermaphrodite}. This means that the sex criterion from the 1890s is still in use when it comes to intersexuals, although the “sex” has changed its “material” position within the medical discourse in roughly the same manner as the uterus wandered around the female body in the eighteenth and nineteenth centuries (see, for example, Laqueur, 1990). Most importantly, however, it means that the only “truly” acknowledged “gender trouble” is the \textit{true hermaphrodite}, i.e., the rarest form of intersexualism. All other forms are defined as pretended intersexuality, despite there being no clear medical grounds for such an assertion, and the result is that most intersexed bodies are not even acknowledged as “truly” intersexed, even though they do constitute a problem in just the same way as the \textit{true hermaphrodite}; they too have to be altered in one way or another to fit into either the male or the female category. In fact, by the simplistic linking of “true sex” with gonadal tissue, almost nearly every body could be shown to be a “true” male or a “true” female in spite of the mounting numbers of ambiguous cases. Not only do such definitions exist without a clear frame of reference, but they fit into the liberal heterosexual matrix\textsuperscript{13} since they discard all exceptions by exclusion (as \textit{true hermaphrodite}), inclusion (as \textit{male or female pseudo-hermaphroditism}), and adaptation (through surgery or hormonal treatment).

It is interesting that the governmental committee is aware both of the problems inherent in defining sex and their implications for the male-female dyad. It is this awareness that leads them immediately to dismiss their visionary proposal:

‘This investigation finds, however, that to construct a completely new idea of gender in this way is to go further than necessary, and besides is associated with great risk. A closer analysis of the different - genetic, somatic, and psychosexual - factors that possibly determine gender, shows in our view that all are able to claim greater or lesser consideration. It is likely that a rule that included a general definition of male and female gender would probably be very vague, and essentially would mean that gender would only be determined after a complete review of all factors.’ (SOU 1968:28, 39)

To attempt a rigid definition of sex is impossible and not without its dangers, since it might instead reveal the ‘vagueness’ of sex and hence threaten the heterosexual matrix instead of

\textsuperscript{12} Excerpt from an official order from the Gestapo, 1938: ‘Particular attention shall henceforth be paid to homosexuals. They are the enemies of normal human society. Homosexual acts hinder reproduction, and must therefore be eradicated if the German race is not to die out. Homosexuals must not be shown any mercy.’ (Bergh/Bjerck/Lund 1981:29)

\textsuperscript{13} I write ‘liberal heterosexual matrix’ since I would argue that there are also illiberal heterosexual matrices, where abjected bodies are simply killed instead of being adapted. One of my forthcoming papers will deal with the change within the heterosexual matrix during the twentieth century, beginning with politics of the 1920s to the 1950s that saw operations on homosexuals, the sterilisation of unwanted individuals, and genocide as legitimate means of manifesting the heterosexual matrix; and ending with the ‘liberal humanism’ (Kitzinger, 1987) of the late twentieth century, by when the heterosexual matrix seems to be reproduced in far more subtle and sophisticated ways. Foucault’s theory of individualised control will be elaborated on in this context (1987:228ff).
promulgating it. The committee’s conclusion that such a definition would ‘probably be very vague’ and therefore undesirable is telling.

How, then, were the committee and the medical experts to know if they had succeeded in their reworking of the intersexed body? There are specific objectives stated in the texts, that outline what should count as a successful adaptation:

‘In treating patients with somatically disrupted gender development, the aim is to secure an individual who is socially and sexually as well adapted as possible. […] From the earlier discussion of normal psycho sexual development, it should be apparent that, in cases of ambiguous development of genitalia, the choice of gender should be made as early as possible.’(SOU 1968:28, p. 24)

‘The common objective in the settlement of all cases, however, should be to try to arrive at a decision on the individual’s gender that ensures the best possible accommodation socially, sexually, and otherwise, considering his [sic] anatomical and psychological condition.(SOU 1968:28, p. 46)

‘For a girl with total androgyny-insensitivity, it may necessary in teenage to provide instruction on how to stretch a short vagina to a size that permits a normal sex life.’(Socialstyrelsen, 2001a:4).

