

Letter

More on 'Gay Killings'

The previous issue of CICJ includes a letter by Dr Greg Woods, QC, which refers to our own earlier publication of research findings from a study of seventy-four gay killings and a lesser number of related criminal trials in New South Wales. This study found a high level of victimisation from homicide among homosexual men, and it extended the scant international knowledge in this area with important and original findings regarding the social profiles of victims and offenders and the typical scenarios of fatal attacks. It has also attracted considerable media, political and activist recognition, as well as positive comment from leading criminologists in Australia and overseas. However, Woods' letter is a lengthy response to claims of homophobia which he believes we have made about the whole conduct of a 1995 murder trial (*R v Bonner*, New South Wales Supreme Court, 19/5/95) in which he represented the accused as defense counsel. On this narrow basis, he concludes that our CICJ paper is 'academically unsound and politically counterproductive'. It is unlikely that we could ever alter Woods' view on this, and most of his considerable irritation with our paper relates to the one short paragraph in which we discussed some details of the above trial. However, the issues raised in his letter are very important to a general understanding of the nature of homophobia and the origins of hostility and violence directed against marginalised sexual groups in our culture. Accordingly, we insist that the complaints against us are flawed and erroneous in a number of ways. More importantly, they are also presented in a manner that could seriously mislead readers about our own understanding of homophobic violence.

We do not wish to retract our view of comments made in *Bonner* which suggested that the feelings the deceased felt towards the accused could be best apprehended by visualising the television coverage of the behaviour of gay men at the annual Sydney Gay and Lesbian Mardi Gras. Clearly, these were of a type that could play on some measure of homophobic sentiment or ignorance of gay lifestyles among jurors. Even though these remarks were padded by the mock sophistication of a lawyer's commentary on human sexuality, they could reasonably be seen as offensive to homosexuals as a social group. There has been a continuous debate for many years in gay and lesbian circles about the role of different media in covering this public event and the appropriate controls that should be imposed over telecasting. In this, many voices have expressed a concern about the mainstream tendency to downplay the history and political origins of Mardi Gras in favour of titillating sexual imagery. In view of the fragmented representation of homosexuals as hedonistic, lustful and uncontrolled which often occurs, it is a very significant thing for any legal counsel to suggest to people in a criminal courtroom that they could best understand the thoughts and behaviour of a homosexual victim with these images in their minds.

Much of Woods' ire appears to derive from his complete confusion of the analysis of discursive depictions with comment on the overall fairness of criminal trial outcomes.

Given the heightened level of recent activist concern about the trials of assailants who claim that their fatal violence was provoked or made necessary by an alleged homosexual

advance, it was probably inevitable and understandable that the full acquittal of the accused in this case drew such heavy criticism from gay and lesbian groups. This was the second such controversial acquittal to occur in New South Wales within a two-year period. However, it would be obvious to any objective reader that our paper does not suggest that the final result of *Bonner* was itself a serious miscarriage of justice. Unlike Woods, we have not thought about what items of clothing were worn by various jurors in this case and how these may have marked the sexual identity of each of them. Also, we have not said that a ubiquitous air of homophobia characterised the entire trial proceedings. Defending Justice Dowd on this latter point is an act of misplaced gallantry.

The way in which Woods describes this form of violence may have been a reasonable approach for legal counsel taking the defence role in a murder trial, but it cannot substitute for a more accurate view of the range of different circumstances in which these killings have taken place. A full contrast is drawn by Woods between cases of obviously homophobic gang attacks at public locations where a homosexual victim may be readily available, and all other fatal attacks. The implication of this exaggerated distinction is that only a narrow range of homicides with homosexual victims could be properly referred to as 'gay killings'.

The term 'homophobia' was originally coined by psychological researchers to describe a disturbed condition of irrational fear and anxiety which occurs in reaction to the physical presence of homosexuals. Since then it has entered a more general use as meaning an everyday hostility and prejudice against homosexuals, and even an opposition to gay and lesbian political claims for equality and full citizenship. The broad evidence about the motives behind fatal attacks on homosexual men, suggests that many offenders adhere to an obvious hatred and contempt for homosexuals and their violence is calculated to punish and restrict the public expression of a marginal sexual identity. Although this hatred can be very strident, it is by no means as unusual or totally resisted in the general population as Woods suggests. Some other fatal attacks are shaped by a perception that homosexuals are soft targets for robbery, extortion and even an experimentation with violence and murder. Assaultants in these cases hold very uneven levels of anti-gay hatred, but their calculated crimes reflect and often seek to take advantage of the cultural homophobia which results in non-reporting and official disinterest.

In a further group of fatal incidents which arise out of scenarios of socialising and drinking among male friends and acquaintances, accused men allege that their fatal violence was due to an alleged homosexual advance by the deceased. Without implying comment on the motives of the accused in *Bonner*, it is worth noting that it appears in many cases that the alleged advance is either just a convenient fiction, or that the advance was made in a non-violent fashion which triggered an irrational and brutal rage resulting in death. The actions and comments of this last group of accused do not generally show vehemently homophobic motives and intentions; some killers are quite comfortable with having homosexuals around them and even engage in a form of homoerotic flirtation with their eventual victims. Nevertheless, their violence is driven by a fear of the emasculation that is implied by homosexual objectification and fondling. A compelling need to defend their honour is shared with many other men in the general population who react with varied levels of aggression, anger and violence when they become objects of homosexual interest. The legal consideration and privilege given to this code of male honour are exemplified in a recent major ruling (*R v Green*, High Court of Australia, 7/1 1/97) which appears to suggest that a violent response is a natural male reaction to an unwanted homosexual pass.

Ultimately, it probably does not matter if this type of assault and killing is termed 'homophobic', but this violence clearly does relate to the devalued status of male homosexuality

and desire in our culture as being both deviant and unmasculine. Given this link with the broader culture, it is unsurprising that the typical killers in these incidents are very ordinary young men who do not have serious criminal histories or obvious psychological disturbances. It might be a reassuring thing for many people to hear an assertion that anti-gay violence is only carried out by thuggish and abnormal individuals who have an exceptional hatred for anyone outside of the sexual mainstream. Arguing along these lines, may also sometimes fit the duties of defence counsel in a criminal courtroom. But this is a misleading caricature of many perpetrators, and the link between their violence and restrictive views of masculinity and sexuality which are still openly and tacitly condoned in our general culture and the criminal justice system.

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