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## PROBLEM SODOMIJE, NAJHUJŠEGA ZLOČINA PROTI NARAVI, OD SREDNJEGA VEKA NAPREJ

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### IZVLEČEK

*Katoliška cerkev je že od srednjega veka naprej poleg homoseksualnosti obsojala tudi sodomijo. Potem ko je žival v nenaravnem spolnem odnosu postala sotorilka, v primeru zločina sodomije ni nastopala v vlogi žrtve, ampak je bila inkriminirana in razglašena za delinkventa. Vse do 19. stoletja je veljala za odvrnitev od krščanstva, za združitev s hudičem. Zahtevana kazen za ta greh demonskega odnosa je bila preprosta: ubij človeka in žival ter s tem izbriši spomin na dejanje obeh partnerjev. Žival kot udeleženko v aktu sodomije naj bi torej ubili, sežgali in pokopali. Šolastični misleci, zlasti Tomaž Akvinski, so imeli sodomijo za najhujši greh. Ta miselnost se je zasedrala tudi v novoveško posvetno zakonodajo, ki je bila do sodomije nadvse represivna. Poleg sodomita so odslej kot sotorilko zločina na grmadi sežgali tudi žival. Zločin sodomije je ohranil religiozni značaj krivoverstva in združitve s hudičem skozi stoletja. Kot akt javnega pohujšanja so sodomijo obsojali in kaznovali tudi po reformah kazenskega prava Jožefa II. v 80. letih 18. stoletja. Odslej so sodomite kaznovali s strogimi zapornimi kaznimi. Šele na prelomu 19. in 20. stoletja je bilo slišati (tudi pod vplivom psihiatrije – Krafft-Ebing) prve predloge za dekriminalizacijo sodomije, čeprav jo je javno mnenje še vedno obsojalo, odpor proti njej pa je bil vsesplošen.*

*Ključne besede: sodomija, spolne deviacije, nenaravni odnosi, krivoverski zločin, kazensko pravo, kaznovanje*

## IL PROBLEMA DELLA SODOMIA, A PARTIRE DAL MEDIOEVO IL PIÙ GRAVE DELITTO CONTRO NATURA

### SINTESI

*Sin dal medio evo, la Chiesa cattolica, oltre all'omosessualità, condannava anche la sodomia (zoofilia). Dato che l'animale diventava corresponsabile di questo rapporto sessuale contro natura, non era visto come una vittima, ma incriminato e proclamato delinquente. Sino all'Ottocento la zoofilia era reputata un rifiuto del cristianesimo e un accoppiamento con il diavolo. La pena per questo peccaminoso rapporto demoniaco era una sola: uccidere sia l'uomo sia la bestia, cancellando ogni traccia di quello che avevano commesso. L'animale, corresponsabile di quell'unione, era ucciso, arso sul rogo e poi sepolto. Per gli scolastici, specie S. Tommaso d'Aquino, la zoofilia era il peggiore di tutti i peccati. Un pensiero che rimase anche nella legislazione secolare dell'età moderna, a sua volta estremamente repressiva nei confronti della zoofilia. Oltre allo zoofilo, finiva così sul rogo anche l'altro corresponsabile e cioè l'animale. Il delitto di zoofilia mantenne, attraverso i secoli, il suo carattere religioso eretico e di accoppiamento con il demonio. Quale atto di oscenità pubblica, fu punito anche dopo la riforma giuseppina del diritto penale degli anni 80 del XVIII secolo. Da allora in avanti gli zoofiti furono condannati a lunghe detenzioni. Appena a cavallo fra Ottocento e Novecento si fecero strada le prime proposte (anche su influenza dello psichiatra Krafft-Ebing) di decriminalizzazione della zoofilia, nonostante l'opinione pubblica rimanesse, in generale, molto ostile verso questa pratica*

*Parole chiave: zoofilia, deviazioni sessuali, rapporti contro natura, crimine eretico, diritto penale, punizioni*

## THE "WORST CRIME AGAINST NATURE": A LOOK AT BESTIALITY BEGINNING IN THE MIDDLE AGES

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### SUMMARY

*As early as in the Middle Ages, the Catholic Church condemned, besides homosexuality, bestiality, on the basis of the fact that sexual intercourse with animals had already been resolutely prohibited by the Bible. In the Early Middle Ages bestiality was equated with homosexuality, which not only led to stricter punishments but also*

might have influenced a change in attitude of people toward animals. Instead of being considered "inanimate, irrelevant objects", animal partners became equal partners in an "unnatural" relationship, similar to the homosexual relationship – that of two partners at the same level. Until the 19<sup>th</sup> century bestiality was considered a deviation from Christianity, the unification with Satan. In the 12<sup>th</sup> century people grew more scared of demons and it seemed that male and female demons (incubi and succubi) were everywhere, trying to seduce women above all, but also, at times, men. It was believed that a demon-devil creature could conceive a child.

The greatest Scholastic, St. Aquinas, besides St. Augustine the supreme authority concerning sexual morality up to the present day, considered bestiality to be the worst and the most bitter sin of all unnatural sins.

One of the first codifications of the penal law and process on Slovene soil – at the Ljubljana maleficent office of Emperor Maximilian in 1514 – does not include the crime of bestiality. However, the heretic sin of bestiality is included in the *Constitutio Criminalis Carolina* (1532), regional court orders and the *Constitutio Criminalis Theresiana* (1769), valid for all Austrian hereditary regions. These penal codes determined that whoever 'lost control' over an animal be burnt on a stake together with his animal partner.

The crime of bestiality preserved its religious nature of heresy and unification with Satan throughout the centuries. In the 1780s, Joseph II declared it to be a political crime punishable by strict imprisonment and public service; so did the legislation of the first half of the 19<sup>th</sup> century (in accordance with a penal code from 1803, bestiality was punishable by imprisonment of six months to one year). A crucial constituent determining the legal practice of that time was that bestiality was considered to be an unnatural sexual activity causing public corruption. A penal code from 1852 punished the perverse "defilement against nature with animals" even more strictly – with laborious imprisonment from one to five years. In the transition period between the 19<sup>th</sup> and 20<sup>th</sup> centuries, the first proposals to decriminalize bestiality were put forward. Nevertheless, public opinion was still condemning bestiality and resistance to it was general.

*Key words: bestiality, sexual deviation, unnatural relationship, heretic crime, criminal law, punishment*