

Onderzoeksseminar III

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[PROSECUTION OF FEMALE SAME-SEX OFFENDERS]

Between 1730-1811 in the Dutch Republic

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Introduction

Starting in 1730 the number of sodomy trials in the Dutch Republic rose dramatically. The trigger for this wave of trials was the arrest of Josua Wilts on the 11th of January 1730 in Utrecht. In an attempt to lower his sentence he confessed to having witnessed two men committing the crime of sodomy and consequently he named them. What happened next was that an entire network of sodomites in the Dutch Republic was uncovered and rolled up. Moreover it motivated the Dutch authorities to publish an official notice that was supposed to remind the Dutch that sodomy was an abominable crime and punishable with death. In the period between 1730 and 1732 over 300 men were prosecuted for sodomy and approximately eighty men were sentenced to death. The next waves of prosecutions were between 1764-1765, 1776-1779 and 1795-1798 and ended after 1811, when the French penal code was introduced. Of the approximately 800 sodomy trials in the Dutch Republic between 1730 and 1811 only about one percent of the accused were women.¹

It was not until 1792 that the first woman was tried for sexual acts with another woman. Between 1792 and 1798 only twelve women were prosecuted for same-sex acts and their sentences were relatively light compared to the male sodomites that were sentenced in the eighteenth century. None of the women were sentenced to death, unlike at least 200 of the men, moreover on average the women were sentenced to six years confinement, whereas the men served twelve years. Further it is striking that twelve of the thirteen tried women were from the same neighbourhood in Amsterdam: the Jordaan and all thirteen were lower-class poor women.²

These facts raise certain questions that I would like to answer. The main question is why women, between 1730 and 1811 in the Dutch Republic, were less likely to be convicted for same-sex offenses than men. Sub questions I will try to answer are what sodomy actually entailed and if women were included in this term, and secondly why these female convictions were so late in comparison to the male convictions.

In order to answer these questions I will study Dutch secondary literature on the subject. Most of the existing literature was written in the 1980s' and early 1990s', however there are some new relevant non-Dutch studies on gender and sexuality that might shed a different light on the subject. These articles discuss eighteenth century perceptions on gender and can perhaps provide an explanation for the absence of female convictions. Because of the width of the subject and the limited scope of this research, I have decided to exclude cases about female transvestites and prostitutes. Even

¹ T. van der Meer, *Sodoms zaad in Nederland. Het ontstaan van homoseksualiteit in de vroegmoderne tijd* (Nijmegen 1995), 14, 18, Koninklijke Bibliotheek, Historische kranten, 's'Gravenhaagsche Courant (28 July 1730) <http://kranten.kb.nl/view/paper/id/ddd%3A010725814%3Ampg21%3Ap001%3Aa0003> (consulted 20 October 2012), T. van der Meer, 'Zodoms zaat in de Republiek. Stedelijke homoseksuele subculturen in de achttiende eeuw', in: G. Hekma en H. Roodenburg (ed.), *Soete minne en helsche boosheit: seksuele voorstellingen in Nederland 1300-1850* (Nijmegen 1988) 168-196, 168, T. van der Meer, 'Tribades on Trial: female same-sex offenders in late eighteenth century Amsterdam', *Journal of the history of sexuality* 1, No. 3 (1991) 424-445, 425 and T. van der Meer, 'Sodom's Seed in the Netherlands. The Emergence of Homosexuality in the Early Modern Period', *Journal of homosexuality* 34, No. 1 (1997) 1-16, 1, 4.

² Van der Meer, 'Tribades on Trial', 424-427, T. van der Meer, *De wesentliche sonde van sodomie en andere vuyligheeden: Sodomietenvervolgingen in Amsterdam, 1730-1811* (Amsterdam 1984), 137, 138, 146 and M. Everard, *Ziel en zinnen: over liefde en lust tussen vrouwen in de tweede helft van de achttiende eeuw* (Groningen 1994), 136, 153.

though these are interesting topics with definite overlap with same-sex practices, there is simply too much literature and not enough time.

Dutch scholars have attempted to explain the lack of prosecuted women; however these explanations were only briefly mentioned without a satisfying explanation. Theo van der Meer is the most prolific Dutch writer on the subject of sodomy and in his article 'Tribades on Trial: female same-sex offenders in late eighteenth century Amsterdam' he mentions an explanation for the lesser sentences of female same-sex offenders. According to Van der Meer the sodomite was a greater threat to the nation as it would 'incur the wrath of God'. Also Van der Meer states that sodomy was seen as a threat to the existing gender-roles. Women who were guilty of same-sex offenses were according to Van der Meer 'perceived as women who misbehaved in general'. These explanations give some idea on attitudes in the eighteenth century, but also seem too simplistic. It is my intention to pay closer attention to gender-roles in the eighteenth century, perceptions and definitions of sodomy in the eighteenth century Dutch Republic and explanations for female same-sex activities.³

The first chapter will be an introductory chapter in which I define the subject, discuss the history of homosexuality, gender and sexuality, give definitions and explain terminology. After this introductory chapter my focus in the second chapter will be on the actual criminal cases against women in the eighteenth century, early-modern context and on discussions about sodomy in the eighteenth century Dutch Republic. In the third chapter I will reflect on attitudes towards sexuality in the eighteenth century and lastly I will discuss the ideas that exist amongst scholars of this subject, notably Theo van der Meer and Myriam Everard.

³ Van der Meer, 'Tribades on Trial', 438.

Chapter One

1.1. The history of homosexuality

Out of the social revolutions of the nineteen sixties and seventies a greater awareness of minorities in history arose. The civil rights movement of the fifties and sixties in the United States, the sexual revolution and the start of feminism in the sixties and finally the gay rights movement in the late sixties and early seventies caused a shift in the writing of history. This shift had already begun in the early twentieth century when French historians, the so-called *Annales* school, started to look beyond political history and both introduced social sciences in history and turned the attention to the whole population and not just the elite. The history of homosexuality has its origin in these developments, but how did this separate discipline come into being? ⁴

In the sixties and seventies historiography changed dramatically, as the struggles in society laid bare certain divisions and minorities. Rankean historicism and the structural histories that were based on social sciences, were challenged by historical writing based on culture and daily life. Whereas the earlier histories focussed mainly on political history of individuals and states or on great social or economic structures, the new histories included the entire society from the bottom up. These developments gave minorities a voice in history. Societal unrest and the call for equality penetrated historical writing as for example feminists started writing women's history and Marxist theorists took another look at the working class. The work of these scholars and the questions they raised were used by scholars in other historical fields.

It is impossible to write about homosexuality and not discuss sexuality. This was another subject-matter that came out of the sixties. For the first time in historiography sexuality was researched and more specifically Victorian sexuality. In the sixties scholars like Steven Marcus started reading and writing about attitudes towards sex, differences between male and female sexuality and attempts of governments to regulate sex. One of the most ground-breaking scholars on sexuality has been Michel Foucault. In 1976 he published *Histoire de la sexualité I: La volonté de savoir* in which he gave many scholars new ideas to work with. According to Foucault nations were dependent on healthy populations and because of the need for a working class, governments tried to regulate sex. Foucault saw sex as a discourse of power and a way for the ruling class to regulate the masses. One of the regulatory systems Foucault identified were the medical writers of the late nineteenth century. These scientists started classifying people into 'normal' and 'deviant' categories. Moreover, because of the authority they wrote with, these categories were used to identify people as for example heterosexual or homosexual. This is exactly why Foucault has been so important for the history of homosexuality, but that will be discussed later. ⁵

⁴ J. Tosh and S. Lang, *The pursuit of history. Aims, methods and new directions in the study of modern history* (Harlow 2006) 126, 127 and G.G. Iggers, *Historiography in the twentieth century: from scientific objectivity to the postmodern challenge* (Middletown 2005) 52.

