Fact # **26**

Did you realise homosexual male (gay) relationships were only legalised 50 years ago?

**Dr Em Temple-Malt**

Lesbian and gay men’s relationships are increasingly becoming part of the ‘wallpaper’ of our everyday lives and visible within popular culture. Turn on the telly or tune into the radio, chances are that the programmes are being presented by people who happen to be gay or lesbian. Popular soaps have story-lines that feature people in same-sex relationships facing ordinary issues, rather than narrow, sensationalist issues centring on their sexuality. Pop songs and music videos are equally inclusive. Take, for example, the track *Symphony* by Clean Bandit featuring Zara Larsson (2017) depicting one man’s grief following the loss of his male lover who was killed in a bike accident. Gay male relationships are also visible in TV adverts such as McCain’s (2017) *We Are Family*,which portrays two gay dads. In addition, the Lloyds TSB (2017) *Taking that Next Step* advert features a gay man proposing to his male partner, representing how Lloyds TSB are there to support the key phases of their customers’ everyday lives, such as the birth of a child, first day at school, first teen kiss, and relatives grieving at a funeral. These are remarkable transformations that have taken place in a relatively short space of time. With the ubiquity of gay male relationships in popular culture it may seem hard to believe that homosexual male relationships were once a criminal offence and were only legalised 50 years ago in 1967.

Sociology, and the sub-discipline of criminology, give us a series of tools that help us understand why society label certain groups as criminal and punish their behaviour. We can, for instance, look at legislation that has labelled specific behaviours as a criminal offence because it leaves a permanent lasting record, and allows us to infer how society once perceived homosexual (gay male) relationships. It also equips us to understand the varied ways that people respond and behave when their behaviour is labelled ‘criminal’.

Mary McIntosh, observing the way society approached gay men in the late 1960s, claimed that criminalising homosexual men’s relationships had a particular role or societal function to play. McIntosh (1968) pointed out that criminalising gay men, and associated punishments, created a very visible boundary around behaviour deemed normative, permissible and acceptable, and behaviour that was taboo, dangerous, and to be avoided. She also suggested that making homosexual behaviour criminal and punishing offenders helped keep the majority of society pure and ensured the remainder of society was law abiding.

The Criminal Law Amendment Act was introduced in 1885 and specifically criminalised sexual acts between men as ‘gross acts of indecency’. The punishment meted out to those convicted of such offences was two years hard labour. The Act was introduced in the Victorian era where two significant developments were in motion. Firstly, greater attention was paid to policing inappropriate and ‘unnatural’ sexual acts – such as masturbation and any sexual acts that were unlikely to contribute to the reproduction of the next generation of the workforce. Secondly, this was the era of the rise of medical experts, sex scientists, and sexologists – with the power to shape knowledge shifting from the clergy to these medical experts. The early sexologists began cataloguing, labelling and creating categories of sexual tastes and persons. It was now that the categories of ‘homosexual’ (and later ‘heterosexual’) were developed.

The Irish literary figure and playwright Oscar Wilde, seemingly conforming to societal expectations (married with a wife and children), was famously prosecuted under this Act. Wilde’s prosecution and revelation of his sexual acts with a man attracted a lot of public attention. His biggest crime was likely the societal scandal caused by his prosecution, because the trial publicly disclosed all the details of his relationship that were supposed to remain hidden discretely in the shadows and invisible. Weeks (1989:103) explained how Wilde’s trial acted as a terrifying moral tale of the dangers of criminal behaviour. He was sentenced to hard labour.

Just over eighty years later, in 1967, the Sexual Offences Act decriminalised homosexual acts between men under very specific circumstances. The act legalised sex between two consenting male adults aged 21 plus. Sex was restricted to two participants at any one time and was to take place in a private dwelling (i.e. the couple should own the property and not be lodging or renting) and no other person should be present in the house.

While decriminalisation was progress, it still created significant difficulties. The most obvious was how men who desired other men were to meet each other.

Similarly to the UK, homosexuality was also illegal in America in the mid-1960s. Laud Humphreys, an academic within the Chicago School of Sociology that specialised in studies of deviance, undertook an ethnographic study (involving covert participant observation, interviews and a social health survey) in order to explore the impact that the criminalisation of homosexuality was having on men who desired other men. Contrary to McIntosh’s (1968) observations that criminalising homosexuality would ensure that men refrained from such activities and would remain law abiding, Humphreys’ study revealed that it placed men in precarious and vulnerable situations and so they often engaged in clandestine and risky behaviours in order to sate their (illegal) sexual needs.

The first phase of Humphreys’ study involved covert participant observation (pretending that you are the same as those you are studying) for around 18 months (summer 1965 - winter 1968). Humphreys posed as a ‘watch queen’ in tearooms (public restrooms) where he observed sexual encounters between men (tearoom trade). Humphreys observed that there were different roles for participants who used the tearooms. One such role was the ‘watch queen’ (voyeur) who gained sexual gratification from watching others’ sexual interactions. Taking up the role of ‘watch queen’ allowed Humphreys to warn participants if there was the threat of their illegal activities being discovered and also legitimised his ability to observe the interactions taking place between men without disrupting the men’s illegal activities (Humphreys 1975: 25-26).