‘With suitable treatment, a person with AGS [Androgenital Syndrome] may live a completely normal life.’(Socialstyrelsen, 2001b)

A socially and sexually adapted individual, one capable of living a ‘normal’ life, is the criterion for a successful, and acceptable, change. The intersexed body does not only have to be sexed, it has to be socially normal and able to perform within the bounds of ‘normal sexuality’14 if it is to be classified as a woman or man, leaving the intersexual category (and body) behind. Interestingly, the individual is not categorised as a former intersexual.15 On the contrary, it is stated that consistency from medical experts in informing the child and its parents about the chosen sex is essential both in raising the child as a boy or a girl and in preventing the child’s confusion about its gender identity. The term intersexual is to be avoided, as are other terms indicating another sexual identity. American studies have shown that medical experts from the 1950s onwards have discussed how to handle “former intersexed” patients. The advice given by the American doctor John Money (Money, 1968; Swedish translation. 1977) has influenced most of the Swedish intersex experts:

‘The thing that gives rise to the greatest confusion and concern [in androgyny-insensitivity] is mention of the word ‘testicles’. They should only ever be referred to as...

---

14 It is quite obvious that heterosexuality is meant by the classifications of sexual organs and the ‘treatment’ whenever the medical focus is on the vagina (or a vagina ‘deep enough’ for normal sexual activity). (See, for example, Edenheim, 2002a.) The issue of the heteronormative treatment of intersexuals will be dealt with in my thesis as part of a discussion of the heterosexual matrix and materialisation.

15 Compare with transsexuals, who legally become the “opposite” sex, while retaining their former medical categorisation as a man or woman, or as a “post-op” transsexual. (Socialstyrelsen redovisar Fastställelse av könstillhörighet 1978:2; Hertz, 1961, Wålinder, 1967 and Landén, 1999) Further comparison with transsexualism is revealing. For example, a so-called primary transsexual is identified as a heterosexual, in other words he/she has to be attracted to the “opposite” sex before the operation without defining her-/himself as homosexual, while a secondary transsexual is defined as less convinced of her/his gender identity because of her/his attraction to the “same” sex, or in other words he/she will be defined as homosexual after operation (if an operation is granted, and usually only primary transsexuals are granted an operation). (Wålinde r, 1967; Landén, 1999) This implies that a successful gender change includes heterosexuality in the same way as a successful (re)construction of sex does for intersexuals.
gonads, and an explanation should be given of their paradoxical function and lack of embryonal cells. [...] In all cases the secret of effective counselling is for the patient to learn neither too little nor too much for her needs, while making it clear to her that she can return at any time for further explanations and more information.' (Money, 1977, p. 29f)

‘These days the treatment for female hermaphroditism - surgical and hormonal - is effective. Early diagnosis is crucial, preferably at birth. A girl can then grow up without the memory of ever having had any problems of that kind. Nor then is her need for sex education any different from anyone else’s.(ibid., p. 35f)

‘In such cases [‘true hermaphroditism’], as in all other kinds of hermaphroditism where there is contradictory development, the best approach to sex education and counselling is not to create emotional logjams by saying too much too soon, yet equally not to starve them emotionally by saying too little too late. Explanations can be based on the premise that the child has been born sexually incomplete - an extremely useful term that has saved many patients and their parents from the humiliation of having to hear words such as ‘half boy’, ‘half girl’, ‘sexless’, and so on. [...] In this way one can explain nature’s mistakes’. (ibid., p. 38)

This kind of secrecy not only reinforces Kessler’s argument that ‘medical professionals name intersexuality in order to eradicate it’, but also indicates that an intersexed body cannot become a subject without becoming either a (normal) man or a (normal) woman. The bureaucratic ritual surrounding intersexed cases supports this theory, since the birth of an intersexed child is not reported to the national register (folkbokföringen) until the male or female sex has been assigned. (Ritzén, unpublished) The intersexed child is never acknowledged as ‘born intersexed’, and in recommending the phrase ‘sexually unfinished children’, Money adds a new element; not only is it ‘an extraordinary useful term’, but it also implies that “true” development, resulting in a clearly male or female gender, would have been possible if it was not for the dilatory body\(^{16}\) - supposedly something a later birth could have solved,\(^{17}\) so the medical experts supply a “second birth” to complete that which “nature” began. It is not until this second, artificial, but still “truer”, birth that the child is declared as born, as it is only now complete. In other words, because the intersexed body is defined as unborn, the medical and legal discourses are able to handle the abjected body by ascribing it non-existence.

