

SEXUAL DEVIATION: RESPONSE TO AN ADAPTATIONAL CRISIS

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Through the ages sexuality for purposes other than having children has been called "unnatural" or sinful.¹ This natural law concept is reflected in the formal law on sexual behavior. Forms of non-coital sexuality, regarded as a violation of the divine command to be fruitful, are prohibited under the so-called crimes against nature.

Viewed from the perspective of procreativity, attitudes toward sex deviates or perverts seem rather incongruous, at least today. In an overpopulated world, where there is no desire to increase numbers, sex deviates would appear to warrant our praise rather than our rebuke. In reality, however, the lack of procreativity involved in crimes against nature and other deviations was not, in early times, nor is it today, the primary cause of their condemnation. In order to place attitudes towards deviant sexual behavior in meaningful perspective, it is imperative that we ask: What is it that arouses such high feeling of hate and antipathy—in us and in them? We answer: anxiety, distrust and hate—not eros.

I. CAUSAL FACTORS

Hypotheses about the cause or causes of sexual deviation have ranged from organic-genetic theories to intrapsychic or interpersonal formulations.² Sigmund Freud himself at one time, in 1905, held to the theory of bisexuality to account for some of the vagaries of human sex-

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This article originated in an address delivered on June 3, 1967, at the U.C.L.A. School of Medicine and School of Law Program on Psychiatry and the Law, Los Angeles, California.

1. In the fifth century St. Augustine said: "Procreation is the reason for marriage, it is the sole excuse for the conjugal act. . . . The eternal law which requires respect for the natural order, permits only those sexual relations which are necessary to procreation." Hardin, *The History and Future of Birth Control*, 10 Perspectives 1, 3 (1966).

2. Stafford & Clark, *Essentials of the Clinical Approach*, in *The Pathology and Treatment of Sexual Deviation* 57 (I. Rosen ed. 1964). Psychosocially oriented formulations on sexual deviation have included such factors as unresolved oedipal problems, castration anxiety, role confusion, and the problem of dependency. See Bieber, *Homosexuality: A Psychoanalytic Study* (1962); O. Fenichel, *The Psychoanalytic Theory of the Neuroses* (1945). Anna Freud in her book, *Normality and Pathology in Childhood*, reviews the various aspects of personality growth that may contribute to the development of homosexuality, as follows: (1) Basic inborn bisexual tendencies that endow the individual with psychological characteristics of both sexes, and are reinforced by preoedipal identifications with both parents; (2) Individual narcissism or self-cathexis; (3) The analectic object attachment of the infant; (4) Libidinalization of the anus; (5) Penis envy (relevant mainly to females); and (6) Overestimation of the phallus. A. Freud, *Normality and Pathology in Childhood: Assessments of Development* 195 (1966).

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uality, and this hypothesis has received some recent confirmation from the field of general biology.³ But though the suggestion is plausible that some forms of sexual deviation can be accounted for either by constitutional or by immediate precipitating factors, the risk is considerable that by emphasizing these factors, especially when generalizing, more elaborate, and perhaps more significant endopsychic developmental factors might be neglected.⁴ It may be simplistic to attempt to reduce the etiology of perversions to a single factor or a unitary theory, but the element of distrust, which leads to hate, appears to be the most consistent underlying dynamic. Essentially, lack of trust leads to a lack of self-esteem, and hate gradually results, with hate evoking hate.⁵ Low self-esteem and hate are part of the same syndrome. You can love your neighbor only if you love yourself.

Love and hate are basic human emotions, and the proper expression of these emotions is disturbed in the sex deviate. The process of learning about the expression of these emotions begins in a person's earliest years, and while the process does not stop then, what comes first has the most impact. The earlier learning process will be reflected in the way an individual deals with other people. To some degree, for all of us our new encounters are dictated by experiences from the past. The past is fused into the present. If the child does not learn love and trust, and can see only hate, or mostly hate, he may turn inward upon himself in depression, or he may explode in violence and anger against others.

The learning of trust is, therefore, fundamental, and leads to an integrated sense of identity. Persons who have not developed during the years of childhood and adolescence a sense of identity and self-worth are not likely to grow into mature adult personalities. The individual without a

3. S. Freud, *Beyond the Pleasure Principle* 18:3-64 (Standard ed. 1955). See, e.g., Sherfey, *The Evolution and Nature of Female Sexuality in Relation to Psychoanalytic Theory*, 14 *J. of Am. Psychoanal. Assn.* 28 (1966).

4. Eugenicists at the turn of the century decided that mental illness, mental retardation, epilepsy, criminality, pauperism and various other defects were hereditary. Attempts at cure were considered futile for hereditary defects, hence measures which would prevent reproduction by the unfit appeared to be the only way to eliminate the conditions. Ferster, *Eliminating the Unfit—Is Sterilization the Answer?*, 27 *Ohio St. L.J.* 591 (1966).

No one today would seriously suggest sterilization as the panacea for homosexuality. As one attorney puts it:

We cannot say of a homosexual, as we can of a hunchback, that such an individual must not be punished because he has no personal guilt even though he might terrify children by his appearance. The hunchback's imperfections are hereditary, the result of a genetic cataclysm that stamped him in the womb. He never had a chance. But homosexuality is not hereditary. Except for an inconsequential number of cases, persons whose attitudes demonstrate that they are mislabeled 'men' are not equipped with subcutaneous female organs, awaiting the surgeon's knife to bring them happiness. Instead, homosexuality is an outgrowth of environmental tensions, believed by many to be triggered by a defective relationship between a son and his father. Leavitt, *The Ordinarity of Sodomy*, *The Nation*, Jan. 9, 1967, at 55.

5. See generally E. Glover, *Aggression and Sodo-Masochism*, in *The Pathology and Treatment of Sexual Deviation* 146 (I. Rosen ed. 1964).

sense of ego integrity, the person of low self-esteem, is unable to rely on himself. As a result he relies unduly on others, and he imposes impossible burdens. He taxes beyond endurance any interpersonal relationship.⁶ As he goes through life, he gathers more and more evidence that he cannot trust himself or others, and his hate mounts.⁷

Current psychiatric theories are coming more frequently to consider the many forms of mental disturbance as different manifestations of a disturbance of the sense of identity. Erik Erikson has extended the psychoanalytic theory of personality development by describing the development of the self as a series of identity achievements and crises in the life of the individual, from infancy through adulthood.⁸ The expressions "applesauce" and "tutti frutti" are colloquially used to describe the mixed-up identity of the homosexual.⁹ Homosexuals themselves often

6. Often, the sex deviate may never have had the initial fundamental needs in his life met—of being held and nursed. These needs are symbolized by the breast. He is always looking for the *perfect* breast, the one he missed in childhood, and of course, looking for a *perfect* breast, he never finds one. Elia Kazan writes, "You neurotic son of a bitch, why must you pretend or require that all desire be perfect, complete, and forever? Or the greatest?" E. Kazan, *The Arrangement* 64 (1967).

7. Helen Merrell Lynd in her book, *On Shame and the Search for Identity*, says:

Basic trust in the personal and in the physical world that surrounds him is the air that the child must breathe if he is to have roots for his own sense of identity and for the related sense of his place in the world. As he gradually differentiates the world of in here from the world of out there he is constantly testing the coherence, continuity, and dependability of both. . . . Expectation and having expectation met are crucial in developing a sense of coherence in the world and in oneself.

