

Sex and the Law

FPA Health

Redfern Legal Centre Publishing (2006)

160 pp, including index

ISBN 0 94720 595 0

FPA Health/Family Planning NSW and the Redfern Legal Centre have collaborated to produce a handy reference guide for community workers and health professionals working in the areas of sexual and reproductive health in New South Wales. The book is quite a small volume (A5 and ~150 pages), easily accommodated on a desktop or office bookshelf. The generous layout and large print are clear and legible. There is a comprehensive index, a detailed Contents page, useful references including the legislation referred to in the text and a short glossary of legal words and phrases. There is also a helpful list of 'Contact Points' — names, addresses and phone numbers of relevant social, legal and health support services.

The book deals succinctly with a wide range of medico-legal issues under the major headings of 'Treatment', 'Consent', 'Reproduction', 'Sexual Health' and 'Sexuality and Sexual Offences'. Matters discussed range from the law of negligence, legal competency and the age of consent, to adoption, sexually transmissible infections (STI) and domestic violence. Subsections deal with related, but not strictly legalistic, topics that add to the general scope and value of the book. For example, 'Sexual Health Issues' includes a brief discussion of breast and cervical cancer screening programs, with definitions and recommended test intervals etc. This section includes comment on prostate and testicular cancer for which routine screening is not provided in New South Wales.

The authors successfully set out potentially complex issues in clear, jargon-free prose. They resort frequently to dot-point presentations for clarity without losing the flow of their discussion. Most subjects are dealt with over one or two pages under bold subheadings, which makes it easy to locate and identify topics of interest. Matters requiring a little more detail, or of special importance are highlighted in boxes. Several case studies are presented to illustrate how particular matters such as the 'duty of care', 'ownership of medical records' and 'consent' on behalf of minors or incapacitated adults, have been handled in the courts.

A few minor quibbles caught my eye as I was reading the book. A list of 'common STIs' includes hepatitis C, which is primarily a blood-borne infection and rarely sexually transmitted. In the same sentence, the listing of 'HIV and AIDS' (instead of the more usual 'HIV/AIDS') implies these are two separate conditions.

Sex work is only briefly referred to in the book. This is appropriate because it has been largely decriminalised in New South Wales. However, given the stigma and community ambivalence that still attaches to sex workers, I think it would have been of value to stress that these people have the same legal protections against sexual harassment, assault and rape and rights to the protection of their confidentiality etc. as any other workers in New South Wales. It is also unfortunate that, although it is mentioned in the text, there is no 'Contact Point' reference for the Sex Workers Outreach Project (SWOP), which is a well resourced, active and separately located branch of the AIDS Council of New South Wales (ACON), staffed by people with a good grasp of sex-industry-related legal issues.

Presumably because of the inevitable delay between writing and publishing, the email and internet addresses for Sydney Sexual Health Centre and the Albion Street Centre are already out of date following the recent Health Area amalgamations.

Overall, this small book is a useful, quick reference volume for health professionals working in sexual and reproductive health in New South Wales. It offers a readily accessible and de-mystifying explanation of laws relating to day-to-day clinical experience and its handy size and user-friendly approach should permit easy consultation and quick referencing even in busy clinic settings — a valuable addition to any medical or community health library.

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Ex-Gay Research: Analyzing the Spitzer Study and Its Relation to Science, Religion, Politics, and Culture

Jack Drescher, Kenneth J. Zuxker (Editors)

Haworth Medical Press (2006)

Hardcover, 352 pp, including index

ISBN 560235576

I found this book surprisingly engaging, particularly given that my eyes initially glazed over at the thought of reading a book on research analysis. It reminded me at times of reading a mystery novel where each chapter explores another twist in an unexpected plot. There are many complex

and highly emotive areas that 'Ex-Gay Research' explores by a wide variety of authors. Fascinating and complex interactions are explored on many levels with areas including science, politics, sexuality, sexual orientation, religion and culture.

According to Spitzer, his research evidence strongly suggests that some people are able to modify their sexual orientation through using 'reparative therapy.' His subjects were largely from a fundamentalist Christian belief system. 'Ex-Gay Research' was published in the shadow of the blaze of controversy that Spitzer's work was almost guaranteed to generate. The 'ex-gay' movement publicly used the results as validation of their perspective and methodologies. Some gay groups expressed much concern about the potential damage that this validation could lead to for people who embark on 'reparative therapy'. Many health professionals also voiced their great concern given the climate of general psychological opinion that homosexuality is not a disorder. It is well known that many international professional associations for psychologists state that 'reparative therapy' should not be attempted given the potential damage that it can cause for individuals. Most authors in this book offer important insights into these matters and it is a welcome change to the endless barrage of heavily biased rhetoric.

The subject matter of the malleability of sexual orientation, including bisexuality, and the myriad of other areas of deep significance these issues relate to could be discussed in endless tomes. However, after reading 'Ex-Gay Research', I felt as though some of the more profound issues were well covered. Along with some compelling insights, as would be anticipated, most authors also pose more challenging questions than provided answers. Perspectives range from authors who accept the research on face value and offer some rather interesting conclusions, to those who deconstruct and criticise the fundamental tenets on which Spitzer's research is based. This includes questioning Spitzer's research methodology and one author even asked whether the research should have even been published. This was startling to me given that this man is such a heavyweight in the scientific and academic arenas.