2.2 Abjected desire

It may seem contradictory that it is possible to define homosexuals and homosexuality within a heterosexual matrix; it would be understandable to think that homosexuality might not only be banned and illegal, but might not feature at all in any possible discourse. However, declaring something illegal simultaneously conjures it into existence, so an explicit prohibition is an implicit acknowledgement. However, homosexuality per se was never illegal in Sweden, not even before its decriminalisation in 1944. This paradox was caused by the fact that homosexuality as a concept was not used in the specific legal text abolished in 1944, and it was not until the advocates of decriminalisation presented the homosexual in the report by the government commission of inquiry that a definition of “same-sex” desire was required. This kind of disavowal can be found in other contexts where the law and deviancy met, as for example in 1736 when the authors of the new penal law argued against the inclusion of a reference to Exodus 20:13 in the law stating that ‘unnatural fornication’ is illegal: ‘To introduce

\(^{16}\) That all bodies may be seen as being born ‘unfinished’ is not taken in account, just as there is no discussion on what a ‘finished’ body may mean.

\(^{17}\) Of course, this is not true, since most intersexualism is caused by other circumstances than so called unfinished sexual organs or the like. Medical “facts” are, however, of no importance in this particular discourse; it is the categories and the reproduction of these categories that are at stake here.
the plentiful sins of sodomy does not seem advisable, but instead it is better to keep silent as unwitting, and, if it chance to happen, they will well be punished if such [sins] are committed.’ (Preparations to The Law of Sweden, 1686-1736, II p. 160). A modern example is Britain’s infamous Clause 28 of the Local Government Act 1986, where the explicit aim is to forbid intentional promotion of homosexuality, but the actual result has been a public debate on homosexuality and an organisation of gays and pro-gays against the clause.18 In applying ‘the strategy of silence’, the first rule should be to avoid explicitly forbidding the very thing you want to keep quiet about since, as the reaction in the UK shows, it almost automatically creates a counter-reaction. Here the “clumsiness” of the debate over decriminalisation in Sweden is in itself interesting, and raises a series of questions. Why is it suddenly necessary to name something that hitherto was unnameable? Why is the legislation dependent on the medical discourse on homosexuality? Were the legislators aware of the possible side-effects of this naming? Here, however, I will concentrate on the legislators’ sense of abnormal desire and abnormal bodies when defining and describing homosexuality, and the need to take measures against it.

In the legal report of 1935 (SOU 1935:68 Memorandum on changes in the criminal law concerning sentencing) it is explained that homosexuality is something far more profound that mere immoral or insane behaviour:

‘However, in numerous other cases [of homosexuality] the symptoms of mental disease are an expression of a more general psychopathic constitution. Hysterical and neurasthenic symptoms, such as morbid over-sensitivity, instability, or paranoid tendencies, are evident, as are more serious asocial tendencies in the shape of parasitism, narcomania, criminality, and so on. Only in part can these asocial tendencies be explained by abnormal sexual instincts driving those in question into an ‘underworld’, whose way of life they adopt. Here the frequent combination of the symptoms of mental disease and abnormal character traits serves thus to confirm homosexuality’s origin in constitutional anomalies.’ (SOU 1935:68, p. 105f)

Homosexuality is defined as constitutive in many other passages in SOU 1935:68 and SOU 1941:32 (Homosexual acts as a threat to society), and the ‘unnatural fornication’ of the legislation was argued to be both false and misleading, since homosexuality was biological and in that sense natural to the individual:

‘For this reason, for the constitutionally homosexual, relations with people of the same gender are the natural outlet for their urges; sexual intercourse with the other gender appears to him [sic] as generally unappealing.’ (SOU 1941:32, p. 9)

‘Finally, it has with good reason been suggested from various quarters that the findings of medical research into the nature and causes of homosexuality mean that the punishment of the constitutionally homosexual must be viewed as being so severe that it is at variance with the demands of justice and humanity: they are punished for expressing a natural urge, for the direction of which they cannot be held responsible.’ (SOU 1941:32, p. 15)