Sudden experience of a violation of expectation, of incongruity between expectation and outcome, results in a shattering of trust in oneself, even in one's own body and skill and identity, and in the trusted boundaries or framework of the society and the world one has known. As trust in oneself and in the outer world develop together, so doubt of oneself and of the world are also intermeshed. . . .

Shattering of trust in the dependability of one's immediate world means loss of trust in other persons, who are the transmitters and interpreters of that world. We have relied on the picture of the world they have given us and it has proved mistaken; we have turned for response in what we thought was a relation of mutuality and have found our expectation misinterpreted or distorted; we have opened ourselves in anticipation of a response that was not forthcoming. With every recurring violation of trust we become again children unsure of ourselves in an alien world. H. Lynd, *On Shame and the Search for Identity* 45-47 (1961).

8. In his study of the problem of ego identity, Erikson points out eight stages of psychosocial development, and the characteristic conflicts of these stages: trust versus mistrust, autonomy versus shame, initiative versus guilt, industry versus inferiority, identity versus identity diffusion, intimacy versus isolation, generativity (interest in establishing and guiding the next generation) versus self-absorption, and integrity versus disgust. Erikson's eight stages of psychosocial development are regarded as supplementing or paralleling, not replacing, Freud's theory of psychosexual periods of development with its emphasis on sexual conflicts and maturation (oral, anal, oedipal, latency states). The stages are related both to chronological age and to Freud's developmental stages, but the emphasis is on maturation of function and the significance of psychosocial development. E. Erikson, *Identity and the Life Cycle*, in *Psychological Issues* 101-66 (1959).

9. A discussion of the meaning of the term "identity" and review of the literature of this concept appears in Lichtenstein, *Identity and Sexuality*, 9 J.

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refer to each other by names of the opposite sex, and reflect a common attitude toward the homosexual.¹⁰

Philosophy through the ages has also wrangled over the problem of the "one" and the "many". Who is an "individual"? Is there an "individual"? Philosophical speculation upon the paradoxes of the term "substance" have beclouded the task of defining or isolating the "individual". We all merge into our environment, they say, the circumference or scope of which can be extended to the farthest limits of nature, and for the theologically minded, beyond to the supernatural. Only the pleasures of *my* food and the pains of *my* toothache, they say, are experienced immediately by me alone.¹¹

But the psychotic is not even able to say, "This toothache is *mine*." The bodily pain is not even his. The pain is depersonalized. He is not able to say, "This is *me*, and that is *you*." He is not in the happy position of one little four year old who exclaims on her birthday, "I'm a little *girl* now—I want to wear a dress." The sex deviant may not be disintegrated in a psychotic way—he may know the boundary of his skin; his lack of identity comes from his inner feeling of emptiness.¹²

Amer. Psychoanal. Assn. 179 (1961). Robert Stoller suggests that it may be more precise to talk of "gender identity" than of "sexual identity," *i.e.*, "masculinity" or "femininity" as distinguished from biological distinction of "male" or "female." He says:

There are biological attributes of both sexes in everyone, but the sum of these attributes falls in most people decidedly toward one or the other pole of the continuum between male and female. "Sex" is biological, "gender" is social. Most often, the two are relatively congruent, that is, males tend to be manly and females womanly. It is clear, however, that there is no natural law governing this congruence. . . . "Gender" connotes behavior learned from a tremendous pool of cues present in every culture and from a massive, intricate, though usually subtle, system of rewards and punishments in which every person lives from birth on. Stoller, *Passing and the Continuum of Gender Identity, in Sexual Inversion—The Multiple Roots of Homosexuality* 190 (J. Marmor ed. 1965).

10. Thus, one defendant (himself an admitted homosexual) in a recent criminal case in the District of Columbia referred throughout the trial to his co-defendant, George Thomas Corinthian Lollar as "she" and "Miss Lolly." Washington Post, March 22, 1967, at A3, col. 3.

11. The argument is stated thus:

Even when considered close up, the identity of the "self" or "person" becomes part of a collective texture involving language, property, family, reputation, social roles, and so on—elements not reducible to the individual. The same is true of our physical nature, but with one notable exception. Physiologically, the centrality of the nervous system is such that, although I as a person may sympathetically identify myself with other people's pleasures and pains, in my nature as a sheer body the pleasures of my food and the pains of my toothache are experienced immediately by me alone. Thus, although even as a body I merge into my environment, there is this physiological condition (in the realm of sheer "matter" or motion) that serves as a rudimentary "principle of individuation," the grounds for a purely empirical distinction whereby, however social our nature in other respects, we are born and die one by one, with certain pleasures and pains experienced immediately, bodily, or if you will "carnally", and not identically experiencable by others. Burke, *More Dithyrambic Than Athletic*, The Nation, March 27, 1967, at 405.

We rely on our identification. It is sad when our identification makes us all alone. Seeing oneself as a person who is worthwhile and competent—a positive self-image—is indispensable for a healthy mind. "To be or not to be," to borrow Shakespeare's classic phrase, appears to be the issue which most nearly underlies the dilemma of deviation.

Subjectivity prevails over objectivity, although the two are intertwined. A person may perform the greatest accomplishment, objectively viewed—such as climbing the highest mountain or writing a best seller, but subjectively, the person may pollute or denigrate the accomplishment because of his inner feeling of worthlessness. An objective accomplishment is not worth very much to an individual when it is the product of a conflict-ridden ego or a reaction formation.

Modern day social forces add to the difficulty of man's struggle to be a man. Disruptive stresses are placed on family life, causing it to break up, to the detriment of the child as well as the father. Modern society makes it more difficult for man to display prowess and potency. It tends to reduce human beings to numbers, and to instill feelings of unimportance and impotence.¹³

12. Commenting on disturbances of identification, Waelder says:

With these individuals, it is not that ego boundaries are, so to say, in the wrong place so that part of the inner world is experienced as though it belonged to the outer world, and vice versa (as with the schizophrenic psychoses); they have a proper discrimination between inside and outside. But they are suffering from a feeling of emptiness or nothingness and are trying to fill themselves up, as it were, through appropriating from others without it ever becoming fully their own; or they are struggling against that very state of affairs, trying to maintain their "identity" against the danger of being engulfed by others. . . . Some individuals like to merge into others, to be part of the host, as it were, so as to fill their own emptiness with the substance of others. . . . One might say that, in these cases, the castration complex extends into the ego. R. Waelder, *Basic Theory of Psychoanalysis* 209 (1960).

13. As the opportunity to achieve potency in work diminishes, man looks more to other areas of life to achieve potency. Ruitenbeck observes:

Aggressiveness, power, the capacity to dominate—these are still demanded of men, for these characteristics mark the model of what a male should be. But contemporary society has little room for the forthright expression of these characteristics in socially acceptable ways (except in war). Psychoanalytically speaking, castrating forces have multiplied and directly potentiating forces have diminished. . . . The American man, young as well as aging, is said to feel that his very maleness is in peril; that he is being emasculated. Many factors are said to contribute to his lack of confidence, notably the disintegration of the women who live in it. I should like to suggest a change of emphasis: in a mobile society where the economy is moving rapidly and in a direction which seems to give less scope for the forthright exercise of the activity and aggressiveness we think of as male, sexuality seems to be the one area in which the male is protected from the impact of technological change; automation may replace even management with machines, but it does not seem likely to make the penis obsolete.

One can say that sexuality is apparently becoming the chief attribute of maleness, but sexuality itself seems threatened. The Kinsey report and the flood of discussion about the American man's sexuality indicate a broad questioning of his ability to fill his sexual role. The American man seems oddly ready to evaluate himself in terms of his sexual performance. . . .