⁵ C. J. Dean, 'Redefining historical identities: sexuality, gender and the self', in: L.S. Kramer and S.C. Maza (ed.), *A Companion to Western Historical Thought* (Oxford 2006) 357-371, 358-364.

Developments in feminist writing, Marxist theory and discussions raised by Foucault's work resulted in developments in another field: gender history. Feminist scholarship was limited as it focussed only on women, however it did make way to include women in historical writing. When women's history developed the focus was no longer on women as one group, but scholars noted differences between them. Moreover scholarship on women is not as one-sided as it was, male domination and repression of women are not the only subjects written about and more importantly men have been integrated in the history of women. The relations between men and women and how both sexes are viewed and constructed in a certain time are themes researched in gender history. It is in this context that it has been important for the history of homosexuality. According to historians who study gender, the characteristics that 'we' attribute to the different sexes are socially and culturally determined. Therefore gender and its characteristics can change over time and how we today think about what makes a man or woman, differs from ideas in the eighteenth or nineteenth centuries.⁶

The emancipation of sexuality and homosexuality in the sixties gave thus rise to the history of homosexuality. It became a discipline that studied the emergence, the development and the differences of and attitudes towards homosexuality. Because of the developments in the history of sexuality and gender, and most importantly because of the work of Foucault, a discipline on homosexuality that was very prolific came into being. Especially in the eighties and early nineties many works were published on the construction of sexuality, on power and identity. Homosexuality, as earlier with women, was no longer seen as one group but it became clear that there were differences between male and female homosexuality. Both have their own histories and, as in mainstream history, there has been written more about male homosexuality than on female homosexuality. The reasons for this discrepancy is a different question all together and will not be answered here. More important is the legacy of Foucault and his significance in this paper.⁷

1.2. Foucault and terminology

As mentioned before you cannot write about the history of homosexuality without mentioning Foucault. His work has been a starting point for many scholars in their research of homosexuality. Foucault's contribution is of invaluable meaning as it opened a discussion and thinking about the construction of identity and power relations. According to Foucault concepts like homo- and heterosexuality were invented by the medical sciences in the nineteenth century. A term like homosexual gives a person a certain identity, in the case of the nineteenth century a perverse identity and has therefore power over a person. Moreover Foucault stressed that sexuality was fluent and changed over time and what we deem normal sexual behaviour today was perhaps perverse in earlier

⁶ Tosh, *The pursuit of history*, 244-247 and Kramer, *A Companion to Western Historical Thought*, 365-367.

⁷ Kramer, *A Companion toe Western Historical Thought*, 367-369 and G. Hekma, D. Kraakman, M. van Lieshout en J. Radersma (ed.), *Goed verkeerd: een geschiedenis van homoseksuele mannen en lesbische vrouwen in Nederland* (Amsterdam 1989) 15, 16.

times. The importance of Foucault does not mean that there is general agreement amongst scholars with his statements, but it did function as a catalyst for discussion. Where did this discussion focus on?

The main issue for scholars of (homo)sexuality and gender is a discussion between essentialism and social constructionism. The essentialists state that attributes like sexuality are from within the human, they exist in the essence of a person either through DNA or because of hormones. According to the essentialists sexuality is a natural and fixed part of an individual. Social constructionists, like Foucault, on the other hand claim that sexual behaviour is created by culture and society. Essentialism evokes the thought that sexuality is universal and does not change in time or place while social constructionists stress that sexuality differs in each time and culture. Within social constructionism there are different ideas about sexuality and its meaning. The most extreme vision of social constructionism states that even lust is constructed by culture and thus is not an essential part of man. Sexual feelings a person might have, either heterosexual or homosexual, are not biological defined but according to these theorists are purely the result of culture and history. This for me is a bridge too far as I believe that sexual impulse is biological, however the way a person and society deals with these impulses varies over time and place and therefore is culturally constructed.⁸

What is important for this paper is that homosexuality is an ‘invented’ classification that was coined in the nineteenth century by medical writers in the German speaking world. Before 1869 there has been no mention of the word homosexuality, not to mention the word lesbian. Therefore it would be anachronistic to write about the eighteenth century and use those nineteenth century terms. Not only did the word homosexuality not exist, the concept of two men or women having a sexual relationship is a modern concept. In the early modern time there were sexual acts between people of the same-sex, however by no means were these actual relationships like you see today.⁹ Language is powerful and that was one of the points Foucault made that I think is important to remember. However strict you try to define your subject and clarify the context it is almost impossible to not use modern concepts when writing about the past. Having said that one should try to be aware of the power of language and the different meanings of words in different times. Therefore I shall not use terms like homosexual or lesbian. Sexual acts between two women or two men shall be referred to as same-sex activities or in the case of men as sodomy. The definition of sodomy will be discussed in the next paragraph as there were different kinds of definitions in the early modern times.¹⁰

⁸ C. S. Vance, ‘Social construction theory: problems in the history of sexuality’ in: D. Altman, C.S. Vance, M. Vicinus, J. Weeks and others, *Homosexuality, which homosexuality?: essays from the international scientific conference on gay and lesbian studies* (London/Amsterdam 1989) 13-34, 14, 18, 19, J. Schippers, ‘Homosexual identity, essentialism and constructionism’ in: Altman, *Homosexuality, which homosexuality?*, 139-148, 139, and J.D. DeLamater and J.Shibley Hyde, ‘Essentialism vs. Social Constructionism in the study of human sexuality’, *The journal of Sex Research* 35, No. 1 (1998) 10-18, 10, 13-16.

⁹ This vision is challenged by Theo van der Meer who states that before the second half of the nineteenth century there actually could exist more than just sexual acts between two people of the same sex: Van der Meer, *Sodoms zaad in Nederland*, 48-49.

¹⁰ Everard, *Ziel en zinnen*, 14-16.

1.3. Sodomy in the early modern period

In order to answer the main question as to why women were less likely to be convicted of same-sex offenses than men, some definitions have to be given or explained. In the case of same-sex activities and criminality in the early modern period the term sodomy is frequently used. But what does sodomy actually mean? In the modern Dutch language sodomy is described as the unnatural gratification of one's sexual drive, and more specifically sexual intercourse between a person and an animal. Secondly, it is said to be an old-fashioned term for homosexuality. However, as the early modern period is being discussed, a better question is what the meaning of the word sodomy was in the early modern period, and specifically in the Dutch Republic.