18 Clause 28 of the Local Government Act 1988:

2A - (1) A local authority shall not:
    intentionally promote homosexuality or publish material with the intention of promoting homosexuality promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship
(2) Nothing in subsection (1) above shall be taken to prohibit the doing of anything for the purpose of treating or preventing the spread of disease.
(3) In any proceeding in connection with the application of this section a court shall draw such inferences as to the intention of the local authority as may be reasonably be drawn from the evidence before it.
This is a definition that may be interpreted as an acknowledgement, an interpretation that is known to have been made by the German scientist Magnus Hirschfeld and other “pre gay liberators”, as well as modern day pro-gay movements. The committees, however, are clear on this point: theirs is not an acknowledgement, it is a ‘matter of fact’ that has to be addressed:

‘That, from society’s standpoint, it must be seen as desirable to prevent the spread of homosexual tendencies, may be seen as self-evident. There should be no doubt that the basis of the general punishment laid down in chapter 18 paragraph 10 of the penal code embodies an attitude towards homosexuality passed down by generations. It will be noted that ultimately this attitude grew out of population politics, that in conjunction with the religious ideals and moral-philosophical discourse of the past led to the condemnation of all homosexual acts as ‘unnatural sins’. Regardless of the position one takes today towards such attitudes, clearly the law should lend assistance to the prevention of the spread of homosexuality, and to combating those forms of its expression that are a danger to society. For the vast majority of the population, homosexuality is a degenerate form of sexual life, and its expression, like that of other sexual perversions, is seen as repellent, arousing feelings of repugnance and disgust. This attitude is evinced not only by the commonalty, where it is hardly rare for homosexuality to be seen solely in terms of an outburst of moral depravity and decadence, but also by people for whom knowledge of the nature and causes of homosexuality makes it more understandable. Taking this into consideration, it would be expedient to prevent homosexuality from having the opportunity to appear in a manner that offends the public’s sense of propriety.’(SOU 1941:32, p. 13)

The legislators are somewhat sceptical of other, older arguments against homosexuality (named sodomy), not because they find them wrong ‘in essence’, but because of their lack of scientific knowledge. They argue that it is this specific knowledge alone that can provide the answer to how to deal with homosexuality and homosexuals, and while any other explanation or definition may be “on the right track” in condemning homosexuality for different reasons, they will not be able to provide a solution. The old legislation is criticised, for example, for not being efficient enough in its preventative measures:

‘According to the older idea that formed the basis of the punishments stipulated in chapter 18 paragraph 10 for ‘fornication that flies in the face of nature’, homosexual tendencies were seen as the manifestation of general depravity and moral decline, comparable with other asocial tendencies to which the criminal law was intended to put a stop. Medical research in recent decades has demonstrated, however, that actual homosexuality is caused by certain, probably innate, deviations from the norm, and that for this very reason many of those inclined to homosexuality, to attain satisfaction of their urges, are by their nature driven to homosexual acts without being deterred by the threat of punishment.’(SOU 1935:68, p. 81f)

‘Thus if society finds it necessary to prevent the spread of homosexuality, it is not self-evident that this aim is achieved by punishing homosexual acts in all circumstances. One of the most important arguments against retaining chapter 18 paragraph 10 of the penal code in its current form is its lack of efficacy. It has become apparent that the law is widely violated, particularly in the larger cities where it is easier than in smaller communities to hide a homosexual bent and homosexual activities. Of these activities

---

19 The decriminalisation of homosexuality as a sign of acceptance of homosexuality is frequently cited in the collective history of the gay movement. It is perhaps a necessary ingredient in the narrative of homosexuals, where legislation and society are often seen as having accumulated more and more knowledge about homosexuality, finally leading to the insight that homosexuals are normal. The story usually has a classic Hollywood ending: ‘and then homosexuals were granted the right to marry’. This evolutionary perspective may be useful from a political perspective, although I see more dangers than advantages in perpetuating it.
only a fraction come to the attention of others, fewer yet lead to charges and convictions. [...] The threat of punishment cannot effect a radical cure for homosexuality, but can only ensure that homosexuals observe the greatest possible secrecy in their doings.’(SOU 1941:32, p. 14)

Both legal and medical discourses are united in viewing homosexuality as something that everyone - even homosexuals themselves - deems undesirable. Homosexuality is said to have no place either in society or in nature (for though homosexuality is explained in terms of nature, it is never naturalised\(^{20}\)) and there is only one solution: to seek medical help to change the homosexual’s body and/or mind:

