



Wolfenden Report

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The Wolfenden Report, a 1957 British government study officially entitled the *Report of the Committee on Homosexual Offences and Prostitution*, is significant in glbtq history, for it recommended that homosexual behavior between consenting adults in private no longer be criminalized in England.

This recommendation was the most far-reaching proposal of a committee charged in 1954 with investigating British laws on homosexuality and prostitution. It received its name from its chair, Sir John Wolfenden, then vice-chancellor of the University of Reading.

The Committee and Its Context

The committee included fourteen men and three women, thirteen of whom served for the entire three years of the committee's deliberations. The committee included, among others, two judges, a Foreign Office official, a Scottish Presbyterian minister, a Conservative MP, a consulting psychiatrist, the vice-president of the City of Glasgow Girl Guides, and a professor of moral theology.

It was commissioned in 1954 in the aftermath of a number of high-profile prosecutions for homosexual behavior, including the 1953 arrest for soliciting of newly knighted actor Sir John Gielgud and the sensational 1954 trial of the Montagu/Pitt-Rivers/Wildeblood case in which a peer (Lord Montagu of Beaulieu), his cousin (Michael Pitt-Rivers), and a journalist (Peter Wildeblood) were convicted of having sexual relations with young working class men and received sentences ranging from twelve to eighteen months imprisonment.

Part of the context for the formation of the committee was the increased publicity about homosexuality as a result of these high-profile prosecutions, but it included as well the significant increase of prosecutions for homosexual behavior generally. In 1952, there had been 670 prosecutions in England for sodomy; 3,087 prosecutions for attempted sodomy or indecent assault; and 1,686 prosecutions for gross indecency.

The punishment meted out to individuals convicted of these offenses ranged from small fines to life imprisonment. Medical regimens, including aversion therapy and hormone treatments, were frequently forced on offenders as conditions for parole or probation.

Because of the great disparity in sentencing, along with the psychiatric belief that homosexuality might better be treated as an illness than a crime, as well as concern about the susceptibility of homosexuals to blackmail, worries about the use of entrapment by police officials, and a general hysteria about homosexuality in the popular press, two MPs in December 1953 called upon the government to set up a Royal Commission to investigate the law relating to homosexual offenses.

In August 1954, the Home Secretary responded by appointing the Wolfenden committee "to consider (a) the law and practice relating to homosexual offences and the treatment of persons convicted of such offences by the courts; and (b) the law and practice relating to offences against the criminal law in connection with

prostitution and solicitation for immoral purposes, and to report what changes, if any, are desirable."

The committee met for the first time on September 15, 1954. Over a period of three years, they interviewed religious leaders, policemen, judges, probation officers, psychiatrists, social workers, and homosexuals. When they issued their report in 1957, all but one of the thirteen members still sitting on the committee agreed that homosexual acts should be decriminalized if they took place in private, with consent, between persons at least 21 years of age and not members of the armed forces or the merchant navy.

The Report

The committee's report was an instant bestseller. The first printing of 5,000 copies sold out in a matter of hours, and the report quickly went through numerous reprintings.

The rationale for the committee's recommendation to decriminalize homosexuality was more philosophical than compassionate, though it did note the suffering that the current law brought upon homosexuals, and it included a number of heart-wrenching case histories culled from police reports and court cases. The committee condemned homosexuality as immoral and destructive to individuals, but concluded that outlawing homosexuality impinged on civil liberties and that private morality or immorality should not be "the law's business."

Without condoning homosexual acts, the committee found that, when committed in private among consenting adults, they did not fall within the law's purview. The function of the law, the committee wrote, "is to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitation and corruption of others, particularly those who are specially vulnerable. . . . It is not, in our view, the function of the law to intervene in the private life of citizens, or to seek to enforce any particular pattern of behaviour, further than is necessary to carry out the purposes we have outlined."

The sole dissenter from the majority's recommendation, James Adair, disassociated himself from the report, declaring that relaxing the law on homosexuality would be regarded by many homosexuals as "licensing licentiousness."