The actual word sodomy derives from the city of Sodom as described in The Book of Genesis, the first book of The Old Testament. Sodom and Gomorrah were two cities destroyed by God as punishment for their sinfulness and this sinful behaviour is often explained as describing same-sex activities: 'Even as Sodom and Gomorra, and the cities about them in like manner, giving themselves over to fornication, and going after strange flesh, are set forth for an example, suffering the vengeance of eternal fire' (Jude 1:7). In the Dutch Republic the word sodomy and the definitions given in early modern texts differ somewhat. Egbert Buys described in part nine of his 1777 dictionary sodomy as lechery against nature, that could be committed with persons of the same sex or with animals, and he added that it was especially in vogue in Italy but elsewhere was punishable with fire. According to Theo van der Meer sodomy in the seventeenth century included all sexual activities that were not aimed at reproduction. He cites amongst others Joost de Damhouder, a sixteenth century jurist and legal adviser. De Damhouder described sodomy as a crime against nature, committed by a man (he uses the reflexive pronoun 'himself') with himself or with another human or beast. The legal definition of sodomy was, according to Van der Meer, anal contact, either active or passive, with ejaculation in the body, and again bestiality is mentioned. One of the legal definitions originates from the 1532 *Constitutio Criminalis Carolina*, a law introduced by the Holy Roman Emperor Charles V, which was still in use in the Dutch Republic in the eighteenth century. In the Carolina the word sodomy is not used, however the act is described as an act against nature, moreover it specifies the improper behaviour: when a human commits indecency with an animal, between two men or between two women. The law does not mention anal penetration, and it mentions women specifically, unlike for example De Damhouder's definition.¹¹

¹¹ 'Dikke van Dale', *Groot woordenboek van de Nederlandse taal* (14th edition; Utrecht/Antwerpen), King James Version Bible, 'Jude 1:7' <http://www.biblegateway.com/passage/?search=Jude%201:7&version=KJV> (4 January 2013), the same verse in the Dutch Statenbijbel of 1637 is: 'Gelijck Sodoma ende Gomorra, ende de steden rontom de selve, die op gelijke wijze als dese gehoereert hebben, ende ander vleesch zijn nagegaen, tot een exempel voorgesteld zijn, dragende de straffe des eeuwigen vyers' (Judas 1:7) (Statenvertaling, edition 1637 © (transcription) 2008 Nicoline van der Sijs, <http://www.biblija.net/biblija.cgi?m=judas+1%3A7&id43=1&l=nl&set=10>) the translation in English is the same as the King James Version, therefore I chose to quote the English King James Version of 1611; Van der Meer, *De wesentliche sonde*, 16 and E. Buys, *Nieuw en volkomen woordenboek van konsten en weetenschappen: bevattende alle de takken der nuttige kennis ... Alles verzameld uit de beste schryvers in alle taalen, en met een ménigte van nieuwe artykelen vermeerderd IX* (1777) 564, <http://books.google.nl/books?id=ZUKDAAAAMAAJ&printsec=frontcover&dq=Nieuw+en+volkomen+woordenboek+van+k>

In the early modern period there was not one fixed definition of sodomy. In the narrowest sense it only meant active anal penetration between two men. Other meanings however included sexual activities with animals or women, with or without penetration, or simply meant sexual activities that were not intended for reproduction. Because most sources assume sodomy only refers to men, I will use the term only when male same-sex activities are being discussed. However, when researching female same-sex convictions in eighteenth century Dutch Republic it is important to know if these female same-sex activities were seen as sodomy. In order to being convicted there has to be a crime and if female same-sex activities were not being seen as a crime than there will be no convictions. In the next chapter the grounds for conviction will be discussed further, but first I will answer the question why the term sodomy is important.

1.4. The 1730 Notice of the States of Holland and West-Friesland

On the 21th of July in 1730 the States of Holland and West-Friesland published a notice with respect to the crime of sodomy. The notice was to be published and circulated throughout the provinces and it appeared for example in a local newspaper in The Hague. The notice started with the statement that they had become aware of the fact that in the lands of Holland and West-Friesland there were subjects that had committed outrageous horrors against nature. In the past these horrors had led God to destroy Sodom and Gomorra, and therefore it had never been expected that these horrors would ever occur in the lands of Holland and West-Friesland. For that reason the States had never made any laws against this detestable crime of sodomy but now would attempt anything to eradicate this Heavenly taunting sin and crime and prevent the wrath of God and the destruction of their lands.¹²

The authors then explained the purpose of the notice: they wished to provide laws to eradicate this horrible evil and to achieve this they enacted six orders. Firstly they stated that from now on the crime of sodomy would be punished in public for everyone to witness. Secondly that the crime of sodomy would be punished by death, however judges had to determine what kind of death and if there were circumstances that influenced the sentence. The third order was a little bit less clear as it dealt with those who had debauched or seduced others to commit sodomy, even if it was not entirely sure if a person himself had been guilty of defiling himself, they should still be punished with death. The authors then continued with the order that the bodies of the executed criminals should be either burned to ash immediately after the execution, thrown in the sea, hung in the gallows field or to be publicly

onsten+en+wetenschappen+9&hl=nl&sa=X&ei=R-zmUIXuGenK0AWXuoHICA&ved=0CDkO6AEwAA#v=onepage&q=sodomie&f=false (4 January 2013); Van der Meer, *Sodoms zaad in Nederland*, 47, 74-78, 155; Wikisource, 'Keyser Karls des fünfften: vnnd des heyligen Römischen Reichs peinlich gericht ordnung (1532) (version 9 Februari 2010)', http://de.wikisource.org/wiki/Keyser_Karls_des_f%C3%BCnfften:_vnnd_des_heyiligen_R%C3%B6mischen_Reichs_peinlich_gerichts_ordnung art. 116 (6 Januari 2013) and L. Crompton, 'The Myth of Lesbian Impunity: Capital Laws from 1270 to 1791', *Journal of Homosexuality* 6 No. 1/2 (1980/81) 11-25, 18.

¹² Koninklijke Bibliotheek, Historische kranten, "s Gravenhaegse Vrydaegse Courant (28 July 1730)", <http://kranten.kb.nl/view/paper/id/ddd%3A010725814%3Ampg21%3Ap001%3Aa0003/layout/fullscreen> (8 January 2013) and Het Rijksmuseum, 'Plakkaat van de Staten van Holland en West-Friesland over de wetgeving omtrent sodomie, 1730, Paulus Scheltus (I)', <https://www.rijksmuseum.nl/nl/collectie/RP-P-OB-83.664> (8 January 2013).

displayed. In the fifth and sixth orders the authors dealt with fugitives whose verdict should be printed and displayed. Furthermore all authorities in cities and towns would be authorized to meticulously investigate the absence of certain persons from their jobs or homes without reason, as they had wilfully made themselves suspect of sodomy. When the authorities were not able to find reasons that would explain the clandestine absence of these persons, the absentees should be summoned to account for their suspected absence. If a person was not able to account for his absence he would be banished from the Province.¹³

Why is this notice important? Before 1730 it was thought that the crime of sodomy did not exist in the Dutch Republic. It was thought to be a Catholic aberration and a *crimen nefandum*, the abominable and unmentionable crime. When cases of sodomy were discovered they were dealt with in secret so as to keep the public in the dark. Even the death sentences were executed in secret. After the notice was published the crime was no longer unmentionable and the entire Republic was aware of the illegality and consequences of sodomy. It is not the case that the inhabitants of the Dutch Republic did not know what sodomy was, or thought that sodomy did not exist in their environment as Theo van der Meer has shown that the public was acquainted with sodomy before 1730. The big change was the openness about the crime. The notice was a public warning to all inhabitants that sodomites would be punished and executed in public. Moreover it was a starting point for jurists and clergymen to start writing about sodomy as the protestant ministers Leonard Beels in 1730 in ‘*Sodoms Sonden en Straffen*’ and Henricus Carolus van Byler did in 1731 in his ‘*Helsche boosheid of grouwelyke zonde van Sodomie*’.¹⁴

