7 Homosexuality: From a Crime against Nature...

A very interesting moment, in the context of a study of moral values and attitudes, occurred in January 1990, when the Catholic Archbishop of Dublin said that homosexuality was an objective disorder, which caused a ripple in public opinion. He was understood to be saying that homosexuals were sick people, suffering from an obscure disorder, and this was perceived as perhaps going a bit too far. For the people did not realise that the word ‘disorder’ refers not only to a disease, but also to the opposite of order. It appeared that Dr Desmond Connell was using the word ‘disorder’ in its scolastic meaning, as used by Thomas Aquinas and defined in our Introduction. This moment of mutual incomprehension revealed that the Irish hierarchy did not speak the same language as their flock. The fundamental source of traditional Catholic morality had become incomprehensible.¹

The preceding chapters have shown that the Irish state, the people as well as the politicians, no longer subscribe to an order based on obligatory norms; or, to put it differently, to the need for the state to criminalise and penalise practices that are not a danger to public order. The equation according to which moral law equals penal law is no more, and, in the case of homosexuality, it has been invalidated unequivocally. It will be particularly interesting to see how the state was going to recognise homosexuals’ rights, as it was not going to be forced by sheer force of numbers, as it had with the growing number of people in unhappy marriages or the large number of people practising artificial contraception. Irish homosexuals had a serious handicap in that they could never draw on strong popular demand as far as the decriminalisation of their sexual orientation was concerned.

The WHO revised its international classification of diseases (ICD) as recently as 1990, a revision that came into force as late as January 1993: ICD-10 stated explicitly that in relation to psychological and behavioural disorders associated with sex development and orientation, ‘sex orientation by itself is not to be regarded as a disorder’. Indeed, in ICD-9, the formulation was such that it carried a risk of misinterpretation (homosexuality as a mental disorder). Homosexuality has always been a major threat to the socio-moral order as it fundamentally goes against a certain idea of human relationships,
marriage and procreation. Sexuality must be procreative if the survival and the development of the family unit are to be assured, on which hinges social order. The homosexual act is non-procreative par excellence and as such has always been condemned unambiguously. It is a fact that of all the sexual deviances, homosexuality has been the one subjected to the most sustained social pressure. As Jeffrey Weeks, an authority on the regulation of sexuality in the UK, noted:

The regulation of extra-marital sex has been a major concern for the forces of moral order throughout the history of the West, whether through the canonical controls of the church over adultery and sodomy in the medieval period, or the state’s ordering of prostitution and homosexuality in the modern. Of all the ‘variations’ of sexual behaviour, homosexuality has had the most vivid social pressure... It is as many sexologists from Havelock Ellis to Alfred Kinsey have noted, the form closest to the heterosexual norm in our culture, and partly because of that it has often been the target of sustained social oppression.²

A CRIMINALISED SIN

Governments and the media have not always referred to homosexuality as a ‘sexual orientation’. Indeed, during the first two-thirds of the nineteenth century, it was referred to as a ‘crime against nature’, one too horrible to be named (interestingly, this expression included birth control and bestiality). In the 1960s, it was considered by the medical community to be a mental disorder. The word itself, homosexuality, coined in 1869, became common usage in the English language in the 1880s, which corresponds to the very conceptualisation of this sexual variation. However, the formal regulation of homosexuality has confined itself, in the West, to male homosexual activities rather than female ones.

The laws banning homosexuality were inherited by the Irish state from the reign of Queen Victoria. They were passed in 1861 and 1885 by the British Parliament, whose concern was to regulate sexuality. The great campaigns of ‘social purity’ of the late nineteenth century aimed at protecting marriage and sexuality within marriage, particularly against homosexuality and prostitution – two great social evils in the legislators’ minds. Sections 61 and 62 (under the heading ‘Offences against Nature’) of the Offences Against the Person Act only referred