Interestingly, despite the testimony of numerous psychiatrists and psychoanalysts, the committee refused to classify homosexuality as a mental illness requiring psychiatric intervention. It found that "homosexuality cannot legitimately be regarded as a disease, because in many cases it is the only symptom and is compatible with full mental health in other respects." It did, however, urge continued research into the causes and potential cures of homosexuality, such as hormone treatments and psychiatric therapy.

The committee also recommended increased penalties for soliciting by street prostitutes and it recommended making male prostitution illegal, proposals that were adopted into law in 1959.

The Report's Aftermath

The committee's report sparked a vigorous debate in the United Kingdom about homosexuality and the relationship of the law and private morality. The recommendation to decriminalize homosexuality was widely condemned by many religious and political leaders and by a host of newspapers. The committee's refusal to declare homosexuality a disease provoked the condemnation of psychiatrists.

Among the supporters of the committee's recommendations were the British Medical Association, the Howard League for Penal Reform, and the National Association of Probation Officers.

Somewhat surprisingly, the Archbishop of Canterbury, Dr. Fisher, made an eloquent plea on behalf of the

recommendations, declaring that "There is a sacred realm of privacy . . . into which the law, generally speaking, must not intrude. This is a principle of the utmost importance for the preservation of human freedom, self-respect, and responsibility."

The first parliamentary debate on the committee's recommendations was held in the House of Lords on December 4, 1957. Of the seventeen peers who participated in the debate, eight spoke in favor of the decriminalization of homosexuality.

The home secretary, Sir David Maxwell-Fyfe, was deeply disappointed in the Wolfenden Report. He no doubt expected the committee to recommend additional ways of controlling homosexual behavior, rather than decriminalizing it. In any case, he expressed doubt that the general population would support reform and declined to take action to implement the committee's recommendation, calling instead for additional study.

Without the government's support, efforts at reform of the law were left to individual MPs, who introduced reform legislation that had little chance of success. Still, the debates in Parliament and in the press kept the question of reform alive.

In 1960, the Homosexual Law Reform Society announced plans to lobby on behalf of reform. Its first public meeting attracted over 1,000 people.

The Sexual Offences Act of 1967

Finally, in 1967, ten years after the publication of the Wolfenden Report, MP Leo Abse, with support of the Labour Home Secretary Roy Jenkins and Prime Minister Harold Wilson, introduced the Sexual Offences Bill, 1967, which, after a blistering debate, was narrowly passed by Parliament.

The bill implemented the Wolfenden committee's recommendation to decriminalize homosexual acts among consenting adults, but added new privacy restrictions. For example, no act could take place in public accommodations such as hotels or in a private home where a third person was likely to be present. Twenty-one was set as the age of consent. Members of the armed forces and the merchant navy were exempt. Moreover, the Sexual Offences Act applied only to England and Wales.

Conclusion

As enacted into law, the Wolfenden committee recommendations did not completely decriminalize homosexuality in the United Kingdom. However, it began an important process of reform that eventually led to something approaching equality under the law for homosexual and heterosexual conduct.

In 1980, the Criminal Justice Act brought Scots law in line with English law, decriminalizing sex between men in private. In 1994, the age of consent for homosexual acts was reduced from 21 to 18. In 2000, it was reduced to 16 (which is also the age of consent for heterosexual acts).

Most significantly, the philosophical basis on which the Wolfenden recommendations relied--that private morality or immorality should not be the law's business--has proved to be enormously important in sex law reform in the United States, Canada, and other places.

Indeed, the Wolfenden report directly influenced the American Bar Association's Model Penal Code, which repealed sodomy laws and which was adopted first by Illinois in 1961, and the 1969 decision by Canada to decriminalize homosexual relations among consenting adults in private.

The Wolfenden report is by no means a radical statement. In many ways, it is a conservative document, fully partaking of the prejudices of its era. At the same time, however, it is courageous for taking what was in its time an unpopular stance in favor of tolerance and reform.

As a postscript, it is interesting to note that in the course of his committee's deliberations, Sir John Wolfenden discovered that his son Jeremy was homosexual. Wolfenden was later appointed Director of the British Museum. In 1974, he was created a life peer, Baron Wolfenden of Westcott. He died in 1985, laden with honors, but somewhat embarrassed that his name had become a household word for a report on a subject for which he expressed personal distaste.

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