In the 1730 notice the crime of sodomy was not specified. It was an abominable crime and an outrageous sin, but they did not write about the crime itself. Apparently they expected that it was well-known what they meant. The authors often mentioned ‘the crime of sodomy’ or ‘the crime’, but they did not mention the sodomite himself. It is a general description of a certain crime and perpetrator and even the sex of the criminal remains unclear. Did the authorities assume that all sodomites were male, or were women also included in this general term? Either way, the term sodomy became a charged term in the 1730’s and it resulted in waves of prosecutions of mainly men. Moreover, the inhabitants of the Dutch Republic became aware of the consequences of committing sodomy. A new body of literature came into being, written by jurists and protestant ministers who drew the attention of the people to the fate of Sodom and God’s terrible judgement. In the literature women were sometimes included in the term sodomy, but often excluded. However, women sleeping with other women fell at

¹³ Koninklijke Bibliotheek, Historische kranten, "s Gravenhaegse Vrydaegse Courant (28 July 1730)", <http://kranten.kb.nl/view/paper/id/ddd%3A010725814%3Ampg21%3Ap001%3Aa0003/layout/fullscreen> (8 January 2013) and Het Rijksmuseum, ‘Plakkaat van de Staten van Holland en West-Friesland over de wetgeving omtrent sodomie, 1730, Paulus Scheltus (I)’, <https://www.rijksmuseum.nl/collectie/RP-P-OB-83.664> (8 January 2013).

¹⁴ Van der Meer, *Sodoms zaad in Nederland*, 33-36, 156-158, 160 and A.J. van der Aa, *Biographisch woordenboek der Nederlanden* II, J.J. van Brederode (Haarlem 1854-55) in: De digitale bibliotheek voor de Nederlandse Letteren, http://www.dbnl.org/tekst/aa_001biog02_01/aa_001biog02_01_0348.php and http://www.dbnl.org/tekst/aa_001biog03_01/aa_001biog03_01_1060.php (8 January 2013).

least in the same category as sodomites. Maybe they were not sodomites themselves, but they did commit sodomitic filthiness as the next chapter will show.

Chapter Two

2.1. Criminal cases

Starting in 1730 several waves of prosecutions of sodomites took place in the Dutch Republic however it was by no means a witch-hunt. Theo van der Meer has written extensively about these trials and the confessions that led to the discovery of sodomite-networks. It was often because of these confessions that sodomites were arrested, and not due to an active hunt down by the authorities. The same can be said for the prosecutions of women. Both Van der Meer and Myriam Everard have described all cases against women from 1792 until 1811. Because these cases have already been elaborately written about I will just briefly explain the different cases.

The first case was that of Bets Wiebes, a woman from Amsterdam who was convicted for lying on top of another woman and was exiled for six years. It was because of a murder that the authorities became aware of the illegal same-sex activities of Bets Wiebes. Wiebes' female roommate, Bartha Schuurman, murdered a female friend of Wiebes, Catharina de Haan. In first instance Wiebes was a suspect for the murder, but after many interrogations and under the threat of torture Schuurman confessed to the murder and explained that she murdered De Haan out of jealousy. According to the secret confession books the jealousy stemmed from the filthy desires between Wiebes and De Haan, and between Wiebes and Schuurman. Schuurman even accused another woman, Geertruida Driessen, of having the same filthy desires, but she was not prosecuted unlike the men who were named in the confessions of 1730.¹⁵

The second criminal case against women for same-sex acts situated in 1796 and again in Amsterdam. In total four women were convicted and were sentenced to four, six and ten years in a workhouse. It started with the arrest of two women, for unclear reasons, namely Gesina Dekker and Willemijntje van der Steen. In the interrogation of Dekker she told the authorities that after leaving her husband she moved in with Van der Steen. According to Dekker women on regular occasions visited the house and engaged in sexual activities. In her confession she named three other women: Pietertje Groenhoff, Engeltje Blaaupaart en Doortje Vreedenburg. Of the three women both Groenhoff and Blaaupaart were arrested and convicted. Both Everard en Van der Meer conclude that the severity of the sentences (Dekker six, Van der Steen ten, Blaaupaart six and Groenhoff four years) was the result of the suspicion that the house of Van der Steen was a brothel.¹⁶

The next instance of a same-sex related prosecution was the conviction of Christina Knip to twelve years in a workhouse. She was arrested in 1797 and accused by a couple of having raped their daughter with a dildo. The city surgeon corroborated that the fourteen year old Maria Boek indeed had been raped and Knip was convicted. In the same year there was another court case against a woman,

¹⁵ Van der Meer, 'Tribades on Trial', 424, 427, 428 and Everard, *Ziel en zinnen*, 137-141.

¹⁶ Van der Meer, 'Tribades on Trial', 428, T. van der Meer, 'Evenals een man zijn vrouw liefkoos. Tribades voor het Amsterdamse gerecht in de achttiende eeuw', in: G. Hekma, D. Kraakman, M. van Lieshout en J. Radersma (ed.), *Goed verkeer : een geschiedenis van homoseksuele mannen en lesbische vrouwen in Nederland* (Amsterdam 1989) 35, 36 and Everard, *Ziel en zinnen*, 141-143.

Anna Grabout, for indecent behaviour towards some of her female neighbours. Six of Grabout's neighbours accused her of vocally and physically harassing them. One of the women told the authorities that Grabout had, against her will, 'loved' her like normally a man loves a woman. Other statements mostly described how Grabout had made sexual comments about and to the women. Grabout was convicted, however only got a light sentence: two years in the correctional section of the New Workhouse.¹⁷

So far that makes seven convictions. The last criminal case resulted in five more arrests for unnatural filthy activities. This case started with Anna Schreuder and Maria Smit being caught by their neighbours. Through a crack in the wall Sara Wydouw and Neeltje Daal saw their neighbours Schreuder and Smit, half naked and on top of each other, engaging in certain sexual activities that normally only happened between men and women. More neighbours were brought in and after spying on Schreuder and Smit for a while they finally shouted at them if they hadn't had enough yet. The neighbours broke in the house and went in search for some evidence. Besides Schreuder and Smit they also found two other women: Anna Schierboom and Anna de Reus, however they did not find any other evidence. The neighbours then turned on the women who fled the house because they feared for their lives. Schreuder, De Reus and Schierboom were relieved by the night watch, after which Schreuder implicated herself and De Reus (Schreuder's own mother) by admitting to certain sexual activities. Only Schreuder and Smit were actually convicted and both were sentenced to five year in the workhouse. The other three women who were named, De Reus, Schierboom and a Catrina Mantels were reprimanded but not convicted.¹⁸

Between 1792 and 1798 there were, as far as we know, five trials against twelve women who were accused of same-sex activities of which nine were convicted and sentenced to the workhouse. In the 1796 case a thirteenth woman, Doortje Vreedenburg, was implicated but no legal action was taken against her and so she is excluded from this research. What were these women accused of and how did the authorities justify their sentences? Was there any mention of sodomy? These questions will be answered in the next paragraphs.

2.2. Administration of justice in eighteenth century Dutch Republic

Law in eighteenth century Dutch Republic was decentralized and rather complex. Each province, region, and sometimes even a city, had their own law and administration of justice, moreover legislation was based on all different kinds of documents. On the one hand were the secular sources a province or city could consult: Roman law, the aforementioned *Constitutio Criminalis Carolina* of 1532, legal observations or treatises of contemporary jurists and of course they could enact their own

¹⁷ Van der Meer, 'Tribades on Trial', 429, 432, Van der Meer, 'Evenals een man zijn vrouw liefkoost', 36-38 and Everard, *Ziel en zinnen*, 143-146.

