



Portugal

by Linda Rapp

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Portuguese attitudes towards homosexuality have traditionally been conservative and strongly influenced by the Roman Catholic Church. Until quite recently most glbtq citizens chose to remain closeted, but in the last decade glbtq rights groups have made major legal and social advances.

In 2010, Portugal became the sixth European country to achieve marriage equality.

Early Legal Codes

For much of its early history Portugal was a part of the same political entity as its neighbor on the Iberian Peninsula, Spain, and subject to the same laws. These included the Visigothic Code of 506 C. E., which imposed the death penalty for males convicted of sodomy. When Portugal became independent in 1128 it retained severe penalties for sodomy, including death, castration, banishment, and confiscation of property.

Under the legal codes promulgated by King Afonso IV in the fourteenth century individuals suspected of sodomy, unlike people suspected of breaking other laws, were forbidden from taking refuge in churches. In 1499 King Manuel specified that women taking part in same-sex sexual practices were also subject to punishment.

That such behavior was nevertheless occurring is made clear in medieval Portuguese troubadour poems, *cantigas de escárnio e mal dizer* (bawdy satirical "songs of mockery and scorn") and *canções de amigo* ("songs of the lover"), which contain references to same-sex attractions between both men and women, particularly members of the royal court, including the fourteenth-century king Pedro I.

The Inquisition

Homosexual conduct was not only penalized under Portuguese civil law but also under the rules of the Inquisition, which lasted from 1536 to 1821 in Portugal. Records of these proceedings are housed in the National Archives in Lisbon. Because the extant documentation is more extensive in Portugal than in other countries, it is possible to learn of same-sex sexual practices of the time, at least in the case of men.

Under the Inquisition investigations were generally initiated when one person denounced another. Cases involving the *nefando pecado* ("abominable sin") of sodomy accounted for only a small percentage of inquiries, the vast majority of which dealt with various forms of heresy and witchcraft.

Compared to other countries Portugal was considered relatively lenient in its treatment of people denounced for sodomy. Of the over five thousand people listed in the *Cadernos de Nefando*, the official lists of the accused, only 408 went to trial. Trial under the Inquisition generally guaranteed conviction, however. Thirty men were executed by burning, and hundreds of others had to march in *auto da fé* processions, after which they were tortured and/or exiled. Exceptions were often made for priests, a fairly

large number of whom appear in the records. If convicted, they could be spared the public humiliation of the *auto da fé* and physical punishment and quietly sent into exile.

Not all of the men accused of sodomy were people who would identify as gay today. Some were impoverished men, usually young, trying to eke out a living in Lisbon by doing whatever jobs were available, including sex work. Others seem to have engaged in situational homosexuality. Since Portuguese families vigilantly guarded the virginity of unmarried women, some men had same-sex sexual encounters when they were young but no longer sought male partners after they married.

Inquisition records bring to light what Júlio Gomes describes, perhaps anachronistically, as "a rich and energetic gay subculture." They identify venues at which men who would now identify as gay could meet and also mention a drag dance group, *Dança dos Fanchonos* (*fanchono* being a slang term for a gay man), that provided entertainment in the early seventeenth century.

Also among the documents of the Inquisition are some of the earliest same-sex love letters known, a series of five written in 1664 by Francisco Correa Netto, a sacristan of the cathedral in Silves, to musical instrument-maker Manuel Viegas. Viegas, who was apparently attracted to both men and women, had jilted Correa Netto for a woman after a short affair and subsequently denounced him to the Inquisition. Fortunately, Correa Netto did not stand trial because the code of the Inquisition required that two persons denounce a suspect, and only Viegas came forward.

One point that emerges from the Inquisition records is that the passive partner in relations between men was particularly stigmatized. Accused men frequently admitted to other same-sex behaviors in the hope of avoiding a sodomy charge. This attitude is consistent with the *machismo* often encountered in Spanish and Latin American cultures.

Nineteenth- and Twentieth-Century Portugal

There was no mention of same-sex sexual activity in Portugal's revised criminal code of 1852. Later, under the Salazar dictatorship (1926-1974) such activity was again criminalized, but in the Penal Code of 1982, homosexuality was mentioned only in Article 175 ("Crime of Homosexuality with Minors"), which established 16 as the age of consent for same-sex couples and imposed a penalty of a fine and/or a prison term of up to two years for violations. Article 174 set the same penalty for opposite-sex couples but put the age of consent at 14.