‘Whether the mentally abnormal conditions that find expression in homosexuality and bisexuality develop because of physical or mental circumstances (or because of a combination of the two), combating them falls to medicine. [...] Naturally the ultimate aim of the therapeutic measures is to rebalance the abnormal sexual urge so that it seeks a normal outlet. Unfortunately the resources for this are particularly limited and of doubtful efficacy. Essentially, current therapy aims at making it easier for those in question to master their sexual desires. The forms of help considered are partly physical, partly psychotherapeutic in nature. [...] Castration serves no other purpose than to repress or extinguish sexual desire. In the past there was hesitancy over recommending such a procedure because of the mental and physical repercussions that could be expected. More recent experience has shown, however, that the procedure, if performed on adult men, does not have the dire consequences that were once feared. For this reason it has been carried out in a fairly large number of desperate cases, where the prospect of lifelong internment in an institution of some kind was inescapable because of the sexual and wider anti-social behaviour of the person in question. The results have been unexpectedly positive, in that innate sexual desires were extinguished after a year or so, or reduced, and the other symptoms of castration were relatively insignificant. The procedure has had a generally socialising and beneficial effect on the criminally and mentally unstable element subjected to it. Many of those operated on have since been able to return without difficulty to a life within the normal social pattern.’(SOU 1935:68, p. 112)

‘As a means of preventing a relapse, castration is considered to be more effective than punishment, and misgivings over its use as a preventative measure seem to be met by the current proposals for a law on castration. If, as those deliberating the penal code have suggested in a proposed law on castration, it could not be carried out without the consent of the medical board, there is apparently little need to fear that castration would be considered unless there were speaking, objective reasons in its favour.’(SOU 1941:32, p. 33)

‘In other cases, a suitable measure intended to prevent the homosexual from slipping back into crime might be admission to a medical institution, principally to a mental hospital, where the necessary conditions may be met, or alternatively the appointment of specific, competent psychiatric supervision for him.’(ibid.)

It is understood that even though castration is not the best option, since it turns a homosexual not into a heterosexual but rather into a eunuch, it is the only solution available thus far; instead, hope is pinned on future scientific knowledge being able to develop new, efficient methods:

\(^{20}\) **Naturalisation** is a term coined by Derrida, by which is meant a complex process of codes that are so widely distributed in a culture, and are learned at such an early age, that they appear not to be constructed but to be a natural given. In other words, whatever is considered to be the most natural, the most normal, in a particular society, is the very thing that has been naturalised to the greatest degree and is thus ideologically charged.
‘These experiences [Hirschfeld’s theories of inverted sexuality] have led to experimental procedures in which, in the case of homosexual men, one or both testicles have been removed and the gonads of normal men implanted. The results have not been negative.’ (SOU 1935:68, p. 109)

As was the case with intersexuals, homosexuals are seen as requiring change if they are to be acceptable. Not to change homosexuals is equated with promoting homosexuality, and is thus a threat to both society and race, but above all it is wrong because homosexuality is quite simply disgusting:

‘In judging the question of a revocation of present legal sanctions, it should be noted whether there is a risk of a more open manifestation of homosexual tendencies, or if it is forestalled by the pervert’s awareness of the instinctive disgust that every healthy person feels at their abnormality.’ (The principle parliamentary standing committee on legislation, comments on Lundstedt’s motion, in SOU 1935:68, p. 77f)

‘For the vast majority of the population, homosexuality is a degenerate form of sexual life, and its expression, like that of other sexual perversions, is seen as repellent, arousing feelings of repugnance and disgust. This attitude is evinced not only by the commonalty, where it is hardly rare for homosexuality to be seen solely in terms of an outburst of moral depravity and decadence, but also by people for whom knowledge of the nature and causes of homosexuality makes it more understandable. Taking this into consideration, it would be expedient to prevent homosexuality from having the opportunity of appearing in a manner that offends the public’s sense of propriety.’ (SOU 1941:32, p. 13)

‘The necessity of having due regard to outward propriety and general order should, in the committee’s opinion, give rise to a widespread ban on homosexuals displaying their homosexual inclinations in such places where the general public runs the risk of witnessing them. Likewise, this would go some way to satisfy the estimable desire to prevent the risk of mental infection that an open manifestation of homosexual attitudes can present’. (SOU 1941:32, p. 16f)

Two questions arise here. First, according to the committees it seems that homosexual acts that are not public are silently accepted: There is no risk of ‘spreading the decease’ by exposing people to dismal desires, as long as it is clandestine. What is the significance of this acceptance in the process of abjection? Second, why is homosexuality seen as perverse, detestable, and repulsive in the first place?