¹⁸ Everard, *Ziel en zinnen*, 146-148, Van der Meer, 'Evenals een man zijn vrouw liefkoost', 39, 40 and Van der Meer, *De wesentlijke sonde*, 145, 146.

laws like the State of Holland did in 1730. On the other hand there were the religious sources judges could use to determine if an act was against the law. Most commonly Mosaic Law was used and especially in the Calvinist parts of the Dutch Republic the bible was obviously very important.¹⁹

As to the administering of justice, till 1795 there were the ‘schout and schepenen’, the first responsible for law and order and functioning as public prosecutor, the second were magistrates in a court of law. The ‘schout’ would investigate a crime and interrogate suspects, sometimes with the use of torture, and would try to get a confession. When a suspect had confessed the ‘schout’ would demand a certain punishment and the magistrates court would then give a verdict. In January 1795 the Dutch Republic underwent a revolution and became the Batavian Republic. Followers of the House of Orange were no longer in control as patriots from then on called the shots. The Batavian Republic was a ‘sister-Republic’ of France and the French influence was clearly present. With the Batavian Republic there came about a secularisation. The new National Assembly had the task to regulate the separation of state and church, moreover they were given the assignment to prepare a constitution. Because of disagreements within the National Assembly about the reforms the first constitution did not crystallize until 1798 when the ‘Staatsregeling’ was introduced. There was a lot of resistance against this constitution and was replaced in 1801 after another coup d’état.²⁰

One of the consequences of the new authorities was the disappearance of the magistrate’s court and the introduction of a committee of justice. Secondly the function of the ‘schout’ was changed. Instead of the one ‘schout’, there were after 1795 two people who dealt with law and order and the role as public prosecutor. The ‘maire’ became responsible for upholding law and order and a separate public prosecutor: the ‘procureur’ was introduced. The timing of these changes is interesting if you consider that the women who were prosecuted for same-sex activities, were all but one prosecuted after 1795. If this was coincidental or a direct consequence of the changes I will discuss later.²¹

2.3. Mosaic and Secular Law on female same-sex activities

So far it has been determined that till 1795 the ‘schout and schepenen’ were responsible for administering justice and after 1795 the ‘procureur’ and a committee of justice. The sentences were based on secular and religious legal texts. As we have seen in the case of male same-sex offences the Bible was one source that served as a guidebook of conduct. In the Old Testament the Book of Genesis 19 told the story of Sodom and Gomorrah and the Book of Leviticus dictated that: ‘If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them’ (Lev. 20:13). In the New Testament

¹⁹ Van der Meer, *Sodoms zaad in Nederland*, 27 and G. Hekma, *Homoseksualiteit, een medische reputatie: de uitdoktering van de homoseksueel in negentiende-eeuws Nederland* (Amsterdam 1987) 92.

²⁰ Van der Meer, *De wesentlijke sonde*, 50 and R. Aerts, H. de Liagre Böhl, P. de Rooy, and H. Te Velde, *Land van kleine gebaren: Een politieke geschiedenis van Nederland 1780-1990* (Nijmegen/Amsterdam 1999) 38-43.

²¹ Van der Meer, *De wesentlijke sonde*, 50.

people were again reminded of the faith of Sodom and Gomorrah in the Epistle of Jude (Jude 1:7). These biblical references have so far only mentioned male same-sex activities. The only reference of female same-sex activities is in The New Testament in Paul's Epistle to the Romans: 'For this cause God gave them up unto vile affections: for even their women did change the natural use into that which is against nature', 'And likewise also the men, leaving the natural use of the woman, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompence of their error which was meet.' (Rom. 1:26; 1:27). In the first verse women are mentioned, but the Epistle only briefly mentions the unnatural lust of women before focussing again on male lust.²²

In the secular laws more is to be found on women who had lain with other women, as we have already seen in the *Constitutio Criminalis Carolina* in which was to be read that those guilty of unnatural behaviour should be punished by death, and more specifically death by fire. Several jurists from the Dutch Republic followed the *Constitutio Criminalis Carolina* in their writings and, according to Theo van der Meer, included same-sex acts between women in the definition of sodomy. In Roman law female sexual misconduct was described in the *lex Iulia de adulteriis* and again the death penalty was prescribed. Or, as Louis Crompton argues, fourteenth century Italian jurists like Cino da Pistoia interpreted the *lex Iulia de adulteriis* as concerning female same-sex activities and their interpretation was later adopted.²³

In practice the authorities in the Dutch Republic relied on both secular and religious texts. It is difficult to ascertain whether or not Mosaic Law was still consulted after the official separation of church and state in 1796. The fact is that in the late eighteenth century there were debates about the use of Mosaic Law. One of the discussions was if the Notice of 1730 was still legal as it made use of the Bible. The lawyer G. J. Gales reacted in a piece against an assertion made by a Mosaic citizen that the 1730 Notice was no longer valid. According to Gales the Notice was still legal as there was no decree saying the opposite. Fact is however that all cases of female same-sex acts, except the murder case of 1792, were after the separation of church and state in August 1796. Unfortunately neither Van der Meer nor Everard mentioned the laws the judges based their judgements on so it is impossible to say whether or not religious thoughts were still used.²⁴

²² King James Version Bible, 'Leviticus 20: 13', <http://www.biblegateway.com/passage/?search=Leviticus+20&version=KJV> and 'Romans 1: 26-27' <http://www.biblegateway.com/passage/?search=Romans%201&version=KJV> (19 January 2013).

²³ Wikisource, 'Keyser Karls des fünfften: vnnd des heyligen Römischen Reichs peinlich gericht ordnung (1532) (version 9 Februari 2010)',

http://de.wikisource.org/wiki/Keyser_Karls_des_f%C3%BCnfften:_vnnd_des_heyiligen_R%C3%B6mischen_Reichs_peinlich_gerichts_ordnung art. 116 (19 January 2013) and Van der Meer, *Sodoms zaad in Nederland*, 29, 30 and Crompton, 'The Myth of Lesbian Impunity', 15, 16.

²⁴ Digitale bibliotheek voor Nederlandse letteren, A. van der Kroe and J. Yntema, *Vaderlandsche Letteroefeningen* (Amsterdam 1798) http://www.dbnl.org/tekst/_vad003179801_01/_vad003179801_01_0112.php (20 January 2013).

2.4. Trials in the late Eighteenth century Dutch Republic

A problem for public prosecutors and judges was proving that someone had committed the crime of sodomy or other unnatural sexual activities. To convict a person there had to be proven that a crime actually had occurred. This was almost impossible without a complete confession of the accused. Moreover, a confession was a prerequisite when imposing the death penalty. Incontestable witnesses were also hard to come by and some jurists argued that in the case of *crimina exepta*, that is crimes that were hard to prove, circumstantial evidence should be enough. Public prosecutors tried hard to get a confession and threatened a suspect with the use of torture, or after being given permission by the magistrate's court, actually used torture. It was from these confessions that male sodomite networks were exposed and more arrests would follow.