Although the law was eventually liberalized, social attitudes in Portugal remained quite conservative during most of the nineteenth and twentieth centuries, and gay men and lesbians tended to avoid being publicly identified as such.

Nor were they very visible in literature. The first Portuguese novel to focus on a gay character, *O Barão de Lavos* ("The Baron of Lavos," 1891) by Abel Botelho, tells the story of the love triangle of a Portuguese nobleman, his wife, and his young male lover. Although the novel ends badly, with the baron sinking into poverty and disgrace, it is noteworthy for its detailed descriptions of cruising and hustling and of the gay quarters of Lisbon. It is not known whether Botelho, a married and at least ostensibly heterosexual man, ever participated in this scene himself.

Among other significant works were the novel *A confissão de Lúcio* ("The Confession of Lúcio," 1914) by Mario de Sá-Carneiro, Fernando Pessoa's poem (written in English) "Antinous" (1918), and the poetry collection *Canções* ("Songs," 1922) by the openly gay António Botto.

Under the repressive dictatorship of the mid-twentieth century, freedom of expression was generally limited. When a more liberal administration came to power in 1974 glbtq rights advocates were among the groups to organize. A few glbtq periodicals began appearing later in the decade.

Glbtc Rights Movement

It was not until the 1990s, however, that the glbtq rights movement really gained momentum in Portugal. The Associação ILGA Portugal, an affiliate of the International Lesbian and Gay Association, was founded in 1995 and granted official recognition by the Portuguese government the next year. Based in Lisbon, where it has a community center, the group has worked to gain and defend glbtq rights and to provide education and counseling services. It established a telephone help-line in 1998 to reach out to glbtq people beyond the capital, particularly those who live in rural regions and often experience a sense of extreme isolation due to the lack of support of a local glbtq community.

Beginning in 1997 the Associação ILGA Portugal organized the annual Festival de Cinema Gay e Lésbico. In 2001 a separate group was formed to run the event, but the association remains an important participant in a variety of cultural activities including Lisbon's pride celebration, Arraial Gay e Lésbico, which has also been held every year since 1997.

The internet-based organization O PortugalGay.PT, created in 1996, serves as a source of information to Portuguese speakers worldwide. Members living in Portugal also take part in local cultural events.

Other organizations include Associação Opus Gay, which works to promote gay and lesbian tourism, runs a visitor center in Lisbon, and presents a weekly radio call-in show; Clube Safo, a lesbian association that sponsors both educational and social events; and the Grupo de Mulheres ("Women's Group"), which promotes lesbian rights and also provides social support through activities at the Centro Comunitário Gay e Lésbico in Lisbon.

Recent Legal and Political Developments

The conservative mores of Portuguese society in the area of sexuality made it difficult for glbtq activists to engage the society in an open debate about equality. Consequently, much of the progress that was made in Portugal in the last decade of the twentieth century was in response to the recommendations of the European Union and through recourse to the European Court of Human Rights.

For example, in 1994 an openly gay divorced father whose ex-wife was not allowing him court-ordered visitation rights with their young daughter successfully sued for custody of the child. The mother appealed, however, and prevailed in 1996, in a homophobic decision that stated in part, "The child should live in a family environment, a traditional Portuguese family, which is certainly not the set-up her father has decided to enter into, since he is living with another man as if they were man and wife It is an abnormality, and children should not grow up in the shadow of abnormal situations."

The father took the case to the European Court of Human Rights, which found in 1999 that the Portuguese appeals court had "made a distinction based on considerations regarding the [father's] sexual orientation, a distinction which is not acceptable under the Convention" and ruled in the father's favor. The Court ordered the Portuguese state to pay him a large sum in damages.

Portuguese glbtq activists also won an important victory in 2001 when legislators, over the vociferous protests of the Catholic church, voted to extend to gay and lesbian couples living together for at least two years the same limited rights of common-law marriage that they had granted to similar heterosexual couples two years before.

Other victories followed. For example, in 2003, Portugal, heeding recommendations of the European Union, enacted laws forbidding discrimination on the basis of sexual orientation. In 2004, protection against discrimination on the basis of sexual orientation was incorporated into the Constitution.