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Getting up in the world—socially and sexually—is the sign of a man. Crawling on all fours is surely not an heroic posture. Thus, the snake, crawling on its belly, offends the sensibilities (a worthless or treacherous fellow is called a snake), whereas the peacock, strutting and posing vaingloriously, represents royalty. The more erect a man stands—the more he gets off the ground—the more we admire him. A speaker who leans on a lectern is not as compelling as one who stands erect and unsupported.¹⁴

Being a man means being up. A child is dependent; an adult is up. Willie Loman in *Death of a Salesman* bewailed, "A man can't go out just the way he came in. He's got to amount to something." Upness and maleness go together.¹⁵ While being up has its perils, it usually brings rewards. In the sexual sphere,¹⁶ a man to be a man must have the power

making for emasculation go far beyond mere distortions or disturbances in sexual functioning or sexual expectation. Rather, he (like the American woman) is experiencing alienation from himself and from his society; he is suffering from the failure of identity which accompanies such alienation. Alienation has many aspects. . . . H. Ruitenbeck, *The Male Myth* 31-35 (1967).

The social importance of self-esteem and a feeling of adequacy is noted by Racker thus:

A greater love of oneself indeed leads to a greater capacity for love of one's fellows. This is illustrated by the fact that we experience increased love towards others when we complete successfully a constructive and difficult task and therefore feel worthy of being loved, or more precisely, we already love ourselves more. . . . Love for oneself will also be the basis for the differentiation between what is good or bad for another person. This fact is reflected in the well-known maxim: "Do not do unto others what you do not want done to yourself"; which becomes transformed into "Love thou neighbor as thyself." Racker, *Ethics and Psychoanalysis of Ethics*, 47 *Int. J. of Psa.* 63 (1966).

14. The importance of being up is amusingly but meaningfully discussed in Jay Haley's essay, *The Art of Psychoanalysis*, in J. Haley, *Strategies of Psychotherapy* 192 (1963), and in Stephen Potter's books, especially "One-upmanship" (1952).

After writing this article, my attention was called to Erwin W. Straus' article, *The Upright Posture*, where he observes: "Upright posture is not confined to the technical problems of locomotion. It contains a psychological element. It is pregnant with a meaning not exhausted by the physiological tasks of meeting the forces of gravity and keeping the equilibrium." He goes on to point out that there are certain "expressive attitudes of man [that] are related to his basic orientation in the world as an upright creature." Straus, *The Upright Posture*, 26 *Psychiat. Q.* 529 (1952), reprinted in *The Selected Papers of Erwin W. Straus, Phenomenological Psychology* 137-65 (1966).

15. Contrariwise, downness and femaleness go together. A phallic woman is not very feminine. See Feibleman, *Sexual Behavior, Morality and the Law*, in *Sexual Behavior and the Law* 171 (R. Slovenko ed. 1965).

16. Is getting up—socially and sexually—always intertwined? Is not some behavior more significant than other behavior? Various aphorisms are heard: Gunter Dichter says, "Tell me what you eat, and I'll tell you who you are." Roger Caillois says, "Tell me what sport you play, and I'll tell you who you are." Motivations in Play, Games and Sports (R. Slovenko and J. Knight eds. 1967). Psychiatrists, however, perk up their ears, and take notes, when a patient talks about his sexual life. It is believed that no other aspect of behavior so deeply reveals the person. The etymological relation between sex and knowledge may be noted: the ancient Greek and Hebrew languages use the word "to know" to mean "to have sexual intercourse." Under the criminal law, "to know" a woman (carnal knowledge) is to have sex with her. *Sexual Behavior and the Law* 13 (R. Slovenko ed. 1965).

It may be difficult to compartmentalize and split off feelings about one

of erection. Man says that he is "over the hill"—finished—when erection is beyond him. An erection has most significance in the company of a woman in a full relationship, and a male unable to achieve or enjoy this feels very low indeed. He is not a man of nature. Sexual inadequacy may not be a condition prerequisite to being angry, but it is a sufficient reason. Superfluously, to quote Garrett Hardin, biology professor, "loving intercourse surely must be, for most of mankind, the most deeply religious experience they will ever have."¹⁷ Odd as it may sound, it requires a sense of identity, a feeling of strength, to tolerate the loss of sense of self, of disintegration and dissolution, which occurs in the coital act.¹⁸

In one sense, a man is on trial in a sexual situation. His protesting sincerely that he loves or desires his partner may have little moment if he cannot produce the physical evidence, and the more he worries about a possible difficulty, the more likely it becomes that this difficulty will arise.¹⁹ A man cannot command his own erection. On the other hand, a woman, owing to the nature of her anatomy, can permit intercourse even though she is frigid and not in the least interested in it. Anatomy, Freud said, is destiny.²⁰

area from another. The Negro male, socially humiliated, may nonetheless be sexually potent, but it is a struggle, and it must be noted that the Negro mother is especially caring for her son. The tendency is for weakness (or strength) to spread. As James Baldwin says, there has to be "a certain confidence behind the act of love." J. Baldwin, *Nobody Knows My Name* (1962).

17. Hardin, *The History and Future of Birth Control*, 10 *Perspectives in Biology and Medicine* 1, 3 (1966). The quote may be necessary in view of a previous oversight. Herbert Johnson of the Georgia Bar, reviewing *Sexual Behavior and the Law* (R. Slovenko ed. 1965), pointed out:

There is one criticism, albeit a mild one. Throughout the long and learned tome, with all its discussions and analyses of sexual behavior, there is not a single case of anyone's undertaking sexual actively solely because he or she enjoyed it. The authors do not mention Somerset Maugham's dictum: "The keenest pleasure to which the body is susceptible is that of sexual congress." Johnson, *Book Review*, 51 *A.B.A.J.* 1175 (1965).

While sex is a source of great pleasure, it is likewise a source of the greatest sorrow and pain. For this reason, there is much joking and jesting about it. Aristophanes one morning shouted out with great relief, "Thank God it's over." His trouble with women is explored in Dracoulides, *Aristophanes: "The Clouds" and "The Wasps"*, 23 *American Imago* 48 (1966).

18. In discussing orality and the problem of frigidity, Johnston among others has shown that having an orgasm can be equated with losing control. "Letting go" is equated with "giving in" and the latter is considered in terms of giving in to "oral destructive impulses." To let oneself go, or to lose control, becomes for the schizophrenic a risk that his repressed rage, for which his guilt stands, may be discovered. Johnston, *Features of Orality in an Hysterical Character*, 50 *Psychoanal. Rev.* 633 (1963). See also Winterstein, *On the Oral Basis of a Case of Male Homosexuality*, 37 *Int. J. of Psychoanal.* 298 (1965).

19. Stafford-Clark, *Essentials of the Clinical Approach*, in *The Pathology and Treatment of Sexual Deviation* 57 (I. Rosen ed. 1964).