In the case of female same-sex offenders the burden of proof was even more difficult. There was no physical proof and the legal authorities were dependent on either a confession or on women being caught in the act. When you take a look at the criminal cases of Amsterdam that I have discussed earlier, it seems that the authorities stumbled on these crimes accidentally. In the first case Wiebes was actually a suspect in a murder case and only later on in the investigation did they discover that it was a matter of 'vuyle lusten', or filthy desires. Dekker and Van der Steen actually were suspected of 'sodomiterey', that is sodomitic acts, but it is unknown how they ended up with the night watch. Theo van der Meer has argued that their arrest had something to do with the reputation of their house as neighbours had complained about the 'visitors' of the place. In their case were a lot of statements of nearby residents and more importantly a full confession of Dekker to the 'procureur' with a detailed explanation of the ways a woman could 'use' another woman without being a man. In the confession she mentioned three other women of whom two were convicted and one was not even arrested. Blaaupaart was convicted to six years in a workhouse without a confession, a rather hefty punishment if you consider the burden of proof. This supports Van der Meer's theory that there were suspicions of prostitution and that those suspicions boosted their punishments.²⁵

The third case was in fact a rape case and accusations against Knip were made by the parents of the victim. Moreover there was physical evidence provided by a surgeon who stated that the victim showed inflammation of the vagina. Knip herself denied the rape but notwithstanding that fact she still got twelve years in the workhouse. The case against Grabout rested solely on statements of neighbours, she herself denied all allegations and the 'procureur' was denied the use of torture. Her sentence was therefore low: only two years in the correctional section of the workhouse. In the last case it was a matter of being caught in the act as Schreuder and Smit had been seen by neighbours touching each other as normally a man would touch a woman. The following riot that arose almost led to the molestation of the women and they had to be rescued by the night watch. Schreuder then

²⁵ Everard, *Ziel en zinnen*, 137-139, 142, 143, Van der Meer, 'Tribades on Trial', 428 and Van der Meer, 'Evenals een man zijn vrouw liefkoos', 35, 36.

explained to the authorities what had happened and in the process gave a full confession. When questioned by the 'procureur' she withdrew her statement but she and Smit still got five years in the workhouse. The three women who were implicated by Schreuder's statement and her neighbours got away with a serious warning.²⁶

In the eighteenth century court cases in the Dutch Republic against women for same-sex offences, the women were not necessarily convicted for sodomy. In one case 'sodomitic' activities were mentioned but otherwise there is only mention of filthy or dirty activities and desires. The women were not in the first place suspects because of suspicions of same-sex activities but were suspected of murder, rape or prostitution. In the cases that did revolve around same-sex activities from the start, women were caught in the act and confessed their crimes. In the male sodomitic cases that Van der Meer has extensively described, whole networks of sodomites were revealed as many other sodomites were named. No such networks existed in the case of the women previously discussed, however in some of the cases others got involved as they were named. This however did not necessarily lead to arrests or convictions. So far the individual cases where women were involved seem to have come about because of coincidence. This however still does not provide a satisfactory answer to the question as to why women were less likely to be convicted than men. Was it perhaps the case that people were not aware of women engaging in sexual activities with other women? Or were female same-sex acts deemed less appalling than male same-sex acts? These questions will be answered in the next chapter.

²⁶ Van der Meer, 'Evenals een man zijn vrouw liefkoos', 36-40 and Everard, *Ziel en zinnen*, 144-148.

Chapter Three

3.1. Awareness of female same-sex activities

Were people in the eighteenth century aware that there were women who engaged in same-sex activities? If not, than it would be logical that there were very little trials against women. However, this seems very unlikely as witness statements have shown that in many cases neighbours had been aware of what was going on. Everard showed that, with the exception of Grabaut, all women were from the same neighbourhood in Amsterdam: ‘de Jordaan’. Not only were they from the same neighbourhood, they lived, or had lived in the same streets. The women all lived in the poorest parts of ‘de Jordaan’, in the alleys where the population density was very high and where people lived in poor circumstances. It is therefore unlikely that neighbours were unaware of each other’s comings and goings. People lived in close proximity of each other and interestingly Everard found a newsletter that was published and circulated in the area where all accused women had lived. In an issue from July 1797 is to be read that again two women had been accused of same-sex acts, that they had been assaulted by onlookers and subsequently had to be helped by the night watch. Even more interesting is that according to the newsletter the people had shouted that they would beat them to death as it had been known for twenty years that they had been engaging in these activities, but had never been able to prove this.²⁷

In the preceding example only the lower classes were addressed. Myriam Everard has researched middle- and upper classes and came to the conclusion that people were aware of female same-sex activities. She uses the example of Maria van Antwerpen, a woman who, dressed as a man, married another woman and was eventually caught and convicted. According to Everard, her closest friends and family were aware of her transvestism, and yet did not inform the authorities. A book written about Van Antwerpen in the mid-eighteenth century described the manners in which Van Antwerpen could keep her wife sexually satisfied. The author, Kersteman, implied that sexual acts between women were not uncommon, but that they were considered whorish behaviour. In court Van Antwerpen denied any sexual acts between her and her wives (she was arrested twice), and for this she was not convicted. There was a suggestion however that she was suspected of being a prostitute or running a brothel.²⁸

A well-known phenomenon in the eighteenth century was the ‘romantic friendship’ as described by Lillian Faderman. Faderman has argued that some women in the eighteenth century lived together as if they were married, but without any sexual activity. Everard proposed a Dutch variety of this romantic friendship, a ‘zielsvriendschap’, a friendship between two women who lived together and were loyal to each other. She denies there being a ‘lesbian’ aspect in this friendship and emphasises the struggle of these women against lust. In contrast to Faderman’s romantic friend, Everard’s close friendship was not segregated from the male ‘phallogocentric’ universe, but they were

²⁷ Everard, *Ziel en zinnen*, 153, 156, 159, 169.

²⁸ *Ibidem*, 122, 127, 129-131.

well aware of lust and sexual tension that could exist between women. Their friendship and their living together as best friends, loving each other and being devoted to each other was sometimes questioned. One of the women Everard describes was known as the ‘Beemster Sappho’, which implies that she was suspected of ‘Sapphic’ love. The fact that they were not sexually involved according to Everard, is beside the point. Apparently people were aware that female same-sex acts existed and had suspicions about women without involving the authorities. Even the women who lived together as best friends and living, according to Everard, a chaste life were aware of what the outside world thought and that they had to defy them. Be that as it may, Deken and Wolff (‘Beemster Sappho’) lived together for twenty-seven years without being accused, arrested or convicted.²⁹

The final proof of awareness of female same-sex activities is to be found in literature. The Dutch-Republic was very literate and well-known for its book printing and publishing. Not only the upper classes read but according to Dutch scholars more than 70% of all married men, and almost 50% of married women were able to read. Besides the traditional religious books, there was a wide range of literature available, and even for the non-scholarly reader it was available in the Dutch language. A popular genre was that of the French erotic literature of the seventeenth and eighteenth centuries. These so called libertine novels like *Vénus dans le cloître* (1683) were published in the Dutch Republic (two editions in the eighteenth century) and were also available in Dutch. These books describe not just sexuality that has reproduction as goal, but also different kinds of sexuality, like that between two women. In *Vénus dans le cloître* for example an older nun ‘teaches’ a young nun all about sexuality. The fact that these books were well read proves that, at least literate people, knew about the possibility of women engaging in sexual activities. Obviously people knew that these practices happened, but why were there not more convictions? To find the answer to these questions we have to look at attitudes towards sexuality in the eighteenth century, and specifically the female sexuality.³⁰

3.2. Attitudes towards sexuality and gender

In order to understand the motives of eighteenth century authorities and inhabitants to not prosecute or accuse women for same-sex offences one has to look at sexuality. There must have been a difference in attitude towards male sodomites and women who committed same-sex offences, otherwise there would have been more court cases. It is not the lack of research that can explain the invisibility of female court cases as both Everard and Van der Meer studied the archives extensively. Especially Van der Meer has been thorough as he systematically studied the court archives of three cities: Amsterdam,

²⁹ L. Faderman, *Surpassing the love of men: romantic friendship and love between women from the Renaissance to the present* (New York 1981) 29, 75, 102, 125 and Everard, *Ziel en zinnen*, 42, 65, 67, 70, 71.