The new Penal Code of 2007 criminalized the organizing, supporting, or encouraging discrimination based on sexual orientation. Encouraging violence on the basis of sexual orientation was also criminalized.

The Penal Code also equalized the age-of-consent for homosexual and heterosexual activity and also criminalized domestic violence in homosexual as well as heterosexual relationships.

Same-Sex Marriage

Same-sex marriage was debated in the 2005 legislative elections, but the Socialist Party, which won the election, failed to clearly endorse marriage equality. Although the new Prime Minister José Sócrates refused to include same-sex marriage in his government's agenda, he did not rule out the possibility of including marriage equality were his government re-elected to a second term.

In 2008, a marriage equality bill was introduced in Parliament, but it was opposed by the ruling Socialist Party as well as by the right-wing parties and failed to pass.

In the 2009 legislative elections, however, Prime Minister Sócrates promised to support same-sex marriage if his party were returned to power. After being re-elected in October, the Prime Minister announced that his party, with the support of the Left Bloc, would propose a bill that permitted same-sex marriage but that would not include adoption rights (though gay men and lesbians are allowed to adopt as individuals).

Right-wing parties called for a referendum on the issue, but this proposal was rejected by the government.

On January 8, 2010, after a lengthy and impassioned debate, the Portuguese Parliament passed the bill establishing same-sex marriage in its first reading. During this debate the Prime Minister declared that passage of the bill would put right an injustice that caused unnecessary pain. The final parliamentary vote took place on February 11.

On February 24, the Constitutional Affairs Committee sent the bill to conservative Portuguese President Aníbal Cavaco Silva. Amid calls from right-wing parties and Catholic bishops for him to veto the legislation, the President asked the Constitutional Court to rule on the bill's constitutionality.

On April 8, 2010, the Portuguese Constitutional Court ruled 11-2 that the bill is constitutional, with three members concluding that the Constitution not only permitted but actually required the recognition of same-sex marriages.

On May 17, 2010, the President reluctantly signed the bill, acknowledging that if he vetoed it the veto would be overturned by Parliament. "I feel I should not contribute to a pointless extension of this debate, which would only serve to deepen the divisions," he said.

The achievement of marriage equality in Portugal was seen as a stinging rebuff to Pope Benedict XVI, who on a visit to Portugal days before the President signed the bill into law, bitterly denounced same-sex marriage.

Conclusion

The LGBTQ people of Portugal have made significant progress in recent years. They have a greater political voice and a much stronger public presence than ever before.

Lisbon's Pride and Film festivals have grown year by year, and since 2001 the cities of Porto and Leiria have also held well-attended Pride events.

The acceptance of homosexuality has grown in part because of the lessening influence of the Roman

Catholic Church in national affairs and because of the Portuguese people's desire to modernize their society.

Bibliography

Associação ILGA Portugal. www.ilga-portugal.oninet.pt.

Gomes, Júlio. "Portugal." *Encyclopedia of Homosexuality*. Wayne R. Dynes, ed. New York: Garland Publishing, 1990. 1028-1030.

Higgs, David. "Lisbon." *Queer Sites: Gay Urban Histories since 1600*. David Higgs, ed. London and New York: Routledge, 1999. 112-137.

Howes, Robert. "Portugal." *Gay Histories and Cultures: An Encyclopedia*. George E. Haggerty, ed. New York and London: Garland Publishing, 2000. 704-705.

Mott, Luiz, and Aroldo Assunção. "Love's Labors Lost: Five Letters from a Seventeenth-Century Portuguese Sodomite." *The Pursuit of Sodomy: Male Homosexuality in the Renaissance and Enlightenment*. Kent Gerard and Gert Hekma, eds. New York: Harrington Park Press, 1989. 91-101.

O PortugalGay.PT. www.portugalgay.pt.

"Portugal Adopts Same-Sex Partner Benefits." Data Lounge (March 16, 2001). www.datalounge.com/datalounge/news/record.html?record=13731.

Santos, Ana Cristina. "Portuguese Law and Sexual Orientation." EU Monitoring and Advocacy Program. Open Society Institute. (April 2002). www.eumap.org/journal/features/2002/april02/portuguesesexorient.

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