

WORK GROUP ON REPRESSION AGAINST GAYS (N.A.R.G.S.)

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A case of anti-gay discrimination was dealt with
after all by the Russell Tribunal

The 3rd international Russell Tribunal which was re-convened in
January 1979 to look into violations of human rights in the
Federal Republic of Germany (F.R.G.) dealt with a case of anti-gay
repression - a fact which came as a surprise to many.

The N.A.R.G.S. had submitted a judgement pronounced in 1976 by the
"Oberverwaltungsgericht" in Münster as its evidence for the hearing
into "censorship practices". This judgement calls upon police and
administrative authorities to proceed against "modes of behaviour
and openly-voiced opinions deviating from the norm", wherever
these appear "obtrusively" in public. The reason behind this legal
dispute had been the refusal by the authorities to grant permission
for setting up an information stand in Aachen's city centre; a
homosexual group had hoped, by means of this stand, to draw
attention to the discrimination of homosexuals in society. The
judgement is phrased in such vague terms that the road is clear
for future censorship measures and this would mean that not only
the new gay movement, but also other groups could be barred from
the public.

For us gays, this judgement, for which right of appeal has been
turned down, is of decisive importance. Its consistent application
by authorities and courts of law would amount to a partial
restoration of the state of affairs before the reform of the penal
code which removed homosexuality from the category of general
punishable acts, but did not abolish the basis for continued
criminalisation; for, even the reform version of Paragraph 175 of

the W. German penal code brands homosexuals as potential seducers who must be kept away from young people under the age of 18 by means of a particular threat of punishment. Just as if there had not been any liberalisation of § 175, the limitation on basic rights for homosexuals is laid down in the general section of the present police laws whose concept of "public security and order" has always proved to be a rubber clause.

The judgement surrounding the Aachen information stand was one of ten cases on the subject of "censorship" which the Russell Tribunal dealt with in exemplary fashion on the first day of its session. Oskar Negt, whom the jury heard as an expert witness on the system of censorship and on the limitations imposed on the bourgeois public sphere, mentioned the case in detail. Afterwards, a representative of the N.A.R.G.S. was provided with the opportunity of presenting it in even greater detail.

The reason why this gay case heard by the Russell Tribunal came as a surprise was because of moves, which had become apparent as far back as the preparatory phase in 1977, to accept only a very narrowly defined concept of repression which was limited to Berufsverbote (ban on holding public-sector job because of political views and/or activity considered dangerous to the State. Trans.). Therefore, it seemed fairly obvious that the Russell Tribunal would not treat the question of anti-homosexual repression. To support this view it was argued that the repression of homosexuals was a form of repression untypical of the F.R.G., it being even worse in other countries. The same reasons were put forward to disfavour groups representing the view that the hearing should be extended to include the question of repression against women, foreigners etc.

That things nonetheless turned out differently, can be attributed to the fact that the Münster case was submitted to the Russell Tribunal expressively as a "case of censorship". Thus, the N.A.R.G.S. conformed - not without hesitation - to the gaming rules established by the Tribunal.

In its final judgement on January 10th, the international jury came to the conclusion that forms of direct and indirect censorship were proven to exist in the Federal Republic and consequently the right of freedom of speech is impaired. Hence, the jury also condemned

- even if indirectly - the practices of anti-gay repression in the F.R.G. This fact should not be underestimated, considering that the 3rd Russell Tribunal received much more international publicity than W. German. However, even in cases where more critical reports on the Tribunal had appeared in the media, the gay case fell victim to the internal censorship of straight editors, such as in the case of the "Frankfurter Rundschau" (a liberal newspaper published in Frankfurt. Trans.) which published in detail all the other cases dealt with under the subject area "censorship".

The hearing of a gay case before the Tribunal in Cologne has not yet changed anything as regards the conflicting nature of those human rights in whose defense the Russell Tribunal had convened. Human Rights protect individual rights only inasfar as the latter do not run counter the ruling morality. However, this morality is generally structured in favour of heterosexuality so that Human Rights, by their very nature, repress gays. The apparent paradox, that the Human Rights are themselves a part of discrimination, would only be removed by their creative further-development.