The second phase of Humphreys’ study involved finding out about the kinds of men who were engaging in tearoom trade. Undertaking observations over 18 months, meant Humphreys learned about the elaborate practices involved in such encounters, but knew nothing about the men’s backgrounds. Alongside observations, Humphreys also recorded 134 tearoom participants’ car registration plates. He approached a ‘friendly policeman’ claiming he was undertaking a social health survey about men and the car license plate details would allow him to compile a sample of respondents for this survey. The officer purportedly did not ask too many questions about the ‘type of market research’ he was engaged in, and through this deception, Humphreys was able to obtain the names and addresses of the men he had observed indulging in tearoom trade (Humphreys 1975: 38).

Men who were engaging in tearoom trade tended to be heterosexually married with children. Humphreys (1975: 41) surmised that tearooms were used for casual sexual encounters with other married men in the same situation to minimise the adverse consequences of their homosexual activities being revealed to the wider community. Exposure meant men risked earning a criminal record, acquiring a discredited identity (Goffman 1990 [1963]) which could end careers, bring shame on one’s immediate and extended family and lead to a loss of respect and standing within the community.

Other avenues for seeking sexual pleasure with men were available (e.g. established gay bars and male hustlers) but these were not feasible options for Humphreys’ participants because they had gained a reputation for being dangerous in terms of their potential for exposing illegal homosexual activities. Established gay bars were known to be frequented by homosexuals who were comfortable with their stigmatised identities and were subject to surprise police raids. Stories flourished about some of the less scrupulous police practices where officers were known to exploit the situation and resort to financial extortion of homosexuals found in these bars. Male hustlers who provided sex for cash also gained a reputation for resorting to financial blackmail exploiting the stigmatised status of their homosexual clients.

Humphreys’ seminal study is perhaps most famous for the highly unethical and questionable practices he used in his pursuit of knowledge about the men who were participating in tearoom trade. Key problems were the use of deception and the risks his research posed to himself and his participants. Such measures are unlikely to be tolerated in current research projects. At the time, he justified the deception as necessary. If he had disclosed he was a researcher then he would never have been able to observe the ‘highly discreditable behaviour’ of his participants (Humphreys 1975: 25). His research also posed extraordinary risks to himself and his participants, because his fieldwork contained detailed and incriminating evidence about the places those men were engaging in criminal acts which could have led to the prosecution of his participants, had this information been seized by law enforcement. This is despite Humphreys’ valiant efforts to protect his data.

Employing these methods however, meant he was able to debunk powerful myths about the ‘dangers and threats’ of homosexuality. At the time, there was a lot of secrecy and ignorance around homosexuals and homosexuality as an identity, which allowed misunderstandings to circulate about the dangers that homosexual men posed to others. The most common perception was that homosexual men were paedophiles and preyed on young people (Weeks 1985). His close documentation of intricate and complex interactions involved in tearoom trade and health survey data meant he could say with confidence that the general public using the public restrooms would not be in any danger. The kinds of participants using tearooms for illegal sexual gratification prioritised their safety and reputation over the desire to receive sexual pleasure and would cease any interactions if there were even a slight risk to their safety.

In contrast, lesbians’ sexual acts were never subjected to the same intense legal regulation that men’s behaviour was (Weeks 1989: 99). This was because of prevailing assumptions that women did not have a sexuality and were not plagued by sexual urges in the same way men were, and would therefore certainly never experience physical attraction and desire for other women (Weeks 1989: 105).

In the 1980s, feminist scholars noted how unlike men, women were more profoundly affected by social norms and were pressured into getting married heterosexually. The controversial essay ‘Compulsory Heterosexuality’ published by radical feminist Adrienne Rich (1980) illustrates this best. Rich claimed that women were coerced into relationships with men because they did not have access to the same economic, social and cultural resources to enable them to defy social norms in the way men could. Women often lacked the economic resources to defy social norms because of structures that left women economically dependent on men; first their father and then their husbands. Socially, unmarried women were labelled as ‘spinsters’ and they were often the source of malicious gossip; treated with suspicion or pity. An unmarried woman’s family would also receive intense community scrutiny and questioning around their daughter’s marital status. Rich (1980) suggested that women had been duped into marriage, falling prey to ideological messages that marriage was the ‘great romantic adventure’. Other relational possibilities had been hidden from history, leaving women with the feeling they had no other choice than to marry. In a carefully researched account, Lilian Faderman (1980) documented the circumstances that had enabled a minority of women to set up home together and live lives where they were able to surpass the expectation of marriage and economic dependence on men.