³⁰ J. Luiten van Zanden and T. De Moor, ‘Mensen en economie in de Gouden Eeuw’, *Leidschrift* 23, No. 2 (2008) 15-26, 20, W. Mijnhardt, ‘Op het tweede plan. Cultuur in de achttiende eeuw’, in: W. Frijhoff en M. Prak (ed.), *Geschiedenis van Amsterdam. Zelfbewuste stadstaat, 1650-1813* (Amsterdam 2005) 377-428, 383, Everard, *Ziel en zinnen*, 56, 57 and D. Haks, ‘Libertinisme in Nederlands verhalend proza, 1650-1700’, in: G. Hekma and H. Roodenburg (ed.), *Soete minne en helse boosheit. Seksuele voorstelling in Nederland, 1300-1850* (Nijmegen 1988) 85-108, 86, 88.

The Hague and Utrecht and randomly in other cities. The fact that he did not find more cases than those discussed earlier does not necessarily mean that there were not more cases. However, with the material we have today my only conclusion can be that the cases in Amsterdam appear to be the only ones, and are probably the result of local social and political circumstances. If you take those cases out of the equation you are left with a great preparedness to convict male sodomites and a lack of willingness to sue women.³¹

Randolph Trumbach argued that a new sexual system developed in North-western Europe from 1700 onwards. According to Trumbach modern Western culture started to emerge in 1700 and with it a 'distinctive pattern of family structures, sexual behaviour and gender roles.' He further described the rising of a more egalitarian family in which the man no longer owned his wife. Because of this new equality there came about a domesticity in which both man and wife lived in separate spheres. Not only that, but a woman was no longer deemed a physically inferior version of the male body. With this change there also came a change in perception of the male sodomite. Before 1700 a sodomite was a man who could have sex with both boys and women in an active role. After the change in gender roles men were no longer supposed to have sex with both boys and women. Only an effeminate sodomite could have sexual feelings for another man and he who did was called a 'he-whore'. This in part explains the persecution of male sodomites, as they no longer fit in the new male/female division. Effeminate men were seen as weak.³²

The gender system described by Trumbach has been coined by Thomas W. Laqueur, who argued that before the eighteenth century there existed a 'one-sex model' in which the female body was proof for her imperfection as her genitalia were less developed than a male's. Because a woman generated less body-heat her genitalia had remained inside the body. Activities that caused a young woman's body-heat to rise, like jumping or an active sexual life, could result in the genitals appearing on the outside. Men could become women and women could transform into men in this 'one-sex model'. Biological sex had no meaning like it does today, it was the gender that mattered, it was important that a woman behaved according to her gender. Biological sex was not absolute, if a woman showed an external 'penis' than she could behave like a man, if not than masculine behaviour was against gender rules. During the eighteenth century this 'one-sex model' changed into a 'two-sex model'. Differences between men and women became absolute and biological, there was no middle ground. No longer were female genitalia seen as the inferior and interior versions of male genitalia, but were recognized as being different. What were the consequences of this new 'two-sex model'?³³

³¹ Van der Meer, *Sodoms zaad in Nederland*, 59-62.

³² R. Trumbach, 'Gender and the homosexual role in modern western culture: the 18th and 19th centuries compared', in: Altman, *Homosexuality, which homosexuality?* 149-169, 154-157 and R. Trumbach, 'The Transformation of Sodomy from the Renaissance to the Modern World and Its General Sexual Consequences', *Signs* 37, No. 4 (2012) 832-847, 832, 833, 839, 840.

³³ T. W. Laqueur, 'The Rise of Sex in the Eighteenth Century: Historical Context and Historiographical Implications', *Signs* 37, No. 4 (2012) 802-812, 803, 804 and T. W. Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge 1990) 124, 127, 136-138, 149, 150.

First of all female orgasm was debated about as it became known that a female orgasm was not necessary for pregnancy. Apparently women were either passionless or could control their passion better than men. With this discovery sexual pleasure and reproduction were disconnected. According to Trumbach this resulted in the second half of the eighteenth century in romantic marriages based on equality. Moreover, as Laqueur pointed out, women in the course of the eighteenth century started to be seen as modest ‘creatures’, and capable of sexual restraint. A distinct separation of the two sexes gradually took place, each having their own sphere to live in, one publicly, the other privately. This modesty is seen in the example Everard used to make her point about her version of the romantic friendship. According to Everard the two ladies in question, Wolff and Deken, lived together to resist their passions and live a modest and virtuous life. Trumbach made a point in keeping with this argument as he suggested that women were more likely to marry because they wanted to prove that they were good (virtuous) mothers and not prostitutes. Apparently if a woman was not married she was under the suspicion of whoring. This must have caused some anxiety amongst women in the Dutch Republic, and especially in Amsterdam as the woman’s surplus there was higher than elsewhere.³⁴

Thus in the eighteenth century there came about a new meaning of gender and their roles. Men were not only biological males, but were supposed to act accordingly. The same can be said for women as they now were a biological different ‘species’ and had their own sphere to live in. Women were supposed to live virtuous lives, equal, but different than men and without passion. This new gender system had far reaching consequences for male sodomites. There developed the new role of the ‘effeminate sodomite’, one who did not fit in the ‘two-sex model’ and caused a lot of disapproval. He was blamed for all misfortunes in the early eighteenth century. Theo van der Meer has argued that one of the reasons male sodomites were prosecuted was that they were seen as the cause of the downfall of the Dutch Republic. Their hedonistic lifestyle had caused the wrath of God and this led to the decline of the Dutch Republic. This explains why there were so many men convicted for same-sex offences, however about women the literature is less clear. Trumbach states that for women there was not a role available as it did for male sodomites. Women who did engage in sexual activities with other women were sinful but did not lose their gender status. Moreover, Trumbach argued that in the second half of the eighteenth century because of the new perceived lack of passion in women they could now kiss each other without giving rise to disapproval. Even women behaving and dressing like men were not treated with the same outrage as effeminate men did. However, Trumbach does not explain why men did not disapprove of these women engaging in sexual activities, even though it was still seen as sinful.³⁵

³⁴ Laqueur, *Making Sex*, 150, 200, 201, Laqueur, ‘The Rise of Sex in the Eighteenth Century’, 806, 810, Trumbach, ‘The Transformation of Sodomy’, 840, 843, Everard, *Ziel en zinnen*, 68, 69 and M. Prak, ‘Stad van tegenstellingen, 1730-1795’, in: Frijhoff, *Geschiedenis van Amsterdam*, 267-305, 288.

³⁵ Trumbach, ‘Gender and the homosexual role in modern western culture’, 158, 159, Van der Meer, ‘Sodom’s Seed in the Netherlands’, 7 and Trumbach, ‘The Transformation of Sodomy’, 843.