When reading texts on homosexuality from the 1930s and 1940s, it is impossible to ignore the similarity to the definition and treatment of intersexuals in texts from the latter part of the twentieth century.21 Homosexuality, like intersexuality, is only acknowledged in the attempt to decide what about it must be changed. They are both contingent on a medical explanation with associated medical solutions, an explanation that in both cases is based on the idea of two different sexes with two different structures, forms, and effects. In the case of homosexuality, it is deviant desires, and not deviant sexual organs, that have to be rendered understandable through the heterosexual matrix, since it cannot be understood, defined or acknowledged as homosexual desire per se; that, after all, would be the same as saying there is such a thing as natural desire for the same sex, which in turn would cause confusion over what constitutes men and women, since they are always defined as complementary and only desiring each other.

---

21 Present day medical texts on homosexuality are not so very different when it comes to explaining homosexuality, except they are no longer explicitly referred to in legal texts. (See, for example, Hedenrud, 1992; Hesslow, 1996, 1999; Landén, 1999)
Hence, the homosexual body is ascribed a specific fault that makes it possible to define “same-sex” desire. The fault, according to the medical experts, lies in the sex glands:

‘Homosexuality is of a constitutive character that results, perhaps always and at least in most cases, from an inherent, possibly even inherited, form of internal secretional activity within the sex glands. [...] The explanation for homosexuality is that in the homosexual the puberty cells are of the same kind, or at least secrete the same hormone, that is commonly found in the opposite sex. [...] That homosexuality is caused by the activity of the sex glands has been proven by surgical operations carried out on humans.’(Lundstedt’s bill, 1933:36f)

This rationale appears in one shape or another in all the concluding reports on this bill. There are also descriptions of the external physical features of homosexuals, and while it is emphasised that there are always exceptions to the rule, the dominant view remains that a so-called constitutive homosexual acts and resembles the “opposite” sex to some extent, both physically and mentally. In other words, the key explanation of homosexuality is that homosexual desire does not exist. Not only does this demonstrate how the naturalisation of heterosexual desire works, but also how an abjected desire is made comprehensible (and useful) to a heterosexual matrix. In this context, homosexuality is only feasible in terms of heterosexual reasoning: a man can only desire another man if he is feminised. This feminisation is invisible, which is why the inner desire cause confusion, but from a scientific perspective clearly the desire is logical, natural even, for in reality (i.e. within the heterosexual matrix) it is a heterosexual desire. In this version, homosexuals have invisible, hermaphroditic bodies and they amount to nothing but failed heterosexuals. Contrast this with the intersexed body, where there are two alternatives, that of failed man or failed woman. The homosexual body can only be a failed heterosexual body, leaving the homosexual as the opposite of the heterosexual (in much the same way as a woman is defined as a failed man, see n. 25 below). The homosexual body is indicted as a failure, but it is only through this very failure that the subject, the homosexual, is defined; the way failure is defined legitimises homosexuality, since it cannot be legitimised on its own terms. The inability to define “same-sex” desire in anything other than heterosexual terms condemns the homosexual body to being an incomplete body (it lacks the right essence to go with the right genitals). 22 Abjected desire is managed by assigning characteristic failures and imperfections to the body, explaining away its unthinkable desires in terms of an array of familiar concepts and dichotomies. By these means the body is understood as homosexual, a concept completely dependant on the heterosexual gaze and, perhaps more importantly, a concept essential for a heteronormative discourse, since a norm demands deviance - its Other. Perhaps this is why the legislation only condemns visible homosexual acts: the homosexual as the Other has a function, and as such must continue in existence, but only as an impersonal figure lurking in the margins, affirming the centre’s sense of normality. It is only as the Other that the homosexual is acknowledged, be it in legislation through restrictions on his whereabouts or in the sciences as an inverted heterosexual, lacking in the physical essentials and doomed to a body less than complete. Remembering the ‘desire for the other’, the homosexual’s position within the heterosexual matrix is, however, paradoxical, since such desire (‘the straight desiring the gay’) is forbidden. 23 Butler tries to explain this kind of desire as not abjected, but merely repressed, perhaps leading what she terms heterosexual melancholy: ‘the melancholy by which a masculine gender is formed from the refusal to grieve the masculinity as a possibility of love, an exclusion never grieved [...]’. (Butler, 1993:235) It is because of this never grieved, but

---

22 A parallel can be drawn not only with Laqueur’s one-sex model, where women are defined as imperfect males, but also with the Freudian theory that women lack fulfilment because they lack a phallus. I will elaborate on this in my thesis when discussing abjected gender.

