

**Leslie J Moran, *The Homosexuality of Law*, Routledge, London
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This work is another example of the innovative legal scholarship that has been inspired by Foucault's reflections on sexuality and power in the modern West. From this perspective, the legal rules and institutional practices of the law and criminal justice systems do not simply operate to repress disadvantaged social classes and groups which are pre-given. As an instrument of power, the law operates by a more complex means of creative regulation and discipline. Like medicine and psychiatry, legal discourse often encapsulates what queer theorists now refer to as the fundamentally 'minoritizing' logic of most contemporary thought about human sexuality.

Moran follows Foucault's genealogical method of research so as to examine a range of English legal texts, statutes and trial records for discursive representations of male homosexuality. He argues that the 'homosexual' in law does not refer to a particular identity or even a particular sexual act, but a whole set of shifting representations over time. The privileged pronouncements about sexuality that are inscribed in the law are often absurd and archaic, but also rich in mixed connotations. Aspects of the silence of the law in regard to homosexuality, accompany some examples of a remarkable incitement to discourse. Buggery was long held to be an unnamable horror in law, but only such that it became a broad metaphor for evil and then sometimes signalled an 'exceptional and extreme pathological individual' (p 24).

Buggery was also alluded to as the 'infamous' or 'abominable' crime in modern statutes, though no such moral language was invoked in regard to either the murders or rapes that it was usually placed between in terms of gravity. Moran's survey of old archival material concludes with the observation that,

... this archaic term has symbolised and legitimated practices of official terror that have embodied fear and give voice to hatred in and through the practice of law (p 31).

The author moves on to argue that this juxtaposed silence and incitement to discourse and a sense of deep horror regarding same-sex behaviour, underlay more recent debates and reform initiatives regarding the law and homosexuality. Most notably, the Wolfenden Committee which in the 1950s inquired into homosexuality and prostitution in England and Wales, reflected this ambivalence. This body appeared to rely on expert accounts of sexuality and to make a humanitarian liberal recommendation in favour of the partial decriminalisation of adult homosexual acts. But in so doing it actually intended that legal and medical authorities would contain, treat and finally 'silence' male homosexuality. Although the Committee's aims appeared to be progressive and informed by a type of science, the final confused official response which took legal form in the *Sexual Offences Act (1967)* newly affirmed the link between 'homosexuality' and the old irrational fears of buggery.

The detailed evidence gathered by this inquiry is some of the most illuminating material in this book. Its experts (including forensic and prison psychiatrists) struggled to generate solid sexual taxonomies against the backdrop of post-Kinsey evidence of situational homosexuality and diversity in male sexual practice. This detail will invite comparisons in the minds of critical readers who have recently witnessed Australian legal authorities wrestle with definitions of homosexuals, gays, paedophiles and sexual abuse, and selectively accord expert status to some professional commentators. Those who are unsure of what

Moran means by the discursive production of 'the homosexual body', will also feel a lot wiser when they read the remarkable historical material on the interviewing and physical examination of homosexual suspects.

The most interesting of all the empirical evidence unearthed for this work is the case material which reflects the obsessive lengths that police have routinely resorted to in the surveillance of homosexual activity. This often takes the form of 'trawls' which map large networks of men by relying on police deceit and some emulation of the blackmailer's tactics, and which are often remote in outcome from the original or ostensible purpose of investigations. Here policing might be best understood as an apparatus for producing an ever-greater quantity of discourse about (homo)sexuality. Together, the technologies on display in this example -the arts of observation, questioning, listening, formulating and recording - work to produce a specific object for the law: homosexuality and homosexual behaviour (p 25).

Most commonly of all, this elaborate surveillance surrounds homosexual activities in public toilets and often results in criminal charges of indecency. Moran uses Laud Humphrey's controversial study of sexual activity in American 'tearooms' to illustrate that social interaction in these venues takes a particular nuanced pattern (including acceptance of the voyeurism of the 'watchqueen') which allows police to easily induce sexual advances by presenting themselves as passively involved parties.

Humphrey's approach has been outmoded by later research on public sex activity, and contemporary gay sociologists are now amused by his original efforts to desexualise his presence in tearooms with an exaggerated stress on the role of the watchqueen and his own adherence to it. Nevertheless, Moran presents material that will prompt his readers to reflect seriously on the curious mix of homophobia and a particular fascination with homosexual activity that are signalled by the pattern of such police activities and courtroom outcomes.

Similar thoughts will follow from reading his account of the public trial and demonisation of gay-male SM practitioners at the conclusion of Operation Spanner in the late 1980s. The intriguing judicial remarks in this trial reflected unease with the disturbing 'proximity' of consensual sexual activities which drew prison sentences, and those forms of everyday homosocial violence which are often condoned by the law and are a valued means of attaining hegemonic masculinity.

For the general reader, the main drawbacks of this book are its rather jumpy history and too much convoluted prose. We are not likely to ever see a popular safe-sex campaign that targets 'men who have genital encounters with other men as homosexual'. Sometimes the focus on textual analysis and representations in official discourse underplays the importance of wider historical and sociological elements that impinge on the issue at hand. The increased harsh policing that followed the 1967 reforms and later mixed successes for British gay and lesbian activists, do reflect some of the contradictions of legal discourse. But other factors like varied but mostly weak levels of social movement mobilisation, fragile political alliances, shifting divisions within agencies of the State and the broader impact of local and national traditions of homophobia need detailed consideration. These features will not detract from the reader interest that will derive from the interesting empirical material and overall approach of this work. It comprises a valuable contribution to the growing scholarship on law and sexuality.

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