20. Erich Fromm observes:

In order to function sexually, the man must have an erection and must be able to retain it during intercourse until he has had an orgasm; in order to satisfy the woman, he must be able to retain the erection for a sufficiently long time so that she may have an orgasm. This means that in order to satisfy the woman sexually the man has to demonstrate that he has the ability to have and maintain an erection. The woman, on the

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II. RESPONSES

To withdraw is to play it safe, and it may be the best that a person can do,²¹ but it is human contacts that affirm who we are. To a lesser degree, the positions of invalidism and the suffering from symptoms may be used as a solution to certain life problems. At the other extreme, an individual may justify his anger and maintain psychic equilibrium by projecting feelings of hate onto the outside world—a reaction in violence.²²

Many people, therefore, reach adulthood with no better means to cope with life's tasks than psychotic, neurotic, antisocial or dependent ways. Perversions, on the other hand, while not praiseworthy, may be a person's only resource to give him a sense of self, and to contain his unconscious escapism or aggression. It is the vital balance that some people strike in maintaining homeostasis.²³ A perversion may be a problem, to

other hand, in order to satisfy the man sexually needs to demonstrate nothing.

From this difference in their respective sexual roles something else follows—the difference in their specific anxieties connected with the sexual function. The anxiety is located at the very spot where the man's and the woman's positions are vulnerable. The man's position is vulnerable insofar as he has to prove something, that is, insofar as he can potentially fail. To him, intercourse has always the coloring of a test, of an examination. His specific anxiety is that of failing. Fear of castration is the extreme case—fear of becoming organically and therefore permanently unable to perform.

... If the man's anxiety is that of failing in or not performing the expected task, the drive designed to protect him from this anxiety is the wish for prestige. The man is deeply pervaded by a craving to prove constantly to himself, to the woman he loves, to all other women, and to all other men that he lives up to any expectation of him. He seeks reassurance against the fear of sexual failure by competing in all other spheres of life in which will power, physical strength, and intelligence are useful in assuring success. Closely linked with this craving for prestige is his competitive attitude toward other men. Being afraid of possible failure, he tends to prove that he is better than any other man. The Don Juan does so directly in the sexual realm, the average man indirectly by killing more enemies, hunting more deer, making more money, or being more successful in other ways than his male competitors. E. Fromm, *The Dogma of Christ and Other Essays on Religion, Psychology and Culture* 109 (1966) (emphasis in original).

21. The catatonic may withdraw completely into a world of his own. The pathological individual, according to a metaphor, is said to have "gone out of his mind," but actually he has gone too much *into* his mind; he has gone out of the world.

22. The majority of persons in prisons have been failures all of their lives. Their adaptive mechanisms to the demands of life are seen to be woefully ineffectual. They may turn to antisocial or criminal acts when they cannot tolerate the anxiety that comes with having relationships with people. They may attempt to defend their self-esteem and pride until finally they give up; the internal "enemy" becomes externalized and they attack the society and maintain their resentment and anger towards society. In this way, they maintain their homeostasis by externalizing the internal inferiority. Targownik, *The Kansas State Reception and Diagnostic Center—Procedurally and Clinically*, 6 Washburn L.J. 285 (1967).

23. Karl Menninger, in describing his view of the psychiatric phenomena of life, sets forth five levels of personality disorganization and reorganization (though usually not so telescoped in the course):

The first level or stage or degree of departure from the normal is that state of external and internal affairs which in common parlance is usually called "nervousness." It is a slight but definite impairment of

the individual and to others, but it may ward off further and more serious problems. It is a compromise product: the ego allows expression to certain behavior in order to save a more massive regression and disorganization of the whole personality. It is a "saner" election than withdrawal.²⁴ To compare, drugs may be habit forming, but the availability of drugs may maintain the individual at a certain level of adaptation; it overcomes an imbalance in his life.

Too much stress, therefore, may cause an individual to withdraw completely into a world of his own or into a monastic life. The sexual deviate, while he may be angry, is still trying to maintain some sort of contact with other people. Incapable of a heterosexual relationship, an individual may settle for a homosexual relationship. The homosexual position may provide his only bridge to the outside world. Unlike other perverts, the homosexual maintains a contact with another person.²⁵ Generally speak-

smooth adaptive control, a slight but definite disturbance of the organization, a slight but definite failure in coping.

A second level or stage or degree of departure from the normal level to increased disorganization is one which in civilian life rarely results in resignation or hospitalization; it is that group of syndromes which harness individuals with the necessity for expensive compensatory living devices, tension-reducing devices. These are painful symptoms and sometimes pain the environment almost as much as the patient. In the last half-century they have been called, "neuroses" and "neurotic syndromes," but these are not good names. The syndromes are thousands of years old.

Our third stage of regression or disorganization or disequilibrium or discontrol is characterized by the escape of the dangerous, destructive impulses, the control of which has caused the ego so much trouble. These are the outbursts, the attacks, the assaults, and the social offenses which result from a considerable degree of ego failure.

A fourth order of discontrol involves still more ego failure. Reality loyalty is abandoned completely or very largely; there is disruption of orderly thought as well as behavior; there is demoralization and confusion. These are the classical pictures of medieval psychiatry, the "lunacies" of our great-grandfathers, the "insanities" of our grandfathers, the "psychoses" of our fathers. We think it is time to abandon all these terms.

A fifth . . . stage is proposed, an extremity beyond "psychosis" in the obsolescent sense, the abandonment of the will to live. K. Menninger, *The Vital Balance—The Life Process in Mental Health and Illness* 162-271 (1963).

24. Menninger goes on to say:

Some colleagues will feel that all and any sexual perversion is prima facie evidence of gross ego failure and should therefore be assigned to a . . . higher order of pathology. . . . We disagree. Unless violence and overt destructiveness characterize the perverse sexual expressions, or unless the symptoms have become part of the character structure, they are definitely compromise devices, one of whose purposes is to salvage. If there is overt violence, if the environment suffers notably, the compromise is not working; there has been a partial ego failure or rupture. . . . Homosexually inclined men often reach high levels of achievement. Others sneak and sneer and swear and suffer. We cannot, like Gide, extol homosexuality; we do not, like some, condone it. We regard it as a symptom with all the functions of other symptoms—aggression, indulgence, self-punishment, and the effort to forestall something worse. K. Menninger, *supra* note 23, at 198.

25. The homosexual is prone to be a lonely, aloof individual who has a strong need for contact with another human being, particularly when he is under pressures of any sort. He fears women as castrating, frustrating creatures (an oft-recurring theme in his dreams). Masculinity

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ing, exhibitionists, voyeurs and fetishists are more frightened than the homosexual of an emotional rapport with another person. The exhibitionist represses great unconscious fears, and he eliminates the feared danger of attack by keeping the sexual objects of his sadism at a distance. The exhibitionist may be unable even to get this "close" to a woman, and so instead, finding it less threatening, he exhibits himself to a minor.

Like the exhibitionist, the voyeur is an inhibited individual. Indecent exposure and peeping are the marks of sexual inhibition. Homosexuals who are highly inhibited look for a partner in a bar or in a toilet. The meeting is fleeting. In effect, he is saying, "Anyone will do." Sometimes, the other person is not even seen, as when a stranger is fondled under a toilet partition wall or through a hole in the wall.

An essential element in shyness is lack of trust in other people and in their interpretations of the world. It results in inhibitions that are not volitional, but compulsory—one becomes an outsider.²⁶ One who is anxious needs distance. In a classroom, for example, a desk separates teacher and students, and outside this or some other formal structure, some teachers and students are unable to get together; they "prefer" to learn exclusively through books. Intense intellectual activity, in apparent devotion to the pursuit of abstract truth, is sometimes the expression of a mental disorder, rather than the wholesome activity of a well-balanced personality. Some people's interest in animals is a result of moving away from people (they may go into "animal husbandry"). In these cases, the interest in animals represents an attempt to hold on to something that is human. It is an attempt to have some kind of relationship. Animals are "lovable" and "will not bother a person unless bothered first." All of these patterns of behavior may be the result of the individual's distrust of others and his expectation of being hurt in an interpersonal contact.²⁷

Man and woman form a unity. The relationship provides for the greatest closeness; hence it may be the most rewarding and the most threatening of relationships. An old Jewish expression says that it may be hell with a woman, but it is double hell without one.²⁸ Like Edward

is what he wants; but since he cannot attain it himself he seeks, in effect, a sexual partner who is an image of what he would like to be himself.