23 It is, implicitly, the necessity of desiring the other that renders homosexual desire incomprehensible, since supposedly (and according to Lacan) it is the desire for the same. Of course, this is an assumption based on the idea that two people of the “same” sex are the same, an idea that can be disputed.
yet lost, possibility of love, that ‘the straight man becomes (mimes, cites, appropriates, assumes the status of) the man he “never” loved and “never” grieved; the straight woman becomes the woman she “never” loved and “never” grieved.' (Butler, 1993:236) The heterosexual matrix, then, (re)produces heterosexual men (and women?) through the repression of homosexuality, while simultaneously rejecting homosexual desire between any men and any women. It renders impossible the acknowledgment of such desire to prevent a complete “gender identity disorder” amongst the multitude of straight men and women. This leads me to conclude that it is not homosexuals who are abjected in these discourses, but homosexual desire.

3. Where next? Some concluding remarks

Many questions go unanswered in this paper, not only those I plan to discuss in forthcoming texts. Thus far, however, I would suggest that this kind of discourse analysis is fruitful, and intend to stick to my ‘psycho-babble’. The political psycho-analytic approach has proved to be most effective when attempting understand why, for example, legislation and science have been so insistent on the necessity of taking knives to new-born bodies, or the dual relationship to homosexuality within these same discourses. Even though this paper mostly serves as a part of the definition of the heterosexual matrix, I do intend to investigate the changes over time: are the same bodies abjected today? Are they abjected in the same way? What caused these changes? etc. I have a nudge that these kind of questions may help explain the so-called liberal legislation on homosexuality after 1980, and the surprising volte face of the legal texts, while, for example, the discourse on intersexuals - and transsexuals - remained virtually unchanged throughout the twentieth century.

4. Bibliography


- The Psychic life of power – theories in subjection, Stanford, California (1997a)

- Excitable Speech – a politics of performative, Routledge, New York (1997b)


Grosz, Elizabeth: Space, Time, and Perversion – essays on the politics of the body, Routledge,
(1995)


Herdt, Gilbert (ed.): Third sex, third gender - beyond sexual dimorphism in culture and history, Zone Books (1996)


*Material:*

Gustavsson, K.H. & Ritzén, Martin: Genetisk och somatisk könsdifferentiering i Sexologi (P.O. Lundgren, red.), Almquist & Wiksell Medicin, Falköping (1994)


Lichtenstern, Robert & Steinach, Eugen: *Die Überpflanzung der männlichen Keimdrüse*, Wien (1924)


Nycander, Gunnar: *En sjukdom som bestraffas – en studie i homosexualitetens psykofysik*, Stockholm (1933)

Nyström, Anton: *Om homosexualitet och hermafrodit – belysning af missförstådda existenser*, Stockholm (1919)

Wålinder, Jan: *Transsexualism – a study of forty-three cases*, Göteborg (1967)

Androgenkänslighetssyndrom, Androgenitalssyndrom m.m. ur serien *Små och mindre kända handikappsgrupper*, Socialstyrelsens kunskapsdatabas (reviderad 2001)

SOU 1935:68 *Promemoria angående ändringar i strafflagen beträffande straffsatserna för särskilda brott*

SOU 1941:32 *Homosexualiteten samhällsfarliga yttringar*

Socialstyrelsen redovisar: *Fastställelse av könstillhörighet* 1978:2

SOU 1968:28 *Intersexuella könstillhörighet*

Motion i Andra kammaren, Nr 1. av herr Lundstedt, om upphävande av 18 kap. 10 § strafflagen m.m. (1932) med bilaga

**Author:**

ph.d.student, Sara Edenheim
Lund University, Department of History
Box 2074
SE-220 02 Lund, Sweden
sara.edenheim@hist.lu.se