One of the issues I found particularly intriguing is the history of Spitzer, who seems to be quite a fascinating character. In the 1970s he was in the public spotlight for being quite influential in the process of removing homosexuality from the domain of a psychological disorder in the Diagnostic Statistical Manual. To go from this, to now being a person often quoted by ex-gay fundamentalist Christian groups as justification for their perspectives leads me to imagine there is a potential screenplay in here somewhere.

Other fascinating paradoxes are woven through the pages of this book. There are many positive comments regarding Spitzer's research, including that he seems to go deeper than other similar research into sexual orientation analysis. Spitzer has also made the tapes and other data of the research available

the scientific community, which demonstrates a refreshing level of transparency. However, at the same time there appears to be some major very obvious blind spots, including that the majority of participants are from a largely fundamentalist Christian population. Evidence suggests that self-report can be affected by self deception, especially if there is some level of cognitive dissonance, such as having a strong fundamentalist Christian belief system and a homosexual orientation. Spitzer does not explore glaringly obvious issues such as this. The other interesting omission in his research was to adequately define 'reparative therapy'.

The subject matter has relevance to me personally given my experience in the 'ex-gay' ministry. Prior to giving up fundamentalist Christianity for lent in my mid-20s, I was a co-leader of the Melbourne Chapter of Exodus International. This is a well known 'ex-gay' ministry that has 'Chapters' in many countries of the world. I saw firsthand the impact of 'reparative therapy'. I was in fact subjected to this form of therapy in several forms, as were many in our group. I also spent much time publicly espousing the 'truths' and 'potential' given the neo-Freudian theoretical underpinnings of the therapy. Underneath the speeches and overt optimism, my experience of this therapy was like being counselled to turn my skin black. It was tortuous and futile. These days I see more benefit in having black skin than I would to have my sexual orientation modified. I am sure that my partner would also agree with this. My lesbian ex co-leader who remains a very close friend is also in a very loving same-sex relationship, so for us, reparative therapy has not been particularly successful. I remember well the 'success stories', men with wives and children in tow, who we would parade past our hopeful participants. They would often tell me in a moment of rare self disclosure or a drunken stupor about the intense internal dissonance they felt from what they would tell the world versus their internal experiences. Although my experiences are not objective clinical data, date from a long time ago, and are certainly based on a very small sample size, I sadly hear more recent echoes of our experiences today from others who have been through these types of programs.

It is a welcome and refreshing opportunity to have the issue of sexual orientation malleability deconstructed and picked over by so many learned people. It is potentially treacherous territory on almost every level, but absolutely worthy of objective research and debate.

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Barebacking: Psychosocial and Public Health Approaches

Perry N. Halkitis, Leo Wilton and Jack Drescher (Editors)
The Haworth Medical Press, New York (2005)
Paperback, 173 pp
ISBN 0789021749

Unprotected anal intercourse (UAI) happens and has always happened. People are only human. Counsellors, nurses and to

doctors who provide services for homosexually active men are very familiar with and are largely sympathetic to the client who

admits an episode of UAI when he was 'carried away' in the heat of the moment, was too 'out of it' to take precautions or who couldn't find a condom when he needed one. We understand these all-too-human situations. There's not much difficulty for most of us in going a little further. We accept that UAI often happens as the result of more-or-less rational decision making, for example when two HIV-negative partners or even two HIV-positive partners decide to give up using condoms – the 'negotiated safety' strategy. A little more controversial is the situation where an HIV-positive man decides he will have UAI, but only ever as the receptive partner with an HIV-negative or unknown status partner – the circumstance graced with the somewhat clumsy term 'strategic positioning'. We are not entirely comfortable with these retreats from 100% condom use, but we have grown to accept them as we have grown to accept other harm-reduction measures in the face of the HIV pandemic, like methadone maintenance and needle and syringe programs. In any case, gay men have apparently always taken these calculated risks, even in the early years of the HIV epidemic before they had the licence to pass them off as negotiated safety or strategic positioning, as evidenced by Brett Tindall and coworkers' paper in the *Med J Aust*, looking at a cohort of Sydney homosexual men in 1987.¹

Now barebacking has come on the scene. A new subculture of barebackers has emerged in the gay community. If they trust us and are comfortable with us, some of our clients will admit to barebacking or to regarding themselves as barebackers. We don't know quite what to make of this, but we know we don't like it. We can't stomach that rational, intelligent, informed men would engage in UAI as an intentional, deliberate, premeditated act – that they would knowingly court HIV infection for themselves, or recklessly risk transmitting the virus to their sex partners. Yet that seems to be exactly what is happening. There are websites for those interested in barebacking that explicitly reject safer sex and threaten users with expulsion if they mention safer sex in their online personal ads or profiles. There are barebacking parties advertised online where condoms are banned and indeed where receptive UAI with multiple partners, with ejaculation in the rectum, for some participants is an accepted feature of the proceedings. From a public health point of view, we might hope that barebackers are mostly people already and knowingly HIV-positive, where the risks are then confined to acquisition and transmission of STIs and the potential for HIV superinfection. If that were the case, the barebacking culture, though bad enough for HIV-positive men's health, would not be responsible for further transmission of HIV infection in the gay community. Unfortunately, although there is some evidence that barebackers are more likely to be HIV-positive men than HIV-negative men, it seems clear that an unknown proportion of HIV-negative or untested men (status unknown) describe themselves as barebackers.