Hadden, *A Way Out for Homosexuals*, Harper's, March 1967, at 107.

26. Lewinsky, *The Nature of Shyness*, 32 *British J. of Psychology* 105 (1941).

27. *Sexual Behavior and the Law* (R. Slovenko ed. 1965).

28. Knupfer, Clark & Room, *The Mental Health of the Unmarried*, 122 *Am. J. of Psychiat.* 841 (1966).

Bertrand Russell, reflecting at age 94 in his autobiography, says:
Three passions, simple but overwhelmingly strong, have governed my life; the longing for love, the search for knowledge, and unbearable pity for the suffering of mankind. These passions, like great winds, have blown me hither and thither, in a wayward course, over a deep ocean of anguish, reaching to the very verge of despair.

I have sought love, first because it brings ecstasy—ecstasy so great that I would often have sacrificed all the rest of my life for a few hours of this job. I have sought it, next, because it relieves loneliness—that terrible loneliness in which one shivering consciousness looks over the rim of the world into the cold unfathomable lifeless

Albee's George and Martha, apparently even destroying one another by bits and pieces is more desirable than aloneness. Hate is not at the polar opposite of love; it is in between love on one end of the scale of human relations, and despair on the other end (to hate you have to care). The ancient Greeks taught that the most horrible of ills is not dying, or knowing about dying, but dying alone. Loneliness, then, must be resolved in some manner.

The heterosexual relationship best serves to meet dependency needs, and to integrate and neutralize aggressive drives.²⁹ While homosexual activity is often regarded as being performed for orgasmic pleasure, this may be insignificant. Indeed, actual sexual activity or stimulation may be rather rare. The mutual dependency among homosexual partners, which is often intense, may be far more important than sexual activity.³⁰ To depend requires trust, yet underlying distrust is prominent in homosexual relationships. Married couples have a natural tie and a legal marriage contract to bind them, but homosexuals fearfully sense that they have nothing but pathology to secure their relationship. Violent disturbance occurs during the breakup of a homosexual partnership, perhaps not so much because of the loss of affection, loyalty and dependence, or because of the loss of an orgasmic outlet, but primarily because it is rather a confirmation of their worst and continual fears that no one is to be trusted, that what existed before was not affection and loyalty. "I offered you love and the best I could; all I got in return, in the end, was a kick in the teeth." The breakup is more devastating than the worst of husband-wife quarrels, and the hostility is not localized against the partner. The

abyss. I have sought it, finally, because in the union of love I have seen, in a mystic miniature, the prefiguring vision of the heaven that saints and poets have imagined. *Autobiography of Bertrand Russell (1872-1914) (1967)*, quoted in Alexander, *Miseries of Being Bookbound*, Life, March 17, 1967, at 29.

James K. Feibelman, chairman of the Department of Philosophy of Tulane University, says it thus: "To be a sexual athlete . . . seems to me to be still one of the best gifts that the gods have in store for mortals." *J. Feibleman, Philosophers Lead Sheltered Lives* 35 (1952).

29. It may be pertinent to note here the unpleasant heterosexual relationships of Lee Harvey Oswald. It appears that the "psychological conspiracy" behind the case has been very much ignored, yet Oswald's mother, his demanding wife, and the absence of a father may have been important factors in the assassination. See G. Ford & J. Stiles, *Portrait of the Assassin* 57 (1965); W. Manchester, *The Death of a President* 95, 97 (1967); J. Stafford, *A Mother in History* 120 (1966).

30. Kaplan, in discussing ego-dependency, observed that:

[T]he homosexual object-choice may be more in service of an admired object with whom to identify (or introject) than in service of sex per se; hence the chosen object is of the same sex as the chooser. . . . Discrepancies between the self-image and the ego-ideal can occur in a variety of parameters, including physical, social, and intellectual characteristics, or combinations of these. When a person is especially sensitive about a perceived deficit in himself, he may also be especially alert to others who possess the characteristics he feels he lacks. Covert admiration for the individual who possesses these highly-valued characteristics may become sexualized, and "instant identification" may be achieved vicariously in the homosexual relationship. Kaplan, *Homosexuality—A Search for the Ego-Ideal*, 16 Arch. Gen. Psychiat. 355 (1967).

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hate is extended or transferred to other persons. Homosexuality and paranoia have a high incidence of correlation.³¹

The "gay" or happy homosexual is a myth. The stresses and strains on his psychic apparatus do not permit tranquility. The gayness is like the circus clown's happiness—a reaction to sadness and depression. In a poll of 300 homosexuals, 95 per cent answered "no" to the question whether they wanted to be heterosexual; they bitterly resented the implication that they are maladjusted or unhappy, but at the same time they said that they would not wish it on their children or others.³² To give up one's identity, however mixed up it may be, is a frightening thought. One homosexual describes his misery thus: "To leave this life is, for me, a sweet prospect. I find nothing in it that is desirable and on the other hand everything that is loathsome."³³

III. PUBLIC ATTITUDES

Even in this era of sexual freedom, homosexuals and other sexual deviates are highly despised. One poll reports that two out of three Americans regard the homosexual with disgust and hatred. The majority favor legal punishment for homosexual acts even if performed in private. They feel that homosexuality is more harmful to society than adultery or abortion.³⁴ The public is, at least to some extent, justifiably concerned about homosexuality and other deviation. The primary reasons for this concern are: sexual deviates disturb us, and, secondly, they are all too often hateful and destructive.

The most stable individual may be able to regard deviants with tolerance in a live and let live policy, but persons who are themselves precariously balanced may find the very thought of effeminacy in other males unsettling—the more so in a culture like the United States where the male, deprived of a patriarchal position, is especially sensitive about his maleness.

To some degree, a person sees himself in others. "Whatever you may

31. See Knight, *The Relation of Latent Homosexuality to the Mechanisms of Paranoid Delusions*, 5 Bull. of Menninger Clinic 149 (1940); Ovesey, *The Homosexual Conflict*, 17 Psychiat. 243 (1954); Ovesey, *The Pseudohomosexual Anxiety*, 18 Psychiat. 17 (1955); Ovesey, *Pseudohomosexuality, the Paranoid Mechanism, and Paranoia*, 18 Psychiat. 163 (1955). "It is the need for intimacy, coupled with the conviction, the inescapable awareness, of a fatal incapacity for that intimacy, that calls out this desolating paranoid dynamism. . . ." H. Sullivan, *Clinical Studies in Psychiatry* 158 (1956).

32. CBS television documentary, "The Homosexuals," March 7, 1967.

33. *Life*, March 3, 1967, at 33.