3.3. Discussion

The problem with attitudes towards homosexuality is that even in modern science it is still uncertain why certain people react a certain way to homosexuality. It is therefore maybe too much to ask to find out about attitudes towards homosexuality in the eighteenth century. However, it is striking to me that on the subject there is quite a substantial body of literature about male homosexuality in the eighteenth century, but when it comes to women the scholars get a bit vague. Often female same-sex acts are mentioned, but the conclusions are filled with uncertainties. Trumbach developed a theory about effeminate sodomites in the eighteenth century but merely glances over the female equivalent. Laqueur described the transformation from a 'one-sex model' to a 'two-sex model' in a convincing way, but in my opinion failed to explain what the consequences were for women. Is it because there are simply too few sources to rely on, or because they genuinely do not know?³⁶

Van der Meer has tried to answer the question why women were less likely to be convicted in the eighteenth century. In *'De wesentlijke sonde van sodomie en andere vuyligheeden'* he argued that the transgressions of women were seen as less grave than those of sodomites because they simply could not commit the act of sodomy. Moreover men were punished more severely than women because they had wasted their sperm and this was not the case for women who committed sexual acts with other women. As I have tried to point out, the definition of the act of sodomy was not at all uniform and sometimes women were mentioned. Secondly by law it was illegal for woman to lie with another woman. Lastly, as we have seen, for a long period people thought that women and men shared the same genitals and that females also had sperm. Wouldn't women also waste their 'sperm' when engaging in same-sex activities?³⁷

A few years later Van der Meer observed in *'Evenals een man zijn vrouw liefkoost'* that there was not a recognisable role for women who engaged in same-sex activities. The women lacked the organisation and networks that the male sodomites did have. This is the same conclusion that Trumbach had, but again there is no explanation as to why women were not or less convicted. Van der Meer does have a theory about the reason why women were suddenly convicted for same-sex offenses in the end of the eighteenth century. According to Van der Meer with the new regime that came in 1795, there also was installed a new public prosecutor, Van Hall. He was responsible for the new wave of trials for same-sex offenses, both male and female. Making a pass at someone was now deemed enough for prosecution and moreover not only the sexual acts were considered in the verdict, but also other behaviour. This was, according to Van der Meer, the reason that now women were being prosecuted.³⁸

In the article that followed in 1991, 'Tribades on Trial', Van der Meer repeated his observations about the lack of a female network equivalent to that of the male sodomite networks. An

³⁶ J. D. Hans, M. Kersey and C. Kimberly, 'Self-Perceived Origins of Attitudes Toward Homosexuality' *Journal of Homosexuality* 59, No. 1 (2012) 4-17, 5.

³⁷ Van der Meer, *De wesentlijke sonde*, 146.

³⁸ Van der Meer, 'Evenals een man zijn vrouw liefkoost', 43.

interesting point he made is that people were not willing to go to the authorities and that they preferred to take matters into their own hands. This would obviously not appear in court records and is a possibility for the lack of trials, but Van der Meer did not further research that line of thinking. He did give a possible explanation for the lack of prosecutions: same-sex activities between women were considered erotic and therefore not punished by the male authorities. This is in my opinion too weak as I think that the religious beliefs were stronger than the influence of French libertine books. Another point Van der Meer tries to make is that because of 'phallogentric' attitudes towards sexuality, sexual acts between women were not seen as sex unless there had been made use of a dildo. Again, to me a very farfetched theory as it was illegal for women to lie with each other. Van der Meer followed with the statement that 'tribades' were 'perceived as women who misbehaved in general'. Like Trumbach, Van der Meer linked same-sex activities with prostitution. There are a lot of explanations for the trials against the twelve women mentioned before, but missing is a good reason why women were *not* prosecuted.³⁹

³⁹ Van der Meer, 'Tribades on Trial', 435-438

Conclusion

When you start researching a subject and ask questions, you always hope and sometimes expect to find clear answers. But when researching attitudes towards homosexuality in the eighteenth century and specifically why women were less likely to be convicted for same-sex offenses I lack this clear answer. Like other researchers I can only speculate as to why female same-sex activities were deemed less horrible than those of male sodomites. I find Laqueur's theories on gender very enlightening, but they have not given me the answer I hoped for. Maybe this was too much to ask as nowadays it also is still unclear why, especially men, have a more favourable attitude towards lesbians than towards gay men.

Be that as it may, what I have found is that in the eighteenth century male sodomites were increasingly prosecuted because of a changing perception of gender. The 'one-sex model' in which male sodomites could sleep with both boys and women evolved into a 'two-sex model' wherein the effeminate sodomite failed to act according to the two genders: male or female. In the case of the Dutch Republic sodomites were accused of causing the downfall of the Republic and with their hedonistic behaviour bringing down the wrath of God on them. Literature suggests that female same-sex acts were not perceived as that damaging. Maybe because women in the course of the eighteenth century became less passionate and more pious, men were not able to imagine that something sexual and passionate was going on between them. However, this is mere speculation and maybe if in future research new material is uprooted new insight will follow.⁴⁰

The problem with this subject is not just the lack of sources, but also a problem of definitions. Sodomy could mean anal penetration of a woman, man or beast, but in other cases women who engaged in sexual activities with other women were also included in the term. Moreover, in the Dutch Republic there was not one centralised law code that clearly forbade female same-sex activities. Instead eighteenth century jurists relied on all different kinds of literature, both secular and religious on which they based their verdicts. This complicates matters as circumstances could differ between two cities in the same 'country'. What a prosecutor or judge in Amsterdam deemed illegal or punishable, could be perceived as legal in for example The Hague.⁴¹

This arbitrariness seems to be one of the reasons why in the late eighteenth century women were prosecuted for same-sex activities. As Van der Meer argued, the arrival of a new zealous public prosecutor may have led to a sudden increase in female convictions. Moreover, the poor circumstances in Amsterdam, and especially in 'de Jordaan' where too many people lived in a small area, also contributed to these convictions. Because of the surplus of women in Amsterdam and the difficulty that single women had with make a living, a situation arose in which more women were vulnerable to prostitution or were suspected of prostitution. This link with prostitution has also been suggested by

⁴⁰ Trumbach, 'Gender and the homosexual role in modern western culture', 149-169, 154-157, Trumbach, 'The Transformation of Sodomy', 832-847, 832, 833, 839, 840, Laqueur, 'The Rise of Sex in the Eighteenth Century' 802-812, 803, 804, Laqueur, *Making Sex*, 124, 127, 136-138, 149, 150 and Van der Meer, 'Sodom's Seed in the Netherlands', 7.

⁴¹ Van der Meer, *Sodoms zaad in Nederland*, 29, 30 and Crompton, 'The Myth of Lesbian Impunity', 15, 16.

several scholars to be an explanation for the convicted women in the Dutch Republic. The convictions of the twelve women in Amsterdam in the late eighteenth century almost have the appearance of accidental coincidence about them. If indeed these women were the only convictions in the Dutch Republic in the eighteenth century, than you might say they were not the norm. If you then take them out of the equation, not much changed in the prosecution of female same-sex offenders. Incidentally there were convictions, but nothing as radical as with male sodomites.⁴²

I do think the answer to the main question can be found in the relation between men and women and their perceptions of gender. Maybe a further reading into eighteenth century women and their sexuality and investigating the link with prostitution more thoroughly would be helpful in getting a better insight in attitudes towards sexuality. Hopefully in the future more research will be done and this time female same-sex activities will be in the lead.

⁴² Van der Meer, 'Evenals een man zijn vrouw liefkoos', 43, Prak, 'Stad van tegenstellingen', 288, Van der Meer, 'Tribades on Trial', 438, 439 and Trumbach, 'The Transformation of Sodomy', 843.

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