Of course there is a fine line between barebacking and strategic positioning and there are many unanswered questions about the phenomenon. That's why this new book on the subject is welcome. The book was co-published simultaneously alongside the *Journal of Gay & Lesbian Psychotherapy, Volume 9, Numbers 3 and 4, 2005*. The book explains that research to date has not been extensive and lack of an agreed and accepted definition of barebacking has made comparisons

between studies difficult. For example, the prevalence of this behaviour among gay men is as yet uncertain. In New York City, a study published in 2003 indicated that 86% of 518 gay men were familiar with the term barebacking. The term was not defined in this study and 46% of those familiar with the term said they had barebacked in the past 3 months. A study in San Francisco in 2002 found 70% of 554 men interviewed had heard of barebacking. The term for this study was defined as intentional UAI with a non-primary partner and only 14% of the men who were familiar with the term reported engaging in this behaviour in the past 2 years.

Writers of chapters in the book are predominantly psychologists (including Dr Michael Ross, an Australian now working at the University of Texas), although a psychiatrist, a psychotherapist and the Chief and Acting Chief of the HIV Prevention Research Branch from Centers for Disease Control and Prevention, Atlanta, GA also make a contribution. The focus is therefore predominantly psychosocial rather than medical and inevitably has a North American and mostly USA slant. However, the writing is jargon free and mostly readily accessible. Because the internet is so intimately involved in both the development of the barebacking subculture and its promulgation, the information provided about barebacking in the book is probably as relevant to Australia as it is to the USA. Gay men online are very much part of a global village.

The book provides some plausible insights into reasons for the barebacking phenomenon. It outlines the brief history of its appearance over the past decade. It explores the contribution of the internet to the practice and looks somewhat sketchily at barebacking in African-American and Hispanic men. Most importantly, in the last three chapters it provides helpful and practical advice for all those professionals dealing with gay and homosexually active men in this barebacking age. In particular, the twelve guidelines from TalkSafe in New York City on pages 122–6 seem to me eminently sensible and worthy of incorporation into our daily practice.

The overall tone of the book is refreshingly sex positive, despite its dealing with a topic that must inevitably raise strong sex-negative feelings in health professionals. Michael Shernoff, a New York City psychotherapist, quotes Forstein (2002) in the final chapter (page 151): 'When we discuss the issue of sexual risk-taking behaviors – particularly in a marginalized, outlawed group, such as gay men – it is imperative to see the historical and cultural forces at work in shaping dynamic understanding of such behavior. No gay man grows up immune to the insidious and overt messages that his sexual desire is in itself fundamentally wrong and unacceptable'. Some may think this overstated in this day and age. But in Bush's America and Howard's Australia at least, his last sentence rings true – witness the gay marriage debate and our federal government's Herculean efforts to go out of their way to legislate against gay marriage. What sort of message does this send young gay men about the legitimacy of their sexual desires?

There are some irritating typos and other editing mistakes in the book – it appears to have been put together hastily in order to be published at the same time as the Journal edition. An otherwise excellent chapter by Shidlo, Yi and Dalit from TalkSafe, New York City fails totally to explain (for me) how they evaluated the construct validity of their 41-item 'Unprotected

Anal Intercourse Attitudes Inventory'. This is probably entirely because I do not understand exploratory factor analysis (PCA). But for a publication like this, there is some responsibility placed on authors to make specialised methodology clear to a general readership and in my view they have not done so.

Finally, what of barebacking in the heterosexual population? The only mention in the book is found in the final paragraph of the Introduction and is so brief as to be merely a motherhood statement. It is noteworthy that unsafe sex between men and women is not thought of as barebacking, and it is hardly ever called by this name. Indeed we health professionals look on unsafe sex in the heterosexual population in Australia with considerably more leniency than we look at unsafe sex in gay men. There is a reason for this of course, because of the hugely different HIV prevalences between the two populations. Nevertheless, it should give pause for thought that unprotected

vaginal sex is perceived as perhaps thoughtless and a bit risky in some contexts but is basically just 'normal sex', whereas barebacking in gay men in most circumstances is perceived as the most reprehensible and abnormal sex it is possible to engage in. Odd what a lethal virus will do to meanings, or is there more to it than that?

Reference

- 1 Tindall B, Swanson C, Donovan B, Cooper D. Sexual practices and condom usage in a cohort of homosexual men in relation to human immunodeficiency virus status. *Med J Aust* 1989; 151: 318–22.

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