34. CBS television documentary, "The Homosexuals," March 7, 1967. Freud sought tolerance, and he wrote in a letter to an American woman who appealed to him for advice about her homosexual son:

Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation. . . . Many highly respectable individuals of ancient and modern times have been homosexuals, several of the greatest men among them (Plato, Michelangelo, Leonardo da Vinci, etc.). It is a great injustice to persecute homosexuality as a crime, and cruelty too." Freud, *Letter to an American Mother* (April 9, 1935), 107 Am. J. of Psychiat. 786 (1951).

be sure of, be sure of this, that you are dreadfully like other people." To see a similarity may be threatening. It is threatening to see a member of one's profession in trouble, or to go to a funeral. "It could have been me." To put into question one's psychosexual identity provokes far more anxiety and tension. Love of freedom may be proclaimed in the Constitution, but Americans feel especially threatened by anything that poses lack of control, such as alcohol or marijuana; the culture is skeptical and wary of any type of mystical experience. The deviate reminds us of our own struggle for identity, and how tenuous that hold is; he makes us anxious, and the anxiety is compounded by the culture.³⁵

Still others may object to the homosexual and other sexual deviates not out of fear for their sense of identity but out of impatience with the paranoid and hostile trends of these often "angry young men." Every group—every society—is concerned about its cohesiveness and does what it can to protect itself; sometimes the dangers are illusory, sometimes not. Behavior which overtly violates established modes and customs is a vehicle for unconscious aggressive impulses, but the public display of homosexuality or other deviation especially involves destructive or self-destructive behavior. One who cannot love cannot live tolerably. Love does not flow from ethical principles, but ethical principles from love. As Samuel Johnson said, "It is so very difficult for a sick man not to be a scoundrel." Moreover, to deal with their existential pathos, many homosexuals drink quite heavily, and they often make a public nuisance of themselves.

Hence, it is not surprising that there is little popular support for a change in the law dealing with homosexuals, and actually, popular opinion tends to support the enactment of more rigid law on homosexual behavior.

IV. THE LAW AND ITS ENFORCEMENT³⁶

The antiquity of the law on "crimes against nature" is noted in the

35. An intriguing incident scoring the centrality of belief in one's identity is contained in M. Rokeach, *The Three Christs of Ypsilanti* (1964). One evening Rokeach, to put a stop to a quarrel between his two young daughters, addressed each by the other's name. The quarrel was immediately forgotten in the delight of what the girls interpreted as a new game. Shortly thereafter, however, the younger daughter became somewhat uncertain about whether they still were playing and asked for reassurance: "Daddy, this is a game isn't it?" "No," he replied, "it's for real." They played on a bit longer, but soon both girls became disturbed and apprehensive. Then they pleaded with their father to stop, which he did. In this incident, which took less than ten minutes, the father violated his children's belief in their own identities. For the first time in their lives, something had led them to experience serious doubts about a fact they had previously taken for granted, and this sent both of them into a panic reaction. The stimulus that evoked it seemed on the surface trivial enough—it involved nothing more than changing a single word, their name—but this word represented the most succinct summary of many beliefs, all of which together make up one's sense of identity. To have challenged "who I am" is upsetting. *Id.* at 26-27.

36. See generally the discussion of this aspect of the problem in Slovenko, *Sex Mores and the Enforcement of the Law on Sex Crimes: A Study of the Status Quo*, 15 Kan. L. Rev. 265, 277-81 (1967).

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37. Fla. Stat. § 800.01 punishing homosexual offe cunnilingus) are collected i 324 (1961). See also Bensi J. Crim. Law 57 (1951).

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38. See 8 U.S.C. § 1182.

39. Ill. Rev. Stat. ch. 38 (1967). But see N.Y. Pen. C a misdemeanor.

very title of the law, and in the quaintly medieval language of the statute. Laws regulating sexual behavior are unequalled in stirring up intense emotional reaction. Lawmakers are motivated in the same way as other people; they are sensitive to public pressure, and to their own feelings. A typical statute provides: "Whoever commits the abominable and detestable crime against nature, either with mankind or beast, shall be punished by imprisonment in the State prison not exceeding twenty years."³⁷ There are numerous other restrictions. Untrusted, and disturbing, the homosexual is excluded from military service and from employment with the State Department. A 1952 Federal law says that an alien who is a "psychopathic personality" can be excluded from entry into the United States or deported if the condition is discovered after he has entered; Congress in 1965 amended the law to make it clear that it includes homosexuals.³⁸ Universities have demanded reports (usually unsuccessfully) from their health clinics of students who are homosexual.

Illinois and New York are perhaps the only American states which have changed the law on their books to remove consenting varied sex expression, including that of homosexuality, from the status of crime when conducted in private and without duress.³⁹ This was done recently in Illinois as part of an overall revision of the criminal code, and follows the recommendation of the American Law Institute. Collective bargaining took place in the preparation of the Illinois code: religious groups said that they would not protest a change in the law of homosexuality in exchange for no change in the law on abortion. In any event, overall

37. Fla. Stat. § 800.01 (1965). The laws of the states of the United States punishing homosexual offenses (crime against nature, sodomy, fellatio and cunnilingus) are collected in N. St. John-Stevan, *Life, Death and the Law* 310-324 (1961). See also Bensing, *Comparative Study of American Sex Statutes*, 42 J. Crim. Law 57 (1951). A federal district court in North Carolina asks:

Are homosexuals twice as dangerous to society as second-degree murderers—as indicated [in North Carolina] by the maximum punishment for each offense? Is there any good reason why a person convicted of a single homosexual act with another adult may be imprisoned six times as long as an abortionist, thirty times as long as one who takes indecent liberties with children, thirty times as long as the drunk driver—even though serious personal injury and property damage results, twice as long as an armed bank robber, three times as long as a train robber, six times as long as one who feloniously breaks and enters a store, and 730 times as long as the public drunk? *Perkins v. North Carolina*, 234 F. Supp. 333, 340 (W.D.N.C. 1964) (footnotes omitted).

In Germany the maximum punishment is ten years imprisonment. On the other hand, France, a more romantic country, does not punish ordinary homosexual acts.

The American statutes, were they new, would probably be held unconstitutional for vagueness, but they have been construed many times, and the statutes are read as incorporating these judicial interpretations. As one court said, the decisions have made it clear that crimes against nature do not embrace walking on the grass. With interpretations added, the statutes are not deemed unconstitutionally vague. *Id.* at 336.

38. See 8 U.S.C. § 1182(a)(4) (1964), as amended, (Supp. II, 1965-66).

39. Ill. Rev. Stat. ch. 38, §§ 11-2 to -6 (1964); N.Y. Pen. Code § 130.20 (1967). But see N.Y. Pen. Code § 130.38 (1967) declaring consensual sodomy a misdemeanor.

revisions of codes apparently are not in great prospect in other states (major revisions of codes are extremely infrequent—the Illinois revision was its first in 88 years), and apart from an overall revision, it is highly unlikely that there will be changes just in the law on crimes against nature. A controversial provision has a considerably better chance of passage when it appears as part of an overall revision of a code than when it is presented as an isolated proposal.⁴⁰

Moved by pleas for tolerance, which stem mainly from homosexual groups and mental health professionals, many district attorneys enforce the law with a light hand—which is actually surprising in view of the public attitude toward the deviant.⁴¹ The district attorney often hesitates to prosecute, or charges the offender with a non-infaming crime of battery or public disturbance, and the offender “cops out” to that. If the offender is seeing a psychiatrist, the “doctor’s excuse” will usually do. When this comes to the attention of “citizens’ committees on decent behavior,” they may complain to the news media that the law is not being enforced—to the displeasure of the district attorney, who is mindful of popular support and reelection.

The typical case of crime against nature that is prosecuted does not involve an entrapment or a search into a private home. Rather, it involves a person who shows lack of judgment and indeed, his anger, by committing or soliciting homosexual acts in a public restroom. This type of conduct is as offensive and against public decency as would be the performance of a heterosexual act in public. Sexual activity that is not private is likely to be disturbing to others. The words “in public,” in effect, are read into the statute on crime against nature. Likewise, exhibitionism and voyeurism are usually dealt with as public disorders. These offenses entail a failure to observe the ordinary amenities of decent conduct, and while without force, they involve the involuntary participation of other persons. Transvestites too are more tolerated, perhaps as freaks (female impersonator shows are invariably attractions on tourist

40. Moreover, there is little to motivate a member of the bar to support or crusade for a change in the law. The attorney who does not “bother” with criminal cases could hardly be less concerned, he is usually described as “conservative” in viewpoint, and the attorney who practices criminal law may find that crime against nature is one of the few areas where compensation is relatively attractive. Frequently enough, the accused is a person of financial means, and, shamed by the charge, which is usually backed up by incontrovertible police testimony, he wants to have the case disposed of as quickly and quietly as possible. He is willing to plead guilty, and does not quibble over the fee, Slovenko, *supra* note 36 at 279.

41. A notable exception occurred in Boise, Idaho, in a campaign during 1955-57 to “Crush the Monster” of “moral perversion.” Possibly inaugurated as a political attack on the city administration, the Boise prosecutions soon became a vengeful onslaught that ultimately “made a mockery of Idahoan justice and revealed that such an investigation, once unchained, could turn up homosexuals in every sector of the community.” J. Gerassi, *The Boys of Boise* (1966), reviewed in Leavitt, *The Ordinarity of Sodomy*, *The Nation*, Jan. 9, 1967, at 54.

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It is primarily the overt—not private—manifestation of homosexuality which the ordinary citizen finds unpleasant and annoying. Those who insist that it be treated as a problem even when it is perpetrated in private are still split in their opinions as to what sort of problem it must be considered. Some worry about it as a health problem (homosexuality is an "illness"),⁴² others as a moral or legal problem.

But, as far as the law is concerned, whether or not the homosexual is "sick" may be a moot point. Even if he is "sick," why should sick behavior be condoned? Because he does not have free will? Because he can do nothing about it? One may take the view that the most therapeutic course is to deter the homosexual from sick behavior.⁴³ Even if one considers homosexuality as a health or psychological problem, the law, by providing some external control, may help in its resolution—at least to the extent of deterring the behavior—by encouraging thought rather than action. The law may force the person to "act in" (*i.e.*, in thought, or at least indoors) rather than to "act out."⁴⁴ Admittedly, nothing much is gained by sending the homosexual to prison. The issue more properly is not whether homosexual behavior should be deterred (as clearly a public display of it should be deterred), but what is the most effective deterrent.

In practice, the offender of the "crime against nature" statute is usually not sent to jail. The homosexual who is found in prison is usually there not because a crime against nature was committed but because of some other crime, which may be the expression of his aggression, such as burglary, forgery or narcotics. While the typical statute provides a stiff punishment, the penalty usually imposed is a fine of 150 to 250 dollars; if the penalty is imprisonment, the sentence is ordinarily suspended on condition of good behavior.⁴⁵ The criminal proceeding, without im-

42. All of the psychoanalysts except one, Thomas Szasz, participating in the volume edited by Judd Manor, *Sexual Inversion—The Multiple Roots of Homosexuality* (1965), are of the opinion that homosexuality is an illness. By affixing the label "illness," tolerance is promoted, and the problem is referred to physicians. Szasz, on the other hand, has been a focal critic of labelling "problems of living" as "illness". See, *e.g.*, T. Szasz, *The Myth of Mental Illness* (1961); T. Szasz, *Law, Liberty and Psychiatry* (1963). Freud himself did not consider homosexuality an illness. He said: "Homosexuality . . . cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development." Freud, *Letter to an American Mother* (April 9, 1935), 107 *Am. J. of Psychiat.* 786 (1951).

43. Cf. Szasz, *Alcoholism: A Socio-Ethical Perspective*, 6 *Washburn L.J.* 255 (1967).

44. Menninger, *Psychiatry and the Law*, 38 *Iowa L. Rev.* 687, 703 (1953).

45. See, *e.g.*, Mosk, *The Consenting Adult Homosexual and the Law: An Empirical Study of Enforcement and Administration in Los Angeles County*, 36 *U.C.L.A. L. Rev.* 644 (1966).

The individual who displays his privates in public places may in the alternative be charged with "disturbing the peace," "public disorder" or "assault and battery." These crimes are less stigmatizing than "crimes against nature" or "sodomy", while they serve the same legal purpose as far as the law is concerned.

prisonment, apparently deters a repetition of public acting out of homosexuality, at least by the young offender. Police statistics on subsequent charges reveal that homosexuals have a relatively low rate of recidivism, whereas follow-up studies show that this is not the case in terms of actual occurrences. While they may continue to "act out" their impulses, they apparently do so more discreetly. With the exception of a hard core, they perform in private after the confrontation rather than in public. The law at least gives them advice and teaches them a lesson in etiquette, and that is apparently the best that this form of treatment accomplishes. Writing about the young college student, the Group for the Advancement of Psychiatry (GAP) observes:

For many individuals, particularly those going through phases of sexual experimentation, the experience of a confrontation with one's own behavior by a person in authority will act as a deterrent and may have an educational effect. Getting caught sometimes has the salutary effect of enabling the individual to recognize the meaning and consequences of what he has done, and therefore serves as a step toward recognizing and assuming responsibility for his own behavior.⁴⁶

V. THE DILEMMA

The process of identity formation has usually been discussed as a phenomenon of adolescence—with good reason, as adolescence is characterized by an unusually rapid expansion of information, sensations, and awareness of oneself and others—but the process of becoming continues throughout life.⁴⁷ The process never stops. Erikson's life cycle approach to identity points out that personality is not a stable given but a constantly changing phenomenon; the individual changes along the life line as he lives through critical life experiences. The homosexual orientation is prominent in latency, but as psychoanalytic theories generally agree, the beginnings of disturbed development must be sought in the vicissitudes of childhood growth. They differ only in their emphasis on the particular factors in the child which are involved.⁴⁸ Freud maintained that early adolescence offers the last chance for personality modification, and that thereafter its alteration in any radical way is a task of the utmost difficulty. The old controversy of nature versus nurture—whether man is the result of his inheritance or his environment—is modified by largely replacing inheritance by early experience.

46. Publication of the Group for the Advancement of Psychiatry, *Sex and the College Student* 133 (1966).

47. By long hair and dress style, adolescents nowadays are bringing to the fore the inner turmoil and struggle over sexual identity that markedly reigns within persons of that age. By showing their difficulty, they are asking—or pleading—for a moratorium on being considered adults and having demands of adulthood put upon them. Slovenko, *supra* note 36, at 268 n.12.

48. See generally Rubins, *On the Early Development of the Self: Its Role in Neurosis*, 22 *Am. J. of Psychoanal.* 122 (1962); *Personality Shaped in First Year*, *Medical World News*, April 28, 1967, at 65.

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51. M. Rokeach, *supra*

Current controversy seems to center on the question: Is man the result of his earliest or his later experiences? Can change in behavior and personality take place in any meaningful way at any age or stage in development? Or rather, are not the developments at one age or stage much more significant than those which take place at another? Are present day remedial measures much like giving vitamin D for rickets—too late for the bones already deformed?⁴⁹

Effective psychotherapeutic and legal intervention are especially difficult when they must touch upon a person's central belief system.⁵⁰ Seeing is not believing. An exhibitionist, for example, can see that he has a penis, but he has a penis only with his body, not with his personality; he behaves as though he were castrated, and deprived of manhood. A transvestite's denial amounts to a psychotic delusional conviction that he is really of the opposite sex to that apparent in his body. Confrontation here is no remedy; he can hardly give up the identity which he has achieved for himself.

At Michigan's Ypsilanti state hospital, we may note, three patients each claimed to be Jesus Christ. What would happen when these men came face to face, knowing that, by force of a primitive logic clear even to the psychotic, three individuals cannot possess the same identity? This was studied by Rokeach, and reported in his book, *The Three Christs of Ypsilanti*.⁵¹ These men, by counterfeiting the identity of Jesus, had sought to defend against deep feelings of inferiority and worthlessness; the identity assumed was to them logical—that of a man revered and divine, yet misunderstood and martyred. Rokeach reports that the identity confrontations were upsetting and threatening to the men. They "knew" that

49. Bettelheim recently observed:

How much can man change and at what age is it too late to hope for very much change? . . . Only recently has American social science adopted the psychoanalytic view of man; hence the widespread conviction that human personality is shaped in infancy, and that the early characteristics are extremely resistant to change. Nevertheless, we find our social scene flooded with statements on how this or that form of social engineering is going to change personality at an age when (according to psychoanalytic theory) personality can hardly be changed short of long-term therapy or some influence of equal depth. . . .

. . . According to the most important revision of the Freudian system, that of Erik Erikson, basic trust is the ground rock of all later trust in others . . . and in oneself (so vital in attacking problems) and depends on the very earliest experiences of life. If these have not been favorable, they may condition, inversely, a life-long distrust of others . . . and of oneself. . . .

. . . [T]here must be radical reform in the lives of children between the ages of two to four or five. Or will we continue to fool ourselves [for example] by thinking that we can change the lives of children in school, when it is much too late for everything that really counts? I believe that reform must be concentrated where it most matters—on the conditions of life at home—if we are to give these children what they most need. Bettelheim, *How Much Can Man Change?*, N.Y. Review of Books, Sept. 10, 1964, at 1.

50. Glueck, *An Evaluation of the Homosexual Offender*, 41 Minn. L. Rev. 187 (1957), examines the frequent ineffectiveness of psychotherapy.

51. M. Rokeach, *supra* note 35.

they were not really Jesus, but they could hardly admit it either to themselves or to others. Assuming the identity of Jesus was their way of curing their plight. As a result of the confrontations, their belief systems underwent some revision and some refinement and restructuring, but it made no dent in their madness—*i.e.*, in the delusional system (some call it a “work of art”) that they created in order to achieve their vital balance, to stay on their rocker.

A bad habit (*e.g.*, smoking) is difficult enough to give up. Every prisoner, perhaps with the best of intentions, tells the parole board that he is going to change—that he is going straight, that he is going “to get on the right track.” Rates on recidivism demonstrate the failure of the promise. He has learned no new ways to handle the stresses and demands of society. Eric Hoffer in his book, *The Ordeal of Change*, points out the difficulty he had even in shifting from picking peas to string beans. He writes:

[E]ven the change from peas to string beans had in it elements of fear.

In the case of drastic change the uneasiness is of course deeper and more lasting. We can never be really prepared for that which is wholly new. We have to adjust ourselves, and every radical adjustment is a crisis in self-esteem: we undergo a test, we have to prove ourselves. It needs inordinate self-confidence to face drastic change without inner trembling.⁵²

Imagine, then, whether a person has the capacity to change or modify his sense of self. A person fears to lose his identity, obtained with so much difficulty (however disturbed it may be), and have nothing in its place. The more important something is in the life of a person, the more cautious he is in giving it up—that which is most vitally needed is most fervently held.

VI. CONCLUSION

The focus in this article has been on homosexuality, but it has been used as an illustration. Sexual deviation has complicated meanings, but it basically represents an attempt at problem-solving. It is a means of adaptation, a way to overcome an imbalance in a life. And it is surely not a prerogative of the male. The tomboy, the “phallic woman,” and the lesbian are illustrations of that.⁵³

The homosexual and other sex deviates are angry—because they feel that they have been cheated, they do not know who they are, and they do not feel any sense of confidence. While the sex deviate may be tried

52. E. Hoffer, *The Ordeal of Change* 1 (1964).

53. It has been postulated that homosexuality or sexual inversion occurs less frequently in females than in males. Because all children, boys and girls alike, are reared in a close relationship with the mother, the girl has from the outset an appropriate sex role model, whereas the boy has the more complicated task of shifting from the mother to the father as his model. Brown, *The Development of Sex-Role Inversion and Homosexuality*, 50 *J. Pediat.* 613 (1957).

for a sexual offense, namely, for the aggression or hostility of the “normals” to see them as less than the homosexuals for being hateful. The illusion to say that he is in his sexuality. The violent aggression because he has a neurotic; he appears

What can be said about sexual behavior? The shift in emotional aspects of psychotherapy

54. Blackman, *Blackman* Sept. 30, 1966, at 1. [The so-called “only reason” for such fantastic behavior is that they also cease isolation and men will come. *Gide as Hust* appearing also (1962).

Freud in his essay in a criminal: both of these, and a number of an emotional aspect.

55. For example, this subsection in court finds that the sexual excitement. 959.14(2) (1958)

for a sexual offense, the condemnation may really be for other reasons—namely, for threatening our sense of identity, and for his hate. The aggression or hatred sensed in the sexual deviate is a prime factor causing “normals” to so vehemently reject them, and nothing is more annoying than the homosexuals and other deviates who not only fail to apologize for being hateful but assert that they belong to a superior race. It is an illusion to say that a homosexual or other sex deviate is different only in his sexuality. Sexual confusion or homosexuality can easily result in violent aggressive behavior against society.⁵⁴ The sex pervert is dangerous because he has little regard or consideration for others. He is more than neurotic; he approaches psychosis.

What can be done to be helpful? Perhaps, in evaluating deviant sexual behavior, we must look at thanatos or hate as the prime motivation, rather than perpetuating the current practice of focusing on eros.⁵⁵ This shift in emphasis from sexual connotations to other, more fundamental aspects of the problem might more effectively channel our woeful psychotherapeutic and legal efforts at intervention.

54. Blackman, *Three Early Signs of a Mass Murderer*, *Medical World News*, Sept. 30, 1966, at 103. James Baldwin writes:

[The so-called he-men are unable to] get through to women, which is the only reason their muscles, their fists and their tommy guns have acquired such fantastic importance. . . . [W]hen men can no longer love women they also cease to love or respect or trust each other, which makes their isolation complete. Nothing is more dangerous than this isolation, for men will commit any crimes whatever rather than endure it. J. Baldwin, *Gide as Husband and Homosexual*, *The New Leader*, Dec. 18, 1954, appearing also as *The Male Prison*, in *Nobody Knows My Name* 155 (1962).

Freud in his essay *Dostoevsky and Parricide* observes: “Two traits are essential in a criminal: boundless egoism and a strong destructive urge. Common to both of these, and a necessary condition for their expression, is absence of love, lack of an emotional appreciation of (human) objects.”

55. For example, the Wisconsin statute provides: “‘Sex crime’ as used in this subsection includes any crime except homicide or attempted homicide if the court finds that the defendant was probably directly motivated by a desire for sexual excitement in the commission of the crime. . . .” Wis. Stat. Ann. § 959.14(2) (1958).